

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Board of Education v. Student

Appearing on behalf of the Board:

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Appearing on behalf of the Parent:

Parent, *Pro se*

Appearing before:

Attorney Mary H.B. Gelfman, Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Has the Board offered an appropriate Individualized Education Program (IEP) and placement in the least restrictive environment for the Student for the school year 2009-2010?
2. If not, what are an appropriate IEP and placement for 2009-2010?
3. What was the stay-put placement for the Student pending the completion of this hearing?

PROCEDURAL HISTORY:

The Board requested this hearing on October 2, 2009 and this Hearing Officer was appointed on October 8, 2009. A prehearing conference was held on October 21, 2009, and the hearing was scheduled for December 9, 11, 16 and 18, 2009. After several changes of dates and times, the hearing was convened on December 9, 16, 17, 21 and 22, 2009. On December 22, 2009, additional hearing dates of January 6, 13 and 14, 2010, were scheduled, and subsequently January 19, 20 and 25, 2010 were also added. To accommodate Parents' child care arrangements, the hearing sessions were scheduled for 12:30 p.m. to 6 p.m. with no lunch break, pursuant to 34 C.F.R. § 300.515 (d) and Section 10-76h-7 (c), Regulations of Connecticut State Agencies (R.C.S.A.). One session concluded early because of illness.

The original decision date of December 16, 2009, was extended to January 15, 2010, and later to February 14, 2010 to accommodate additional hearing dates. The Parties requested transcripts of the hearing on December 16, 2009. The Board requested an opportunity to file a brief, and the Hearing Officer set a deadline for briefs of January 8, 2010, later extended to January 29, 2010. Briefs were not to exceed twenty-five pages. On January 21, 2010, the briefing deadline was extended from January 29, 2010 to February 12, 2010 and the decision date was extended from February 15, 2010 to March 15,

2010. On February 8, 2010, a further extension was requested because not all volumes of the transcript had been received. On February 9, 2010, the Hearing Officer extended the deadline for briefs from February 12, 2010 to February 26, 2010; the decision date remained March 15, 2010. The last volume of the transcript was received on or about February 19, 2010. Briefs from both parties were received in a timely manner.

Several settlement discussions and offers were mentioned on the record: in keeping with the confidentiality given to such matters, no offers of settlement were considered in this decision.

All motions and objections not previously ruled upon, if any, are hereby overruled.

SUMMARY:

The Board requested a hearing to establish whether or not the academic portion of the Student's program, provided at a private high school (PHS) with state approval for special education placements, was appropriate to her special education needs in the least restrictive environment. The Student had ceased attending the PHS program, but continued to attend an afternoon vocational training program.

Also in issue was identification of the Student's stay-put placement pending completion of the hearing. The Hearing Officer deferred ruling on stay put because the apparent stay put, placement at PHS, was the contested placement in this hearing.

In order to comply with the confidentiality requirements of the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. § 1232g and related regulations at 34 C.F.R. § 99, the following decision uses "Student", "School", "Parent", and titles of school staff members and other witnesses in place of names and other personally identifiable information.

This Final Decision and Order sets forth the Hearing Officer's summary, findings of fact and conclusions of law. The findings of fact and conclusions of law set forth herein, which reference certain exhibits and witness testimony, are not meant to exclude other supported evidence on the record. To the extent that the procedural history, summary, and findings of fact actually represent conclusions of law, they should be so considered, and vice versa. For reference, see *SAS Institute Inc. v. S. & H. Computer Systems, Inc.*, 605 F.Supp.816 (M.D. Tenn. 1985) and *Bonnie Ann F. v. Calallen Independent School District*, 835 F. Supp. 340, 20 IDELR 736 (S.D. Tex. 1993)

FINDINGS OF FACT:

After considering all the evidence submitted by the Parties, including documentary evidence and testimony of witnesses, I find the following facts.

Recent History of Student's Educational Placement

1. The Student is now twenty years old and will have her 21st birthday in June, 2010. She has been diagnosed with Down syndrome, and has been receiving special education throughout her school career as Intellectually Disabled. There is no dispute as to her eligibility for special education. Her Parents were appointed as her guardians on July 27, 2007. (Ex. B-1 p. 2; B-4; Student's Father Tr. 1/20/2010 pp. 59-61)

2. In the spring of 2007, Student's Mother approached PHS as a possible placement for Student. She told the PHS Principal that she was concerned that Student's current placement in the local high school did not adequately address Student's social needs, occupational therapy needs and speech/language therapy needs. The Student had attended a middle school associated with PHS prior to entering the Board's high school. (PHS Principal Tr. 12/9/2009 p. 44-47)
3. The Board's Planning and Placement Team (PPT) placed Student at PHS for the 2007 extended school year (ESY) program, and she continued there through the 2007-2008 school year, the 2008 ESY and most of the 2008-2009 school year. PHS is a private high school for students with disabilities, approved by the State Department of Education for placements funded by local school districts. State approval requires, among other things, that PHS teachers be state certified. PHS describes its program as being divided into four areas: academic, vocational, career/life skills, and work-study. The current enrollment at PHS is sixty students in the age range of fourteen through twenty years old, with a three to one student/staff ratio. The IEPs for Student's program at PHS were developed in PPT meetings that included the PHS Principal and various members of the PHS staff, as well as Student's Parents and members of the Board's staff. (Ex. B-7; B-21; B-27; B-32; B-37; B-66; B-73; B-107; B-136; B-154; B-77; PHS Principal Tr. 12/9/2009 pp. 35-43)
4. The PHS Principal has 35 years of experience with students with disabilities. His Connecticut certifications are as a special education teacher Pre K - 12 and as an intermediate administrator and supervisor. (PHS Principal Tr. 12/9/2009 p. 43; Ex. B-160)
5. The Student was described as quiet and not initiating verbal exchanges when she came to PHS in the summer of 2007. She became more verbal and could read for longer periods of time after a few months. Eventually, she acquired friends at PHS. The Principal described her learning style as "very deliberate". She processes verbal information slowly, and visual information more rapidly. Topics that she is comfortable with are processed more easily, whereas new material and abstract concepts require more time. (PHS Principal Tr. 12/9/2009 pp. 56-59)
6. When questioned about Student's IQ, PHS Principal responded that he had never seen an IQ score for her. He explained that there were no cognitive scores in the record, and "... that is not coincidental". (PHS Principal Tr. 12/9/2009 p. 60)
7. The PHS Principal described Student as needing supervision at all times. PHS is structured so that Student can move around the building independently, but she is always under observation by PHS staff. (PHS Principal Tr. 12/16/2009 p. 72-73)

2008-2009 School Year

8. A PPT meeting held for the Student on June 9, 2008, included the Board's Assistant Director of Special Education (SpEd), the Student's Mother, a PHS SpEd Teacher, a Board School Social Worker, the Board's Speech/Language Pathologist (Board's 1st S/LP), the PHS's S/LP, two representatives from the State Department of Developmental Services (DDS), a Friend of the Student's Mother, the Director of Family Support at First [Vocational/Community Services] (1st VCS) (a vocational training organization for people with disabilities) and the PHS Principal. This PPT recommended the following for the 2008-2009 school year:

Placement at PHS for the 08-09 school year; Extended school year at PHS July 7, 2008 –August 1, 2008 from 8:30 to 1:30; Transportation to be provided by district; [The Board] to fund [1st VCS] vocational transition assessment in order to prepare for [Student's] participation at 1st VCS; 1st VCS to provide [the Board] with a plan for vocational training; The PPT agreed to [participate in] a PATH futures planning [meeting] led by a team from 1st VCS in the fall of 2008; PPT to reconvene after the completion of the PATH process to update IEP as needed; [Physical Therapist (PT)] to continue consultative services to PHS four times per year for up to 2 hours per visit; [Board] School Social Worker to visit PHS once per quarter. (Ex. B-21 p. 2; PHS Principal, Tr. 12/9/2009 pp. 65-68)

9. A PATH futures meeting usually includes a young adult with disabilities, his or her family, school staff members and representatives from public and private agencies that might provide adult services when the Student “ages out” of the educational system at age 21. Information collected about the young adult is shared, and options are discussed. The goal of a futures meeting is to develop a plan that reflects the individual’s likes and dislikes, strengths and concerns. Since the Student had reportedly expressed a dislike for attending meetings where she was the subject of discussion, she did not attend the PATH meeting. Her Parents and several people at the meeting reported her preferences and ideas. (Ex. B-108 pp. 25-29; PHS Principal Tr. 12/9/2009 pp. 72-74, 85; DDS Behavior Specialist Tr. 12/21/2009 p. 124)
10. The Student’s June 9, 2008, IEP included a description of her current levels of performance:
- Academic/Cognitive: Language Arts:** Independently decodes one- and two-syllable words, sight word vocabulary includes basic Dolch words. Responds to concrete recall questions with one word answers, can write sentences with guidance.
- Strengths: Pays attention in class, accepts guidance and direction.
- Concerns/needs: Needs to articulate or indicate answers more independently, learn to organize and write a short paragraph (four to six sentences).
- Impact of Student’s disability on involvement and progress in the general education curriculum: Intellectual and processing deficits make it difficult to attend in group lessons, needs one-to-one instruction.
- Academic/Cognitive: Math:** Practicing Touch Math using a menu to practice ordering and totaling bill of sale.
- Time – analog and digital.
- Strengths: Using a calculator, negotiating a menu, finding prices, making purchases in the school setting.
- Concerns/needs: Applying money skills to make purchases, time management, telling time – analog and digital.
- Impact of Student’s disability on involvement and progress in the general education curriculum: Difficulty applying functional math skills requires modified instructional strategies and materials.
- Other Academic/Nonacademic areas:** Uses Microsoft Word-forms, Excel-forms, Internet, accesses school image folders. Mavis Beacon, Kurzweil 3000, Photo Shop-paint. Big Bang Board Games- Tic-Tac-Toe and 4-in-A-Row.
- Strengths: Able to type eight words per minute with 99% accuracy, copy data and order entry cards, will ask for assistance inconsistently.
- Behavioral/Social/Emotional:** Interacts socially with familiar peers, inconsistently responds to cues and prompts during classroom discussions.

Strengths: Follows classroom routines, participates in familiar kinesthetic activities, and enjoys music.

Concerns/needs: Conversation skills, friendship skills.

Impact of Student's disability on involvement and progress in the general education curriculum:

Cognitive, language and social deficits require a highly structured, routine-based instructional setting including small class sizes to minimize the impact of limited functional social skills.

Communication: Uses cues and prompts to respond to familiar basic information and questions, recall and word retrieval remain problematic. Limited reasoning, comprehension and pragmatics.

Strengths: Answers familiar questions, follows routine, and initiates greetings to peers.

Concerns/needs: Pragmatics – maintaining conversation, reasoning- why questions, predicting outcomes, problem solving, identifying problems, solving problems.

Impact of Student's disability on involvement and progress in the general education curriculum:

Receptive and expressive language deficits interfere with ability to comprehend, recall and express information needed to access a general education curriculum in a regular education setting.

Vocational/Transition: Exploring work sites in the community, displaying better interaction with peers in work and community settings.

Strengths: Good work attendance, responds to positive praise and humor in work situations.

Concerns/needs: Being comfortable with change in routine, responding to constructive criticism.

Impact of Student's disability on involvement and progress in the general education curriculum:

Processing difficulties necessitate extra time to adjust to unfamiliar demands, or even familiar demands in novel environments.

Health and Development: All state mandates in compliance, allergic to Penicillin and Ampicillin.

Fine and Gross Motor: Has developed a workout routine that includes balance, stretching and strength exercises.

Strengths: Often enthusiastic about physical education, enjoys riding the exercise bike.

Concerns/needs: Hand-eye coordination, catching/throwing ability, interactions with peers.

Impact of Student's disability on involvement and progress in the general education curriculum:

Lack of age appropriate skills inhibits success in a general physical education setting.

Activities of Daily Living: Has many skills related to daily living, inconsistently applies skills unless they are part of a learned and practical routine.

Strengths: Follow-through on learned routines for dress and grooming.

Concerns/needs: Consistently and independently applying the daily living skills she demonstrates in structured and supported learning situations, organizing personal information.

Impact of Student's disability on involvement and progress in the general education curriculum:

Processing difficulties, motor planning issues and the need to establish habits and routines require individualized teaching and repetition to transfer skills into functional practices.

Other: Enjoys participating in activities with peers and family.

Strengths: Leo Club member, Best Buddy member, recreational nights and community activities, horseback riding.

Concerns/needs: Safety precautions in the community.

Impact of Student's disability on involvement and progress in the general education curriculum:

Limited social interaction skills impact her ability to access a community or social situation appropriately. (Ex. B-21 pp. 8-9)

11. The IEP for the 2008-2009 school year developed at the June 9, 2008, PPT meeting listed 21 goals with objectives for the school year 2008-2009 (See Appendix A).

12. The June 9, 2008, IEP listed the following accommodations and modifications:

Materials/Books/Equipment: Modified manuals, abridged and modified literature, calculator: all areas, all year.

Organization: Graphic organizers Language Arts, math: all year.

Environment: Minimized noise and visual distractions, close proximity to teacher: all areas, all year.

Behavioral Interventions and Support: Cues and prompts for correct posture, humor to motivate and increase attention, redirect to tasks, exaggerated positive reinforcers.

Instructional Strategies: To instruct in short segments, correct work immediately.

Other: Cues, prompts, guided questioning, modeling, explanations Speech/Language: all year.

Technology: Solo Co Writer, Kurzweil 3000, Clicker V Computer Lab: all year.

(Ex. B-21 p. 32)

13. The special education and related services to be provided for the 2008-2009 school year, with frequency and staff:

Special Education Services	Frequency	Staff
Academic	8 hours/week	SpEd. Teacher/IA*
Physical Education	2 hours/week	Physical Ed. Teacher/ SpEd. Teacher/IA
Vocational	10½ hours/week	SpEd. Teacher/IA
Social Skills	2 hours/week	S/LP/SpEd. Teacher/IA
Related Services		
Speech/Language	2½ hours/week	S/LP/IA
Occupational Therapy	[Consult]	OT**/SpEd. Teacher/IA

*Instructional Aide **Occupational Therapist (Ex. B-21 p. 36)

14. The record of the June 9, 2008 PPT meeting included a summary of discussion. Some of the points raised were:

Teachers described Student’s progress in terms of her prior IEP goals and objectives, mentioning several problem areas. Student’s Mother mentioned problems with using the Student’s computer password (the Board had provided a lap top computer for Student’s use), the Student’s tendency to “shut down” when she was bored, the Student’s desire to please others and her inability to say that she doesn’t want to do something. Student’s progress, with many comments from Student’s Mother. Student’s likes and dislikes related to possible vocational training placements. The PHS S/LP described areas being addressed in individual and small group S/L therapy. The Student’s Mother reported that several aspects of the Student’s speech and language seemed to be deteriorating, and that the Student loved the PHS S/LP. Student’s Mother requested an independent S/L evaluation, which was denied by the PPT. (Ex. B-21 pp. 3-6)

15. The 1st VCS Director of Family Support has a BS degree in Human Services/Psychology and has done graduate work in Clinical Psychology. She has worked with Student and her family, from time to time, since Student was five years old. She summarized the vocational and community portions of the Student’s IEP in testimony at the hearing. Student would be accompanied by a Job Coach in all work sites, and a log book would be sent between 1st VCS and Student’s family each day, reporting on Student’s performance and any problems that arose. (This log book was not offered in evidence at

the hearing.) (Ex. B-164; B-108 pp. 134-137; P-15 p.6; 1st VCS Director of Family Support Tr. 12/17/2009 pp. 4-26)

16. The Board arranged for a Physical Therapist (PT) to observe Student approximately four times each school year and consult with staff about PT concerns. A letter from this Consulting PT to the PHS Principal dated June 5, 2008, gave recommendations for the 2008-2009 school year. Baseline expectations related to good posture and good stamina during work were listed, as well as proposed gross motor objectives for the 2008-2009 IEP. (Ex. P-52; B-22)
17. The Board's 1st S/LP has a Doctoral Degree in Communication Science and has experience as a S/L Pathologist in both hospitals and school settings. She has done research in her professional field and has taught at the university level. She has published articles in professional journals and has presented professional workshops. In addition to her S/LP license, she holds a Connecticut Certificate as a Professional Educator. She is the Board's Communication Specialist, supervising and training S/LPs and consulting with PPTs, primarily in more complex and involved cases. She has worked with Student's PPT for seven years, and performed a comprehensive S/L evaluation four years ago. Subsequent Board S/L evaluations of Student have been done by other S/LPs on staff or by contract. (Ex. B-158; Board's 1st S/LP Tr. 12/22/2009 pp. 4-68)
18. The Board's 1st S/LP described Student in testimony:

[Student] has a severe to profound speech and language communication impairment. She has weaknesses in all areas of communication meaning vocabulary development, understanding and use of syntax, higher level language skills, cohesion, which means connecting one sentence to the next in a logical way for a listener to understand.

Also in her social use of language her speech production is impaired, her articulation, and she has a mild fluency disorder as well. I think her strengths are her understanding and use of single words and short phrases and I think one of her major weaknesses is her understanding of syntax and morphology, meaning how words are put together in sentences and how word endings are used to convey meaning. (Board's 1st S/LP Tr. 12/22/2009 pp. 10-11)
19. 1st VCS provided vocational placements with Job Coaches and community activities for Student during the 2008-2009 school year. Student worked at a nearby library, shelving books and other materials. (1st VCS Director of Family Support, Tr. 12/17/2009 p. 7-10)
20. The June 24, 2008, PHS Progress Report included narrative summaries of Student's activities in each class and progress on goals and objectives for 2007-2008.
(Ex. B-24, pages 3-11, 18-34; PHS Principal Tr. 12/9/2009 pp. 60-61)
21. The PATH meeting was held on October 1, 2008. In attendance were: Student's Parents, four representatives of 1st VCS, three representatives of DDS, Mother's Friend, the Board's Assistant Director of SpEd, a Board School Social Worker, Student's Tutor and the PHS Principal. Student's likes and dislikes were listed, as well as what works with her and what doesn't, her strengths, weaknesses, dreams, fears and needs. Student did not attend this meeting. Several quoted Student's remarks related to issues under discussion. Seventeen "next steps" were identified, and were assigned to her Parents and people from appropriate agencies. Twelve of the next steps were assigned to the PPT or to an individual on the Board's staff. (Ex. B-108 pp. 25-30; PHS Principal Tr.

12/16/2009 pp. 175-179; 1st VCS Director of Family Support Tr. 12/17/2009 pp. 42-44; Student's Father Tr. 1/20/2010 pp. 47-59)

22. The PPT met on October 23, 2008. Present at this meeting were: Board Assistant Director of SpEd, PHS Principal, Student's Parents, PHS SpEd Teacher, Board School Social Worker, PHS S/LP, and three representatives from DDS. The PPT recommended:
District to support [1st VCS] in providing a work program for [Student]; District to provide transportation from PHS to work site[s]; [1st VCS] and [PPT] to continue to assess transition needs; [PPT] meeting on November 5 to discuss transition needs; S/L evaluation including articulation; oral motor evaluation; [The Board's Assistant Director of SpEd] to investigate possible evaluators; [Consulting Physical Therapist] (PT) to observe [Student] in the community (i.e. library); Add goals as discussed; Amend services page to address work in community;
This PPT meeting was a follow-up to review recommendations from the PATH meeting. Parents and DDS representatives were concerned about Student's apparent decrease in communication. The PHS S/LP reviewed her fourteen months of working with Student, and reported that she had observed neither an increase nor a decrease in Student's language skills during that time. Parents requested an oral motor evaluation. The Board's Assistant Director of SpEd noted the lack of data to support a need for that, but recognized that an evaluation could be performed on the basis of Parents' anecdotal evidence. The Board would fund that evaluation. The PHS S/LP reported that she was working on problem solving skills, using pictures and social stories. After discussion, the PPT agreed to have the consulting PT observe Student in various settings. (Ex. B-27 pages 1-3)
23. The October 23, 2008 PPT revised some of the goals and objectives in the June 6, 2008 IEP (see Appendix A for goals and objectives). (Ex. B-27)
24. PHS Principal testified that he had not observed a decline in the intelligibility of Student's speech. (PHS Principal Tr. 12/9/2009 p. 91)
25. The November 6, 2008 PHS Progress Report included Student's progress on her June 6, 2008 IEP goals and objectives. No objectives had been mastered. Forty-five objectives were marked satisfactory progress and three were marked not introduced. (Ex. B-28 pp. 3-28)
26. The Board's School Social Worker observed Student in her Math and Speech classes at PHS on November 6, 2008. Her comments:
... [Student] presented as a hardworking, sincere student with a lovely relationship with both her teachers. ... She was comfortable navigating around the school. It was delightful to see her laughing and smiling and her sense of humor.
The School Social Worker's summary:
[Student] appeared to be comfortable in her surroundings at [PHS]. She clearly benefits from the small individualized instruction. In the little time I saw her she was clearly giving her best effort. According to both teachers she has continued to make gains in her classes. (Ex. B-29)
27. The PPT met on December 10, 2008. Present at this meeting were the Board's Assistant Director of SpEd, PHS Principal, Student's Mother, PHS SpEd Teacher, Board School Social Worker, Board's 1st S/LP, PHS S/LP, DDS Behavior Specialist, 1st VCS Director of Family Support (not on attendance list, but reported in summary of meeting) and Mother's Friend. The PPT agreed to add goals and

objectives (see Appendix A) and to reconvene to discuss a S/L evaluation, which was not yet completed. The 1st VCS Director of Family Support reported that Student was doing well with a Job Coach at a nearby library, 3-4 hours on the days she worked there. Proposed 1st VCS goals and objectives were discussed, also some skills, such as math, to be addressed both in work placements and at PHS. (Ex. B-32)

28. The PHS S/LP’s evaluation of Student was performed on November 25 – December 22, 2008. This evaluation was performed during Student’s regular S/L time on six days, “to capitalize on her comfort level and performance in this setting.” The PHS S/LP discussed Student’s evaluation results in her report:

The results of standardized testing reveal a variety of relative strengths and deficits in [Student’s] verbal language skills. Attempts were made, when possible, to use formalized testing that is normed for her age range. To provide a more comprehensive description of her language abilities, several out of age subtests and informal testing were completed and are discussed within this report. All results were analyzed to assess her level of language proficiency in a variety of areas of communication. The following results were obtained and these results are judged to be an accurate reflection of [Student’s] language skills.

Summary and Recommendations

Informal and formal testing indicates severe deficits in [Student’s] receptive and expressive language skills. Her vocabulary is in the extremely low range, her knowledge of basic concept and comprehension of auditory information and of “WH” questions is poor. Additionally, [Student’s] receptive and expressive skills in terms of syntax, language reasoning and pragmatics impair her ability to follow directions, answer questions, relate information and engage in social interactions. She also demonstrates dysfluencies and articulation errors.

While [Student’s] scores on formal testing remain low, she has demonstrated the ability to benefit from speech and language therapy and to learn from direct instruction. As such, it is recommended that [Student] continue to receive language services to improve her communication skills. (Ex. B-37 pp. 63-72)

29. Scores recorded from the November/December, 2008 PHS S/L evaluation:

Test	Raw Score	Standard Score
<u>PPVT 4</u>	71	22
<u>EVT 2</u>	79	56
<u>CASL</u> subtests		
Synonyms	7	40
Sentence completion	14	40
Syntax construction	2	40
Grammaticality Judgment	1	40
Nonliteral language	0	40
Meaning from context	0	49
Pragmatic judgment	2	40
<u>CELF 4</u> subtests		
Concepts & following directions	1	N/A
Recalling sentences	0	1
Formulated sentences	1	1
Expressive vocabulary	25	N/A (Ex. 37 p. 72A)

30. Another S/L evaluation was performed on December 22, 2008, by Board's 2nd S/LP. Student was currently receiving three hours of S/L therapy a week at PHS. The Board's 2nd S/LP was introduced to the Student by the PHS S/LP in the PHS cafeteria, and the three had a conversation. Then the Board's 2nd S/LP observed the Student in her Language Arts class, administered a variety of tests and performed an Oral Motor Checklist. Based on the informal conversation, observation of Student's oral reading in her Language Arts class and the tests, this evaluator's report concluded with a summary:

Oral motor functions appeared adequate to support speech production. Tongue strength was difficult to test and appeared weak, however, alveolar, velar, and palatal consonant speech productions (t, d, l, k, g, and r) were performed with sufficient clarity in isolation, single words and in contextual speech. This indicated that sufficient tongue strength and mobility were present to produce intelligible speech. Intermittent nasal air emission was observed during all speech contexts, including spontaneous speech, oral reading and picture description tasks. Nasal air emission is indicative of reduced soft palate functioning. This may be primarily due to suspected weakness of musculature combined with timing of soft palate movement as hypernasal resonance was not detected. [Student] produced an intermittent fast rate of speech in all contexts, which interfered with speech intelligibility at times. Very occasionally the initial phoneme of a phrase was repeated as observed across the speech contexts. Speech sound substitutions were present and primarily evident for /l/, /r/ and /s/, /z/.

It was felt that [Student's] articulation production in conversation, formal testing, and informal tasks did not impede production of oral language.

This evaluator provided recommendations:

[Student] exhibited many strengths which can be utilized for continued improvement in her speech production.

[List of ten specific recommendations for therapy]

She also provided a 2007 American Speech-Language and Hearing Association (ASHA) Technical Report on Childhood Apraxia of Speech:

The following statement was made regarding non-speech oral motor therapy: "A systematic review address[ing] this topic is currently underway by an [American Speech-Language Hearing Association] ASHA committee through its National Center for Evidence-Based Practice. ***Until the committee report is available, the consensus opinion is nonspeech or[al] motor therapy neither necessary nor sufficient for improved speech production.***" (Bold italics were in original) (Ex. B-37 pp. 73-80; PHS Principal Tr. 12/9/2009 pp. 93-100)

31. The January 23, 2009 PHS Progress Report included progress on goals and objectives, some of which had been modified, deleted or added at recent PPT meetings. No objectives had been mastered. Forty-three objectives were marked satisfactory progress and five were marked not introduced. (Ex. B-36 pp. 6-24)

32. The PPT met on January 26, 2009. Present were: the Board's Assistant Director of SpEd, Student's Parents, the Board's School Social Worker, the Board's 1st and 2nd S/LPs, Mother's Friend, a DDS Representative, two representatives from 1st VCS, PHS S/LP, PHS SpEd Teacher and PHS Principal. The PPT agreed to add articulation goals and objectives, and to delete speech goals and objectives (see Appendix A.) Discussion summarized in the PPT record included the following topics:

Student's scores on standardized tests, if any, and Mother's objection to standardized tests in general; details of recent S/L evaluations by Board's 2nd S/LP and PHS S/LP; an independent S/L

evaluation; communication between school and family; how to maintain mastered skills while learning new ones; the specificity or lack of specificity in IEP objectives; the accuracy of the summary of the prior PPT meeting; and observations [of the Student at PHS] by the Board's School Social Worker.

Parents requested a change of placement, and proposed Cooke Center Academy in Manhattan. Mother requested that OT services be stopped, stating that she was withdrawing consent for this service. (Ex. B-35; B-37 pp 3-17; PHS Principal Tr. 12/9/2009 pp. 95-100, 109)

33. The Student's goals and objectives were revised by the January 26, 2009 PPT (see Appendix A). The special education and related services, service providers and time were set forth as follows:

Special Education Services	Time/week	Provider
Vocational/transition instruction	4 hours/week	SpEd Teacher
Math instruction	4 hours/week	SpEd Teacher
Social skills instruction	2 hours/week	SpEd Teacher, S/LP
Language Arts instruction	4.5 hours/week	SpEd Teacher
Related Services		
S/LP	3 hours/week	S/LP
Adaptive Physical Education	2 hours/week	Adaptive PE Teacher

(Ex. B-37 p. 60)

34. The Board's Director of SpEd contacted Cooke Center to determine whether a placement there would be appropriate for Student. The Director visited the program on February 26, 2009. Student and her Mother also visited the Cooke Center program. Eventually, Cooke Center notified the Director that Student could be admitted to their program. (Ex. B-43; B-46; B-49; B-53; B-62)

35. Ultimately, the PPT rejected placement at Cooke Center at a PPT meeting held on March 30, 2009 and Parents filed for a due process hearing. The dispute was resolved in a settlement, and only referred to indirectly in the record of this hearing. (Ex. B-73 p. 21)

36. The PPT convened on February 11, 2009. Present were the Board's Assistant Director of SpEd, Student's Mother, a Board School Social Worker, 1st VCS Director of Family Support, Mother's Friend, and from PHS by telephone, the Principal, S/LP, and SpEd Teacher. This PPT recommended: ... two hours of additional speech/language support after school at [location], Board S/LP; continued placement at [PHS]; ESY discussion to continue at next PPT where triennial [reevaluation] is planned; and 1st VCS to provide proposal. (Ex. B-52 pp. 2-3)

37. The February 11, 2009 PPT approved two additional hours of S/L services per week after school hours. Student had been receiving three hours per week of S/L services at PHS, which would continue. The additional time was initially proposed to be delivered at one of the Board's buildings. (At a subsequent PPT meeting on March 30, 2009, the Team agreed to change the site for the two hours of S/L per week to Student's job sites to support generalization of skills.) (Ex. B-52 p.3; B-73 p.17; Board's 1st S/LP Tr. 12/22/2009 pp. 35-37, 39-41)

38. The February 11, 2009, PPT had been called to discuss the Parents' request for a change in Student's placement. It was noted that Parents had requested a special education hearing, and the pre-hearing conference was scheduled for the next day.

The PHS Principal reviewed the Student’s progress at PHS, and Mother disagreed. The PHS policy concerning parental access to PHS staff was discussed, and the PHS Principal reported that meetings between Parents and PHS staff members were difficult because:

... [Mother’s] one-sided presentation of her views of [Student’s] level of functioning, program requirements, teaching strategies, and other agenda items. She frequently refers to past performance at levels that are not consistent with [Student’s] behavior and performance at school. [Mother] responds to differing points of view by contradicting the findings, questioning the competence of staff and denying the validity of the observations.

Mother challenged the accuracy of the PHS Principal’s comments, asserting that she was advocating for her daughter. When the Board proposed two additional hours of S/L therapy, to be delivered by a Board S/LP after school in a Board building, Mother commented that Student had had bad experiences in Board buildings, and she requested more information about the S/LP assigned to Student. Mother suggested that the Board S/LP deliver services at Student’s current job site, and the 1st VCR Director of Family Support suggested that the S/LP could consult [with job coach and library staff] at the job site. Mother suggested direct S/L services at the job site. There was discussion of ESY, and 1st VCS would provide a plan of work sites for the summer. (Ex. B-52 pp. 2-11; PHS Principal Tr. 12/9/2009 pp. 114-118; Tr. 12/16/2009 p. 82)

39. IEP changes requested by Parents and staff comments at the February 11, 2009, PPT meeting were as follows:

- ... eliminate OT;
- eliminate Food Service class;
- Eliminate Student’s elective choice (Karaoke) [among a variety of educational and recreational options for ½ hour at lunchtime]. “Limited educational value”. Time not intended to be educational: wasn’t on the IEP. Importance of kids making an independent selection.
- Remove from Careers class (overlap with 1st VCS program).

PHS program would then be limited to: Language Arts, Math, Computer Lab, and Physical Education. The PHS S/LP commented that proposed changes reduced the time for reinforcement of skills, and there were fewer areas to teach skills. (Ex. B-52 p. 3-11; PHS Principal Tr. 12/9/2009 pp. 115-129; Student’s Mother Tr. 1/25/2010 pp. 108, 109)

40. The February 11, 2009, IEP included the following accommodations and modifications for Student:
Materials/Books/Equipment: Assistive technology: (specify) Laptop books; all classes, all year.

Tests/Quizzes/Assessments: No pop quizzes; all classes, all year.

Grading: Base grade on IEP; all classes, all year.

Organization: Templates written work Language Arts, Math; all year.

Environment: Preferential seating, seat close to source of instruction; all areas, all year.

Behavioral Interventions and Support: cue expected behavior, positive reinforcement; all areas, all year. (Ex. B-52 p. 50)

41. The February 11, 2009, IEP listed weekly times and providers of special education and related services:

SpEd Services	Time/week	Provider
Vocational transition instruction	4 hours/week	SpEd Teacher

Math instruction	4 hours/week	SpEd Teacher
Social skills instruction	2 hours/week	SpEd Teacher, S/LP
Language Arts instruction	4.5 hours/week	SpEd Teacher
Related Services		
Speech/Language Pathology	3 hours/week	S/LP (small group)
Adaptive Physical Education	2 hours/week	Adaptive P.E. Teacher
Speech/Language Pathology (Ex. B-52 p.54)	2 hours/week	S/LP (individual)

42. A PPT meeting on March 19, 2009, was attended by the Board's Director of SpEd, Board's Assistant Director of SpEd, Student's Mother, Mother's Friend, Board's School Social Worker, two representatives from 1st VCS, PHS Principal, PHS S/LP, and PHS SpEd Teacher. The PPT recommended that Student's time at PHS be reduced by three hours [per week] to accommodate ten hours per week of services in the community with 1st VCS. PHS to provide data on functional skills Student was currently working on in her computer class. Independent S/L evaluation to be performed at Kennedy Krieger Institute at Board expense. (Ex. B-66 pp 1-2)
43. At the March 19, 2009 PPT meeting, Mother raised several issues regarding the then-current IEP, problems with bus service, and an incident that had been reported to DDS, and then referred to the State Office of Protection and Advocacy. She also questioned whether the Student was receiving a full ten hours per week of vocational/community services from 1st VCS. The 1st VCS Director of Family Support explained staffing and scheduling changes. Quoting from a report by a DDS staff member that had not been shared with the Board, Mother requested that the Student's time at PHS be reduced to accommodate more time with 1st VCS. She also reiterated a request that Student be removed from Karaoke. PHS Principal commented:
- We're really trying to empower the students to elect what they choose to do in this part of their day ... Karaoke is not a formalized class.
- (Ex. B-66 pp. 2-5; PHS Principal 12/16/2009 pp. 94-96, 101-102, 107-113)
44. The PHS Principal reported that the requested reduction of hours at PHS would cause Student to miss Music Class, Careers Class and Social Skills Class. Mother also requested a change of class for Language Arts, because she felt that the other students in that class were not appropriate for the Student. The Board's Director of SpEd disagreed with Mother, stating that the Student needed to work on social skills and careers. There was also discussion of the content of Student's computer class. Discussion of behavioral issues included reference to a DDS Behavior Specialist. Parents continued to request a change of placement, but the school staff members of the PPT continued to support the PHS placement. (Ex. B-66 pp. 2-5; PHS Principal 12/16/2009 pp. 101-103, 107-108, 110-112)
45. The March 19, 2009 revision of Student's IEP reflected minor shifting of responsibility for goals/objectives; an increase in time with 1st VCS and a reduction in time at PHS (see Appendix A). (Ex. B-66 pp. 12-44)
46. The PPT re-convened on March 30, 2009. Present were the Board's Director of SpEd, Student's Mother, PHS Special Education Teacher, Board's School Social Worker, PHS S/LP, Mother's Friend, DDS Representative, 1st VCS Director of Family Support and PHS Principal. The PPT discussed

revision of the March 19, 2009 IEP, ESY for 2009, triennial evaluations, independent evaluations, a Functional Behavior Assessment (FBA) and Behavior Improvement Plan (BIP). (Ex. B-73 pp 3-9)

47. 1st VCS and Board staff members observed that some of Student's S/L issues were impacting her work at the library. They suggested that an S/LP who was familiar with Student consult with the Job Coach and as needed with library staff concerning these issues. Parents opposed consultative services at the job site, suggesting direct S/LP therapy at job sites. (1st VCS Director of Family Support, Tr. 12/16/2009 p. 9-10)
48. The prior written notice with the March 30, 2009 PPT record lists the following:
- [ESY] Educational performance supports proposed action
 - 6/29-8/21 35 hours/wk with [1st VCS]. 1st VCS to transport. District provides 3 hrs speech at library targeting pragmatic functions & concepts for SLP to work & consult on. SLP 6/29-8/13
 - Computer/laptop login process for ease of login process, IT will be contacted to see if Ctrl-Alt-Del can be removed and [Student] will be allowed to create her own password that will match [PHS's]. Parent request.
 - Homework packet [PHS S/LP] – Language Arts Teacher – to develop a homework packet for content of vocabulary/language arts. Educational performance supports proposed actions.
 - Overnight stay at [1st VCS] Up to 4 overnight stays at [1st VCS] for additional assessment during ESY.
 - Don Johnson Books District to order.
 - Provide additional hours. District to provide 6 additional vocational hours to cover lost hours due to busing. [1st VCS] and [Board] to work on make up hours.
 - Conduct Reevaluation. Complete Triennial evaluations. Information on test evaluators & proposed test item to be sent to Parent in advance.
 - Change service location of extended day speech. Switch sites for 2 hours per week from therapy site to work site/community site.
 - Revise IEP at Parent's request.
 - Conduct an IEE Communication Evaluation, to be performed at the Kennedy Krieger Center, Parent request
 - Conduct an FBA [DDS Behavior Specialist] to consult with completing the FBA with proactive strategies across settings.
 - Actions refused: Change placement. Parents request change of placement to Cooke Center Academy in NYC. District refused placement and continues or support placement at [PHS]. (Ex. B-73 pp. 10-21)
49. Parent raised several issues at the March 30, 2009 PPT meeting: problems about the Board-provided lap top computer for Student, books to be provided by the Board, the ESY program, S/LP services during the summer at the library job site, a Y exercise class and bus problems. Student's Mother agreed to ESY S/LP to help with communication at job sites, but reserved the right to know who would be providing the service and specifically what would be provided. The triennial evaluations would include a comprehensive S/L evaluation at Kennedy Krieger Institute in Baltimore and an achievement test administered by a Board SpEd Teacher. An FBA was discussed: PHS Principal reported that they have been collecting data for two weeks and they would be collaborating with the DDS Behavior Specialist, who develops Bops for family use. The 1st VCS Director of Family

Support presented a proposal for Student's ESY. Student's Mother mentioned that Student's progress in math is "impressive." (Ex. B-73 pp 3-9)

50. The Consulting PT observed Student in her library job placement on March 31, 2009. He reported that she was working well and behaving appropriately with library staff and library users. He described her as "very relaxed and confident with her work". Her posture was good and she could carry an arm full of books without difficulty. He closed his report with:
- ... She has opportunities to use a variety of positions during her work time, in sitting, standing and on the floor. There do not appear to be any physical restrictions to her work, work access, or work duration. There are no concerns for [Student] at [library] as it relates to physical therapy. (Ex. B-82)
51. The Center for Communication Disorders (CCD) at Southern Connecticut State University evaluated Student on March 13 and April 8, 2009. This evaluation was arranged by Parents and the Board did not immediately receive a copy of the report. The conclusions from this evaluation are as follows:
- [Student] is a young woman who, despite her intellectual disability, has clearly made substantial gains across all communication domains through a combination of long-term educational and therapeutic supports and consistent support and expectations for success from her family. Her receptive language skills, while not defined exactly throughout this evaluation, appear well-developed for comprehending functional language related to home, school and social routines, as well as more abstract language related to emotions, social relationships and [casual] events. [Student's] capacity to formulate spoken language likewise allows her to communicate in functional routines as well as to engage in higher-level informational exchanges. The intelligibility of her speech is compromised at times, primarily by a combination of low volume, imprecise articulation and to a lesser extent specific articulation errors on complex speech sounds, but is improved through better posturing and increased articulator effort. [Student's] reading skills allow her to comprehend basic narrative and instructional material and her writing skills appear adequate for her engagement in instructional and vocational activities.
- Despite the progress [Student] has made in the area of communication, there are a number of issues associated with her existing communication skills that should be considered in relation to her educational, social and vocational needs. While she possesses a sound basis in spoken language, her initiation of and response to communicative exchanges with others is variable. [Student] presents as a cautious individual who makes purposeful decisions about when and with whom she will communicate as a way of exercising a level of control over her circumstances. She also requires a longer-than-typical length of time to process verbal and non-verbal information and to formulate language-based responses. When she does respond, her spoken utterances are often hard to understand due to the factors mentioned above. These variables result in an interaction style in which [Student] does not always respond immediately to questions and comments posed by others, potentially causing her to be perceived as less aware or capable than she in fact is. This factor can have a negative impact on the expectations people place on her and the opportunities for learning and social interaction that she is provided. Articulation errors and overall oral-motor proficiency, a current and past focus of [Student's] speech-language intervention, do not, in this evaluator's opinion, appear to be the primary factors impacting her overall speech intelligibility at this time. Rather, the intensity of overall articulatory effort, inadequate posture and breath support when speaking, and pragmatic behavioral considerations such as eye contact and visual engagement with her listeners combine to reduce [Student's] speech intelligibility and social affect.

Ultimately, the prognosis for [Student] achieving a successful level of active communication as a participant in educational, social and vocational experiences is dependent on a number of factors. She possesses a sound basis in oral and written language that will support active participation. Her use of these skills and the clarity and intelligibility of her spoken interactions is dependent, however, on appropriate and consistent support embedded into her functional life routines. With a shift from decontextualized to functionally-based learning incorporating both planned and incidental teaching, [Student] has the potential to use her existing communication skills more effectively and to increase her vocabulary and pragmatic interaction skills as related to specific life activities. (Ex. P-17 pp. 6,7; PHS Principal Tr. 12/16/2009 pp. 44, 45)

52. The CCD evaluation report concluded with four recommendations for Student's family and educational team. The report of the evaluation includes no reference to the specific content of her current S/L program, and some of the recommendations refer to techniques and objectives already included in her IEP, as confirmed by the Board's 1st S/LP. (Ex. P-17 pp. 7-9; Board's 1st S/LP Tr. 12/22/2009 pp.64-68)
53. Submitted with the CCD evaluation were copies of three publications from ASHA:
- *Roles and Responsibilities of Speech-Language Pathologists in Service Delivery for Persons with Mental Retardation/Developmental Disabilities* (2005)
 - *Principles for Speech-Language Pathologists Serving Persons with Mental Retardation/Developmental Disabilities* (2005)
 - *Knowledge and Skills Needed by Speech-Language Pathologists Serving Persons with Mental Retardation/Developmental Disabilities* (2005). (Ex. P-17 pp. 11-81)
54. The April, 2009, Progress Report from PHS included progress on goals and objectives, some of which had been modified, deleted or added by the PPT. (see Appendix A) Two objectives had been mastered. Forty-nine were marked satisfactory progress and three were marked not introduced. (Ex. B-78 pp. 8-30)
55. A Board School Social Worker observed Student in May, 2009, at her work site at a library. Student was shelving books, which she did very carefully after reading the numbers and letters on each book. When some students came into the room where she was working, she greeted them appropriately and continued working. Her Job Coach from 1st VCS called Student a diligent and careful worker. The School Social Worker observed that Student was "very comfortable in this environment." (Ex. B-92)
56. An Educational Assessment was performed by a Board SpEd Teacher on May 15 and 18, 2009, at PHS. This evaluation concluded with a summary:
- [Student] has a solid sight word vocabulary, including most of the Dolch words. She has the phonics skills necessary to decode phonetically correct single syllable words, but when faced with an unfamiliar word, she often called it a word she knew, not the nonsense word presented. Because of her sight word vocabulary, she is able to decode on a beginning third grade level; her comprehension is not as strong. She is able to follow the gist of the Ramona story, and her listening comprehension (we took turns reading) may be stronger than her independent reading comprehension.
- [Student] is able to use a calculator with support, and has some functional math skills, such as telling time to the hour and recognizing some coins. She was able to plan the cost of a meal and

make change for the items purchased at a supermarket, both with supervision. She has some number sense of the value of small numbers.

[Student] is able to spell some words, and copy many more accurately from the board. Her writing is a mixture of upper case and lower case formations, written primarily at the same size. She has good line regard and some evidence of spacing. She has some knowledge of the purpose of print material. When asked to write a sentence, she wrote in phrases; when asked to write a sentence about a birthday, she said that she couldn't. However, it was noted that when [Student] had something to say, she spoke in a complete sentence. She would probably have the skill to spell many of the words she used in speaking and might be able to get her own single sentence thought down on paper, with encouragement. She should be able to write notes to herself, write up a shopping list, or some other written tasks that she's motivated to complete. [Mother] spoke of [Student] keeping track of songs she listens to on 3x5 cards. While these are not sentences, [Student] is motivated to use writing effectively for a specific purpose.

This summary was followed by some recommendations and suggested goals and objectives. (Ex. B-95 pp. 1-13)

57. The PHS Principal discussed this evaluation and the Board's SpEd Teacher's observations of Student at PHS when he testified at the hearing. After commenting that he could draw some hypotheses from test results, he stressed that at PHS they were more concerned about students' progress on their IEP goals and objectives than standardized test results. (PHS Principal Tr. 12/16/2009 pp. 15-21)

58. Student's raw scores from the Board's two administrations of the Woodcock-Johnson III Tests of Achievement show some growth over seven years:

WJ III Subtest	Spring 2002	Spring 2009
Letter/Word ID	39	46
Calculation	9	14
Spelling	22	36
Passage Comprehension	28	45
Applied Problems	25	39
Writing Samples	5-A	39
Word Attack	9	55
Reading Vocabulary	--	48
Quantitative Concepts	--	12
Spelling of Sounds	16	63 (Ex. B-100 p. 2)

59. Parents submitted a comparison of age equivalent and grade equivalent test scores dated 2002, 05/09 and 7-8/09, and identified as WJR III. The administrator of these tests was not identified, and one score was labeled "untimed" and another, "with manipulatives." (Ex. P-3)

60. Board Occupational Therapist (OT) evaluated Student on May 14 and 18, 2009. She observed Student at her library work site and in Language Arts and Computer classes at PHS. Her summary of findings:

[Student] is a 19.11-year-old young woman who presents with numerous strengths. She has a sense of humor, loves music and in particular Tom Petty, loves cooking, her family and animals, and knows and understands her daily routines. Based on these two observations, a review of previous reports and interviews, [Student] is able to write and sign her name independently and write short sentences independently. She requires some assistance to develop sentences prior to

writing them. She is also able to utilize a keyboard for typing and a mouse for navigating websites. [Student] is able to follow routines. As a result, she relies on her schedule to help her organize her day/week. She independently navigates her school, home and work environments. One area of continued need is endurance and activity tolerance. While working in her job setting and in the school setting, [Student] needed breaks when working for long periods. She also was noted to become silly after working for a period in the school setting. In addition, [Student] tends to position her body close to her work materials (books, shelves at library, etc). In the school setting, [Student] has an exercise program developed by [PT Consultant]. [Student] requires an assistant to help her complete her tasks in her work environment.

This OT also made recommendations concerning support for better posture, continuing OT and PT consultation, continued keyboarding, and introduction of Yoga, (Ex. B-94 pp. 3-4)

Behavioral Issues

61. At PHS, Student had “shut down” sometimes when she didn’t want to do something, was confused about something, or something else was bothering her. PHS staff members had tried a variety of strategies, including humor and offering work on something she liked, but were not always successful in re-engaging her interest within a reasonable period of time. The DDS Behavior Specialist described one “shut down” she witnessed at PHS in March 2009. (PHS Principal Tr. 12/9/2009 p. 68-70, 12/16/2009 pp. 114-116, 181-188; DDS Behavior Specialist Tr. 12/21/2009 pp. 47-50)
62. In November, 2002, during the time that Student attended a middle school related to PHS, she had a Behavioral Support Plan developed collaboratively by that school, DDS Behavior Specialist and Another Consultant. “Shutting Down” was identified as one of three target behaviors at that time. No follow-up data was provided on the record for this hearing. (Ex. P-4)
63. The Board had observed refusal behavior in 2005, when Student was attending their high school. After data collection, it was reported that the behavior of concern had been observed across all settings and classes, and no common antecedent had been identified. The report ended with a recommendation that a behavior plan be developed. (Ex. P-7)
64. Student’s Mother had provided some suggestions for addressing Student’s “shut downs” by email dated December 1, 2008, directed to the Board’s Director of SpEd. (Ex. B-55)
65. PHS had set up data recording and between March 3, 2009 and June 15, 2009, recorded approximately 56 days. Based on this data, PHS Principal reported that withdrawal behavior occurred at PHS about one day in four, averaging 1½ hours. He estimated that Student was missing about 6% of her instructional time because of her withdrawals and refusals to attend class. He could not identify a pattern of antecedents. The PHS Principal supported the Board’s continuing request for Parental consent for an FBA by a behavior expert. (Ex. B-103; PHS Principal, Tr. 12/9/2009 pp. 129-136, 12/16/2009 p. 6)
66. A Behavior Specialist with 25 years of experience at DDS who had also been a special education teacher witnessed one of Student’s episodes of withdrawal on March 16, 2009, and tried to help PHS staff. She develops behavior plans for use at home through DDS. She summarized the event and her suggestions in an email to Student’s Mother and PHS Principal. That day, the DDS Behavior Specialist and PHS SpEd Teacher (one of Student’s favorite teachers) eventually learned that Student

was upset about a missing CD. They helped her work out a plan for retrieving the CD, and she went to class. The DDS Behavior Specialist suggested:

- If anything out of the ordinary happened at home prior to [Student] arriving at school, a parent should email or call [PHS Principal] with the information prior to [Student's] arrival.
- Upon [Student's] arrival at school she should be met in the cafeteria by a highly preferred faculty member who can provide her with an opportunity to share any concerns. This person should assist [Student] in developing a resolution plan. This would also be a good opportunity to review her schedule for the day so that expectations are clear and predictable. During wrap up, direct [Student] to her first class and remind her of her reinforcers throughout the day (as examples, favorite food on menu, field trips, math class, time to listen to favorite songs once work is complete).
- An operational definition of behavior must be defined and agreed upon. In addition an individual Antecedent-Behavior-Consequence (ABC) [data collection] sheet needs to be developed and implemented. I would be happy to share examples if requested. Data collection is critical to determine the function of the behavior which will then lead to proactive and reactive strategies to address the target behavior (refusal/off task).
- Based on this observation and past experience with [Student], there could be several different explanations for her behavior. What I know from working with [Student] is when she is refusing/off task, verbal redirection (if not accepted after the second attempt) is not a successful strategy and should not continue. Instead, give her some space, her schedule (visible), the current time and the expectation. This strategy should be provided by one adult and spaced out to give her time to process. Be mindful that she needs to save face which could give her an out and help her move forward. (Ex. P-13; DDS Behavior Specialist, 12/21/2009 pp. 20-30, 31-34, 75-77; PHS Principal Tr. 12/9/2009 pp. 129-134)

67. The DDS Behavior Specialist testified to the standards of data collection that would be necessary to do a trend analysis and to develop a behavior plan. She also commented that the format of the PHS data sheets was a log of behavior from class to class, and did not focus on ABC in specific incidents. Although there had been an operational definition of behaviors of concern in the 2005 documentation, the current discussions had not included an agreement concerning an operational definition. She supported the PPT's requests for an FBA. (DDS Behavior Specialist 12/21/2009 pp. 34-38, 80-89)
68. The Board responded to reports of Student's withdrawal behavior at PHS by requesting parental consent for an FBA. Parents initially consented, but objected to several proposed Behavior Specialists. Student's Mother withdrew the consent on April 2, 2009, stating that behavior problems were already well-documented. Parents also notified PHS Principal that the Board's current designated Behavior Specialist was not permitted to observe the Student at PHS. (Ex. B-75, B-90 p. 2)
69. Student's Mother's Friend described a time approximately six months before this hearing that Student had "shut down" at the Friend's home. The Friend was unable to get Student to respond. (Mother's Friend Tr. 1/19/2010 pp. 46-48)
70. At some point in the spring of 2009, Parents withdrew their consent for the Board and PHS to communicate with DDS, and vice versa, concerning Student. Eventually, that communication was restored. (Ex. B-90 p. 11; DDS Behavior Specialist Tr. 12/21/2009 pp. 148-154)

Planning for 2009 ESY and 2009-2010

71. The PPT met on June 15, 2009, to review the results of triennial evaluations and to develop an IEP for the ESY program and the school year 2009-2010. Present at this meeting were Board's Director of SpEd, the Board's Assistant Director of SpEd, Student's Mother, Mother's Friend, a Board SpEd Teacher, Board's 1st S/LP, Board's OT, Representatives from 1st VCS and DDS, PHS Principal, PHS S/LP, and PHS SpEd Teacher. This PPT annual review recommended:

- placement for ESY and 2009-2010 at PHS for 17.5 hours per week
- vocational/community placement by 1st VCS for 16 hours per week.
- 1st VCS would purchase a YMCA membership for Student, to be billed to the Board.
- The IEP would include two hours per week of S/LP in community/vocational settings.
- An independent OT evaluation would be funded by the Board, and OT consults of one hour a month through 1st VCS would be provided.

Parents rejected the IEP and placement. The PPT would continue the current IEP as "stay put".

Mother stated that Student would not be attending PHS after June 17, 2009, missing the last five days of the school year. (Ex. B-107 pp. 2-3)

72. The June 15, 2009, Present Levels of Academic Achievement and Functional Performance were reported as almost unchanged from the June 2008 levels (see Finding of Fact # 10 above). When questioned about this similarity, the PHS Principal commented in testimony:

... it takes a long time to bring up new material because it has to be approached in different ways. It takes a long time to get [Student] to the point where that material can be applied in a functional way that we really care about. So, things do not change dramatically over some number of months from one PPT meeting to the next PPT meeting. ... her needs remain basically ... very similar over time ... She was making progress. And even some [objectives] that were mastered, and remember that's a fairly arbitrary definition of mastered ... we set a percentage on an objective and that's not the same as kind of a common sense understanding of mastered. But reaching a certain level of confidence is what we're looking at. You can be very close to that and not technically have mastered it ... Some things that we were beginning to work on or continuing to work on, so we did continue those. Especially when we saw some signs of progress, and we still believed they were important things to work on, we would want to continue them. (Ex. B-107 pp. 20-21; PHS Principal, Tr. 12/16/2009 pp. 28-29)

73. The PHS Principal described the reasons he felt that Student's placement for her last school year, 2009-2010, should be at PHS although her Mother opposed that placement:

I think as an [state] approved program we have a record of working successfully with students with disabilities, we had a personal knowledge of [Student] based on two solid years of working with her. She had a group of peers she was very comfortable with, she had friends among that group, she was comfortable with the staff and teachers, it was a familiar environment for her. We could offer her for her last year of school, a continuation of the work we had done, we could work – we're anxious to work on transitional issues, to try to transition beyond high school with [Student]. We could offer things like participating in senior activities ... graduating with the class, being part of that whole process ... I think ... you put in 10, 12, 15, 16, 17 years of working on education and there's a ceremony at the end that you're the star of, I believe everybody has a right to that who's done that amount of work for it.
(PHS Principal, Tr. 12/16/2009 pp. 28-33)

74. Program accommodations and modifications in the June 15, 2009, IEP were:
Materials/books/equipment: laptop [computer], software, assistive devices and services, start to finish books; all classes, all year.
Tests/quizzes/assessments: no pop quizzes; all classes, all year.
Grading: Base grade on IEP; all classes, all year.
Organization: Templates for written work, Language Arts, Math; all year.
Environment: preferential seating, seat close to source of instruction; all areas, all year.
Behavioral interventions and support: cue expected behavior, positive reinforcement; all areas, all year. (Ex. B-107 p. 63)
75. The summary of discussion at the June 15, 2009 PPT meeting included discussion of triennial evaluations and other matters. After hearing a report of the achievement tests given by a Board SpEd Teacher (see Findings of Fact # 55 and #57) Student’s Mother stated that she disagreed with this evaluation and wanted an independent achievement evaluation at Board expense. A Board OT reported on her evaluation (see Finding of Fact # 59) and responded to questions from Student’s Mother and the 1st VCS Director of Family Support. Student’s Mother commented that Student’s handwriting had been better in the past and had gotten worse. There was discussion of working on handwriting at PHS to support vocational placements by 1st VCS. Student’s Mother requested an independent OT evaluation at Board expense The PPT agreed to some changes in data collection suggested by Student’s Mother. The PPT, including the 1st VCS Director of Family Support, recommended increasing Student’s time with 1st VCS for 2009-2010 to fifteen hours a week: Student’s Mother did not agree. Student’s Mother complained that she had not seen some of the Language Arts materials referred to by the PHS SpEd Teacher who was reporting on Student’s progress. The PPT reviewed proposed goals and objectives. The independent evaluations requested by Student’s Mother would be provided by mutually agreed professionals. The total time for educational services at PHS for 2009-2010 would be 17½ hours per week; for vocational/community services from 1st VCS would be 16 hours per week. The total is one hour per week more than students at the Board’s high school receive. Student’s Mother rejected the IEP and placement except for 1st VCS’s ESY program. (Ex. B-107 pp 3-10)
76. The Director of Family Support from 1st VCS reported on Student’s good work with a Job Coach at a local library. Student’s Father described how Student had enjoyed visiting the library for many years, and loved working there. A summer program was being developed by 1st VCS, and they were hiring a special education teacher as well as developing job placements. (1st VCS Director of Family Support Tr. 12/17/2009 p. 14; Student’s Father Tr. 1/20/2010 p. 20)
77. Student took pictures with a school camera and some of the pictures appeared in the PHS newspaper, which comes out about every two weeks. Student’s Mother complained that she didn’t see the newspaper when it comes out. PHS Principal explained that the newspaper is distributed on Friday afternoons, and Student leaves school early for horseback riding on Fridays. The PHS SpEd Teacher volunteered to get a copy of the newspaper for Student and give it to her on Mondays. (PHS Principal Tr. 12/17/2009 pp. 102-107)
78. The June 15, 2009 PPT record includes the services to be provided, times for each, and the service providers:

SpEd Services	Time/week	Service Providers
Language Arts	2.5 hr/week	SpEd Teacher

Specialized Instruction	5 hr/week	SpEd Teacher
Life Skills	7.5 hr/week	1 st VCS Provider
Math	2.5 hr/week	SpEd Teacher
Related Services		
Adaptive PE	2 hr/week	Adaptive PE Teacher
S/LP	2.5 hr/week	S/LP
Vocational (individual)	2.5 hr/week	1 st VCS
Vocational (small group)	5 hr/week	1 st VCS

(Ex. B-107 pp. 66-67)

79. The Student appeared to enjoy life at PHS. Pictures submitted in evidence by the Board were primarily taken in informal settings at PHS, and showed a smiling young woman. She participated in a variety of activities. (Ex. B-166; PHS Principal, Tr. 12/9/2009 p. 75, Tr. 12/16/2009 pp. 5-13)
80. Student ceased attending PHS five days before the end of the school year in June, 2009. She did not participate in the proposed academic and S/L services component of the ESY program to be provided at PHS, which her Parents had rejected. She did not attend the morning academic program and S/L services at PHS proposed for the 2009-2010 school year, which her Parents had rejected. (Ex. 107 p. 9; Student's Father Tr. 1/20/2010 pp. 6,7)
81. Some of Student's goals and objectives had been marked by 1st VCS to show progress for the last half of the 2008-2009 school year, and a few had been modified, deleted or added recently by the PPT. Three objectives had been mastered. Ten were marked satisfactory progress and nine were marked not introduced. (Ex. B-106)
82. The PHS Principal testified concerning the June 15, 2009 PPT meeting. He observed that Parents had many opportunities to express their opinions and that the Board agreed to some of their requests. (PHS Principal, Tr. 12/16/2009 pp. 22-27)
83. The June 24, 2009, progress report from PHS included comments about Student's progress in each general subject area and a short summary:
 Many of [Student's] gains this term were due, in part, to the strategies and assistance offered to her. She continued to make improvement when individual instruction, modeling and drills were used. There were times when [Student] refused to go to her classes or when in class, refused to complete the assigned work. As a result, the continuity of the lesson and the rate at which progress was made was affected. (Ex. B-101 pp. 4-5; PHS Principal, Tr. 12/16/2009 pp. 13-15)
84. The June 24, 2009, PHS progress report for Student provided progress on goals and objectives some of which had been modified, deleted or added recently by the PPT. (see Appendix A) Twenty-two objectives were marked mastered. Thirty-six were marked satisfactory progress, three were marked unsatisfactory progress and nine were marked not introduced. (Ex. B-101 pp 6-32)
85. Student's work in the library was logged by her Job Coach from April 21 to July 8, 2009. Most of the days went well, but there were a few incidents when Student was uncooperative and other incidents when she didn't come to work. Student also worked at a video rental store. There was disagreement among Parents, 1st VCS and Board's 3rd S/LP concerning how to implement S/L services on the job

site. Parents requested a definite written plan prior to implementation of S/L services at job sites. (Ex. B-108 pp 40-55, 68-69, P-16)

2009 ESY Program

86. A list of possible job placements for Student for the summer of 2009 was developed by 1st VCS. The library would welcome her continuing there. An animal shelter, a farm, a day care center, and some YMCA programs were mentioned as possibilities. An opportunity to continue Student's exercise program and community support were also planned. Goals and objectives that would be applicable in each option were also discussed. 1st VCS developed schedules and submitted them to the Board and to Parents. Parents responded with questions and suggestions. Once the summer program started, there were almost daily communications from Parents (see Finding of Fact # 86, below) concerning transportation, program and staff. Mother visited a job site and observed Student, and as a result the Board's Director of SpEd wrote a letter dated July 7, 2009, asking that Mother not visit job sites and observe, because such visits interfered with Student's educational program. (Ex. B-108 pp. 1-24, 35-39, 73-83; B-114; B-115; P-15; 1st VCS Director of Family Support Tr. 12/17/2009 pp. 68-109, 121-126)
87. There were many discussions of the S/L services to be provided in conjunction with vocational and community services. The initial request cited a need for Job Coaches and library staff to better understand Student's communication problems. This was discussed as consultation; Parents, perhaps fearing a reduction in direct S/L services, insisted that S/L services be provided directly to the Student. It appears from Board's 4th S/LP's notes that there had not been adequate communication concerning the needs of Job Coaches and staff at job sites. Mother's testimony in the hearing includes a statement that she had supported consultation S/L services at Student's job sites. (Ex. B-108; B-127; B-128; Board's 1st S/LP Tr. 1/6/2010 pp. 9-11, 115-117; Student's Mother Tr. 1/25/2010 pp. 42-43, 89-90)
88. By letter dated July 9, 2009, the 1st VCS Director of Family Supports notified the Board that 1st VCS would no longer provide Student's ESY program. The reasons she gave were:
- Parents' constant requests for changes in the schedule and transportation.
 - Communication difficulties between Mother and 1st VCS staff.
 - The Special Education Teacher had resigned because of the uncomfortable atmosphere when she met Mother and Student at their car.
- By letter dated July 10, 2009, the Board's Director of SpEd informed Parents that 1st VCS had notified the Board that they could no longer provide services to Student, effective immediately. The Director also mentioned the Board's repeated requests to perform an FBA, and the possibility of the Board initiating a due process hearing to override Parents' withdrawal of consent for the FBA. (Ex. B-120, B-121)
89. Another letter from the Board's Director of SpEd to Student's Mother dated July 23, 2009, reported that 2nd VCS had been hired to continue the ESY program for Student. The Director of Employment at 2nd VCS had twenty years of experience working with people with disabilities and was a certified special education teacher. He had reviewed the program offered by 1st VCS and believed that it was appropriate to Student's needs and that 2nd VCS could implement it immediately. Parents had previously withdrawn their consent for S/L services, and the Director verified that Parents now were willing to have S/L services resume. The Board was contracting with

4th S/LP to provide this service. (Ex. B-127; 2nd VCS Director of Employment Tr. 12/17/2009 p. 149)

Problems with PHS Placement

90. Parents frequently complained that they were not provided with opportunities to meet individually with PHS staff members who worked with the Student. The PHS Principal explained the school's policy that communication between families and staff members is coordinated by the Principal, and that there were opportunities for communication at numerous PPT meetings attended by him and several staff members. He also stated that he had arranged and participated in "six or eight" meetings for Parents with staff members, and that one meeting included all of Student's teachers at that time, as requested by Parents. (PHS Principal Tr. 12/9/2009 pp. 101-107; 12/16/2009 pp. 82-86; Student's Father Tr. 1/20/2010 pp. 4,5)

91. The record also includes many e-mail exchanges and letters between Parents and Board, 1st VCS and PHS staff members. There was much duplication in the record. Some of the e-mails between Parents and Board and PHS staff members are listed below by topic. Emails concerning scheduling of PPT meetings and related matters were not tabulated.

Transportation problems: 12/1/2008, 12/2/2008, 12/9/2008, 12/15/2008, 3/3/2009, 3/23/2009, 3/23/2009, 3/24/2009, 3/26/2009, 3/27/2009, 3/30/2009, 4/2/2009, 5/1/2009, 5/4/2009, 5/22/2009, 9/22/2009.

Homework assignments: 2/13/2009, 2/23/2009, 2/24/2009, 2/25/2009, 2/26/2009, 4/8/2009, 4/24/2009, 5/5/2009, 5/15/2009, 5/22/2009, 5/27/2009, 5/28/2009, 5/29/2009.

Miscellaneous classroom issues: 8/2/2007, 8/4/2007, 9/11/2008, 9/23/2008, 12/12/2008, 1/21/2009, 2/3/2009, 2/6/2009, 3/5/2009, 3/31/2009, 4/23/2009, 4/28,2009, 4/30/2009, 5/8/2009, 6/10/2009, 6/15/2009.

Vocational/community program issues: 6/22/2009, 6/24/2009, 6/26/2009, 6/27/2009, 6/28/2009, 6/30/2009, 7/1/2009, 7/2/2009, 7/5/2009, 7/7/2009, 7/8/2009, 7/9/2009.

Field trips: 2/10/2009, 2/25/2009.

Evaluations: 11/18/2008, 12/3/2008 12/3/2008, 12/22/2008, 1/16/2009, 4/2/2009, 4/8/2009, 4/20/2009, 4/21/2009, 4/22/2009, 4/23/2009, 5/5/2009, 5/11/2009.

Student's withdrawal behavior: 3/9/2009, 4/22/2009, 4/30/2009.

(Ex. P-10 pp. 19, 21-25; P-12; P-14; P-39; P-54, P-56 p.4; B-30; B-31; B-32; B-34; B-54; B-56; B-59; B-69; B-79; B-80; B-81; B-85; B-86; B-88; B-90; B-108 pp. 70-72, 84-137; PHS Principal Tr. 12/9/2009 pp. 101-107)

Evaluations After June 15, 2009 PPT Developed IEP for 2009-2010

92. Student had an independent S/L evaluation at the Kennedy Krieger Institute on July 21, 2009. This evaluation was requested by Parents and funded by the Board. The Board provided records of prior evaluations. The report of this evaluation concluded with a summary and functional implications section:

Overall, [Student's] receptive and expressive spoken language skills approximated the four-year-old level. Relative strengths existed in vocabulary and comprehension and use of routine messages, as she communicated her basic wants and needs, participated in simple conversations and understood familiar messages. Contextual cues and interacting with familiar adult partners enabled her to be a slightly more successful communicator during language based interactions.

With spoken language skills at this level, [Student] lacks the requisite skills for independent function. She also lacks the spoken language foundation for developing true literacy skills (i.e., independently reading text with comprehension). A strong link appeared to exist between [Student's] language abilities and her behavior. When required to participate in communicative tasks that exceeded her measured ability levels, [Student] presented with refusal behaviors. She does not have sophisticated enough communication skills to explain what is difficult for her; simple refusal allows her to "opt out" of difficult tasks. Refusal behaviors do limit opportunities for [Student] to participate in communication exchanges, but her language deficits also limit the level to which she can participate.

[Student's] speech was generally intelligible with contextual cues available for her listener. She is able to communicate verbally, despite some speech sound production errors. Oral motor, voice and fluency weaknesses were present. Speech, oral motor, voice and fluency weaknesses did not compromise [Student's] communication as much as her language weaknesses did. Going forward, [Student] will continue to benefit from structure, familiarity, and encouragement to understand and use language as effectively as possible.

[Student] is transitioning to becoming an "adult language learner," where the focus moves from mastery of academics to learning what she needs in order to function as fully as possible in her community. Future assessments conducted through analysis of her performance in the environments where she communicates most often will likely provide more useful measures of performance than repeat administrations of standardized speech and language tests. Assessment of communication skills required within certain settings (e.g., future supported vocational settings) can reveal what skills are needed for that environment.

(Ex. B-133 pp 15-16; B-136 pp. 2-4)

93. The Kennedy Krieger evaluation provided a communication diagnosis:

- Significant receptive & expressive language disorder with respect to chronological age with concomitant pragmatic language weaknesses.
- Written language weaknesses, in keeping with spoken language and motor difficulties
- Dysarthria, a neuromotor disorder
- Oral motor dysfunction
- Oral phase dysphagia
- Mild fluency disorder

Positive prognostic indicators for improving communication skills include relatively strong single word vocabulary skills, reliance on contextual cues and prior experiences to assist with understanding, a history of speech and language treatment services, training in an adaptive educational setting, and family involvement. Negative prognostic indicators for significant change in communication skills include: underlying medical diagnosis of Down Syndrome, chronological age, variable attention and severity of language disorder. (Ex. B-133 p 16)

94. The Kennedy Kreiger report included recommendations concerning her educational program and S/L therapy, stressing the importance of collaboration among all adults working with her. In discussion with Student and her Parents, use of a Chewy Tube was suggested as a possible way to improve oral motor function. (Ex. B-133 pp 16-18)

95. The Student had an Independent Educational Evaluation on July 19 and August 2, 2009. Independent Evaluator summarized several earlier evaluations and reports provided to her. Based on her own testing, this evaluator discussed Student's reading, math and cognition, and made recommendations:

- Supporting the CCD recommendations, Student benefits from contextualized and direct experiences, and paper-and-pencil, worksheets and drill are not effective ways to teach her. The targeted skills should be functional.
- A communication group of peers, moderated by a S/LP or a counselor/social worker in consultation with a S/LP.
- Program should use “spaced rather than massed instruction.”
- Reading: work on vowel sounds; enhance speech and reading/spelling.
- S/LP provide additional supports for vowel sounds, no drill.
- Adult Wilson readers. Latch-On Program for reading.
- Small group discussion of books all have read.
- She liked “... the logical, true-false thinking on the reading fluency test” so she might benefit from the SRA Corrective Reading Program.
- Part of transition should be identifying Student’s preferred forms of expression.
- Transition plan should include AT, communication issues, life skills and areas in evaluation that need support.
- Posture to support speech articulation and volume. Recommend an auditory processing evaluation.
- OT to support work on endurance.
- May need counseling to address downward progression of her affect.

This evaluation is less credible than others because the evaluator did not appear as a witness to defend her choices of subtests and comparative scores or the selective references to earlier evaluations. She did not consult with Board or PHS staff, or observe Student except in her office. (Ex. P-20 pp. 16-20; B-143; PHS Principal Tr. 12/16/2009 pp 45-57, 59-72)

96. Parents became interested in a reading program for adults with Down Syndrome, Latch On, being used in Australia. A reference to this program had appeared in the *Journal of Adolescent & Adult Literacy* in 2000. PHS Principal investigated, and from the website and a telephone conversation with someone involved in the program in Australia, he learned that training was required and that no training was available in the United States. Independent Evaluator also referred to this program in her report. (Ex. B-143 p. 21; P-9 p.8; PHS Principal Tr. 12/16/2009 pp. 64-66, 163-166, 169)
97. An Independent Occupational Therapy (OT) evaluation, funded by the Board, was performed on several days in August, 2009. This OT has B.S. and M.S. degrees in OT and is a doctoral candidate in psychology and special education. She has taught and published in her field, including a paper about transition planning. Her evaluation covered completion of activities of daily living (ADL), vocational skills and accessing and participating in the community. She observed Student in two job placements: at the library, where she was “very independent and behaved appropriately,” and at an animal shelter, which was more distracting but she did better with the outdoor part of her responsibilities. The OT also observed her in her home. She summarized her observations:
- [Student] presented as much younger than 20-years-old. In general, she was most successful with tasks that were well known to her and that had a consistent routine. In the quiet setting of the library, [Student] was able to work fairly independently although she was noted to make off-topic remarks/comments about the videos as she was putting them away. At the [Animal Shelter] she did not have a clearly habituated routine and she seemed somewhat overwhelmed by the level of noise and activity there. [Student’s] communication skills were noted to vary with her speaking the most when she was out on job sites and in the

company of people that she was comfortable with. In her home, [Student] was shy around meeting this consultant for the first time and she also seemed to be intentionally ignoring her mother's attempts to get her to interact.

In all settings several behaviors that could serve to be barriers to engaging in community-based occupations were noted. First was [Student's] tendency to not clearly identify her communication partner by gaining that person's attention prior to speaking through the use of their name or other non-verbal means (touch shoulder, make eye contact); second was her habit of talking in single words or short phrases that did not convey enough information to be understood; and lastly was her need to have time to process what was said to her or asked of her before responding or reacting. (Ex. B-130 pp. 2-5)

98. The Independent OT summarized Student's Occupational Performance:

The purpose of this evaluation was to determine [Student's] current level of occupational performance. In doing so both formal (standardized) and informal (observational, anecdotal) measures were used. In the AMPS ... [Student] demonstrated skills that were significantly below the mean in both areas. Under the motor skills domain, [Student's] performance was functional for familiar, habituated tasks. This means that although her motor performance was ineffective and significantly below that of non-disabled peers, she was able to complete simple activities of daily living that she has practiced over time.

Under the process skills domain, [Student's] ability to initiate and complete an activity, along with her ability to recognize and overcome problems and adapt her performance to the situation, was markedly deficient and served as the cause of task breakdown in several areas. Overall, what this means for [Student's] independent living skills is that she can complete some basic activities of daily living (brushing her teeth, making a no-cook snack, putting on clothing, etc) when she is required to do so. Where she has significant difficulty is in the application of these skills for the purpose of completing instrumental activities of daily living, or the tasks that a person is required to engage in to be successful in society including the workplace and the community. This pattern of performance was seen in her ability to follow through and process herself through a habituated task such as putting away videos at the library relatively independently; whereas in the more novel task that was observed at [animal shelter], [Student] required a very high level of assistance. Information gathered from the ESTR-III indicated that [Student] has limited knowledge of basic adult responsibilities, and similarly, has had limited experiences in applying this knowledge. [Student] has been engaging in a community job experience (library) for the last year and more recently has begun to go into additional sites [animal shelter]. Socially, she has had limited experience with age-appropriate relationships and recreational activities common among high school students. [Student] has a narrow range of interests that are typically suited for a much younger person (Disney, cartoon characters, etc).

Social and recreational activities that [Student] does participate in are typically arranged and implemented by her parents. [Student's] ability to care for herself is at a very basic level and most daily routines require adult support. [Student] was reported to be able to complete some steps of daily hygiene independently, however, in taking a shower someone must turn on and adjust the water temperature and help her wash her hair. While she can dress herself she is not able to tie her own shoes. In areas of basic safety [Student] was reported to be dependent on others as she cannot make a phone call, communicate fluently, or effectively protect herself from strangers.

[Student's] behavioral characteristics predictive of success in the workplace fall in the below average range when she is compared to a slightly younger peer group (18-11) in the TBS-2.

Overall, most of [Student's] work-related behaviors were noted to be in the early developmental stage, consistent with her knowledge base described in the ESTR-III. [Student] was observed and was reported to be developing a good work ethic and to understand social expectations when out in the community. [Student] has little experience with work-related interpersonal relationships. When [Student] was asked about her areas of interest relative to working, she indicated that she thought that she would like to work with dogs. When her job sites were listed for her she reported that the Roxy video store was her favorite job. As previously described, other interests that [Student] discussed were consistent with those noted in younger children. While this evaluation did not focus on current academic skills, recent academic testing was reviewed (May 2009). [Student's] math skills were assessed at the kindergarten through 1st grade level with reading skills approximately one grade level higher falling in the 2nd to 3rd grade range. [Student's] strengths have been identified as having a warm and pleasant personality, being a hard worker who likes to be successful and please others and being able to manage and execute well-established and consistent routines. She was noted to be loyal and respectful and to follow rules and handle things with care. She has a strong interest in animals and is comfortable around both large and small animals. These strengths should be used as the foundation for skill building and engagement in the occupations that she will encounter as an adult.

(Ex. B-130 p. 13-14)

99. The Independent OT made recommendations in the areas of OT, Independent Living Skills, Post-secondary Employment, and Community Participation including Recreation and Leisure and Post-Secondary Education. She also recommended seeking a program with age-appropriate peers. (Ex. B-130 pp. 14-18)
100. The Independent OT did not consult PHS or Board staff, and some of her suggestions were already part of the Student's IEP. For that reason, Board staff and PHS Principal both prepared summaries of activities offered to Student that might address some of this evaluator's suggestions. Student was offered a variety of community activities during 2004-2007. Of approximately 19 opportunities, Parents either refused consent or later pulled Student out of eleven. During school years 2007-2008 and 2008-2009, parents refused offers from the Board to have the Student participate in extracurricular activities at the Board's high school and to work in the Board's pre-school program. The Board funded a YMCA membership for Student, and she attended exercise classes there. The PHS Principal reported that Student had worked successfully at an office job site and in the packaging department of a mail order company. In both these activities she was in a small group and they were accompanied by a Job Coach from PHS. As she became comfortable and skilled, the support was reduced. He also reported that Student had participated in Best Buddies Club, which provided a few activities for teenagers with disabilities from PHS and teenagers without disabilities from a nearby public high school. An example of Independent OT's lack of awareness of Student's 2008-2009 IEP; PHS Principal pointed out that some of her S/L services at PHS were in a small group of peers, one of the Independent OT's recommendations. She also participated in monthly Rec Nights at PHS, including Spring Prom, Halloween Party, Dance Night and Alumni Night. In all these activities she was observed by staff to be enjoying herself and behaving appropriately. (Ex. B-130 pp. 22-24; PHS Principal Tr. 12/9/2009 pp. 76-84, 108-126; 12/16/2009 pp. 61, 62)

Other Matters

101. During discussion of reading scores, Student's Mother asked how Student's low reading scores could be increased. PHS Principal responded:
When we talk about reading scores being low, we really need to say low relative to what? And they're certainly low relative to the general population. The question is, are they low relative to [Student's] potential? And frankly, that's a question I have trouble answering, since we don't have any cognitive scores on [Student]. (PHS Principal Tr. 12/16/2009 p. 170)
102. Addressing the question of what PHS could do to improve communication between PHS and Student's family, PHS Principal responded:
[Set up a more formal program for communication:]
Emergency communications by phone.
Routine communications by phone or email. (PHS Principal Tr. 12/16/2009 pp. 35-36)
103. In response to the Independent Educational Evaluator's suggestion of the SRA corrective reading program, PHS Principal commented that this approach is the "opposite of what we're doing." He also mentioned the example of using contextual clock illustrations on worksheets to help Student with telling time. (PHS Principal Tr. 12/16/2009 pp. 56, 59, 67)
104. Student's Father described Student's participation in developing a shopping list and helping to select items in the grocery store. He reported that her behavior was always appropriate on shopping trips. Father and Student had also cooked together, although for a while she was less interested in cooking. (Student's Father Tr. 1/20/2010 pp. 7-9, 15, 16)
105. Commenting on whether Student should continue at PHS for the 2009-2010 school year, the Board's 1st S/LP who had been following Student's case for seven years said:
This was her last year or her last few months and I felt that [Student] was in a placement that was very appropriate for her. I felt that she was thriving there by all accounts and when I observed she was happy, she was engaged, she was engaged in a very positive manner with the adults there and with peers.
I felt that it was a very appropriate place for her and quite honestly, it makes me sad to think that she's not there. ... One of the wonderful things about [PHS] is that the environment, the staff, everything allows students to be, I think, to function most independently while they're there. I think that's a huge strength for [PHS]. ... my feeling [is] that it's the least restrictive environment for her. (Board's 1st S/LP Tr. 12/22/2009 pp. 59-60)
106. The Board continued to hope that Student would return to PHS and continued to send a school bus to her home each morning at the start of the 2009-2010 school year. In discussing scheduling with 2nd VCS, the Board did not provide any morning work for Student, hoping that she would return to PHS. (Ex. P-22; P-54)

PPT Meetings during 2009-2010 School Year

107. The PPT convened on September 30, 2009 (also identified as September 23 on some documents). Present were the Board's Director of SpEd, the Board's Assistant Director of SpEd, Student's Parents, Parents' Attorney, from PHS by telephone Principal and SpEd Teacher, the Board's

School Social Worker, the Board's 1st S/LP, the Independent OT, and 2nd VCS Director of Employment. Student had not been attending school at PHS, but was continuing to work with Job Coaches through 2nd VCS. (Ex. B-136 p 1-2; PHS Principal Tr. 12/16/2009 p. 39)

108. At the September 30, 2009 PPT meeting, the PPT urged Parents to send Student to school at PHS: it appeared that she was not receiving any educational services beyond 17½ hours per week from 2nd VCS. Her program was limited to job sites, community activities and S/L services. Parents requested that 2nd VCS hire a SpEd Teacher to provide the academic portion of the IEP that PHS had provided in very small classes, in a one-to-one setting. The PHS Principal felt that Student benefited from attending school with her peers and that her opportunities at PHS could not be duplicated by one-to-one services. The PPT rejected the proposal for one-to-one instruction. (Ex. B-136 pp. 2-16; PHS Principal Tr. 12/16/2009 pp. 16, 41-42; 2nd VCS Director of Employment 12/17/2009 p. 160)
109. The 2nd VCS Director of Employment described addressing Student's need for extra processing time:
 ... after re-teaching something, wait to see what she does, or let her teach you.
 Her Job Coach had some success with this approach. A summary of Student's work with 2nd VCS for October 1, 2009 through December 1, 2009, cited placements and good work, except for a few incidents of withdrawal. Job Coaches have followed the plan of "backing off" and trying to help Student. The 2nd VCS Director of Employment also supported Student's return to PHS. (Ex. B-167; 2nd VCS Director of Employment Tr. 12/17 2009 pp. 175-178)
110. The PPT convened on November 10, 2009. Present were: Board's Director of SpEd, Board's Assistant Director of SpEd, Student's Parents, PHS SpEd Teacher, Board's 4th S/LP, 2nd VCS Director of Employment, DDS Behavior Specialist, and PHS Principal. The PPT recommended that Student return to PHS with the June 15, 2009 IEP. The PPT also recommended adding up to twenty hours of OT consultation for vocational activities of daily living and community skills. 2nd VCS Director of Employment reported Student's progress and mentioned that placements were limited because Parents would not allow her to participate in groups of 2nd VCS clients. 2nd VCS continued to recommend group activities for Student. The Board's 4th S/LP recommended that S/L services include participation in a small group of peers. The DDS representative inquired about the status of Student's transition portfolio, and PHS Principal volunteered to assemble one. Parents disagreed, and stated that they would select appropriate material to send to DDS. Parents rejected a 2nd VCS proposal to start working on the use of public transportation. (Ex. B-154 pp.2-12)
111. The Prior Written Notice for the November 10, 2009, PPT meeting included:
 Implement IEP at PHS because Student was deriving educational benefit from this combined program at PHS and 2nd VCS.
 Up to twenty hours of consult by OT to school vocational setting and home. Communication consultation by [Board's 1st S/LP] across settings.

Actions rejected:

Change placement. Parent's request to have [2nd VCS] implement IEP, hire a Special Education & Related Services Teacher to provide a comprehensive program of Special Education, Related Services & Vocational/Community [services]. Current placement [PHS] is appropriate &

[Student] is deriving ed[ucational] benefits in both settings. [2nd VCS] doesn't have a comprehensive program. (Ex. B-154 pp. 13-16)

112. The special education and related services to be provided under the November 10, 2009 IEP were:

Special Education	Hours/week	Provider
Vocational/Transition instruction	5 hours/week	2 nd VCS small group
Math instruction	2.5 hours/week	SpEd Teacher Small group
Language Arts instruction	2.5 hours/week	SpEd Teacher Small group
Specialized instruction	5 hours/week	SpEd Teacher Group
Life Skills instruction	7.5 hours/week	2 nd VCS Individual instruction
Vocational/Transition instruction	2.5 hours/week	2 nd VCS Individual instruction
Related Services		
S/LP	2.5 hours/week	S/LP
Adaptive PE	2 hours/week	Adaptive PE Teacher
S/LP	3 hours/week	S/LP

(Ex. B-154 pp. 63, 64)

113. Parents compared the transition planning portions of Student's IEPs with an article about transition planning by Independent OT and two *Topic Briefs* from the Connecticut State Department of Education. They claimed that failures to comply precisely with these State communications were procedural errors that harmed their daughter's opportunity for a free appropriate public education. The first cited *Topic Brief, Writing Transition Goals and Objectives*, dated March 16, 2007, was available to the PPT and should have been consulted. The second, *Post-School Outcome Goal Statements, Frequently Asked Questions*, dated July 2009, was not available until after most of the work had been done. The section on Transition Planning in *IEP Manual and Forms* from the Bureau of Special Education, Connecticut State Department of Education (January 2006, revised December 2006, Second Revision February 2009) was also cited by Parents, with allegations that the PPT had not complied with all requirements. No evidence was offered that there was resulting harm to Parents' opportunity to participate in PPT meetings or the Student's special education. (Ex. P-24; P-25; P-25a; Mother/Independent OT Tr. 1/13/2010 pp. 8, 16-24, 77-95, 110-112, 130-134)

114. Parents have frequently requested oral motor therapy by an S/LP, in the belief that this treatment regime would help the Student. The Kennedy Kreiger report suggested use of a Chewy Tube. There was no follow-up on the effectiveness of this suggestion on the record of the hearing. None of the evaluations on the record recommended oral motor therapy. In testimony, Board's 1st S/LP summarized the reasons why oral motor therapy had been recently proven not effective for improving speech. (Ex. B-10; P-17; Board's 1st S/LP Tr. 12/22/2009 pp.16-20; PHS Principal Tr. 12/9/2009 pp. 50, 86-87, 90-92)

115. The Hearing Officer asked Student's Mother why Parents had never consented to a comprehensive evaluation of Student by the Board. Mother responded at length, discussing specific evaluation instruments and commenting that Parents had wanted Student's education not to be limited by assumptions about test results. (Student's Mother Tr. 1/25/2010 pp. 165-177)
116. The Board's 1st S/LP commented on assessment of Student's progress:
... standardized measures for a student like [Student] have a very limited value. They do help us determine what skills are in place. What vocabulary is understood, very specific things, but they don't effectively capture progress. ... [rating of her goals and objectives is] a very meaningful measure. And I think also the staff's insights into their observations of [Student], [PHS] progress reports, clearly show that she was more interested and more able to interact with others, particularly peers. ... I don't think age equivalents are useful except in very extremely limited circumstances. [The State of Connecticut Guidelines for Eligibility for Speech and Language Services] say specifically that age equivalences should not be used for determining eligibility [for speech services] and they recommend that they not be used at all. (Board's 1st S/LP Tr. 12/22/2009 pp. 27-31)
117. The Board's 1st S/LP addressed Parents' concern that Student's speech was declining:
... one of the things that had been reported was that [Student] was using longer sentences, longer utterances. And what often happens when there's a student who has an articulation impairment is they start to build longer sentences, convey more advanced ideas, put more words together in a sentence and have to sequence more sounds together. Sometimes there's some loss of accuracy in terms of speech production. They're just not able to carry out producing all the sounds clearly and that can be perceived as a decline when in fact it's really the result of something positive that's happened. (Board's 1st S/LP Tr. 12/22/2009 p.33)
118. Reflecting on Student's episodic withdrawal from participating at PHS, PHS Principal cited tensions between Parents and PHS as a possible contributing factor. (PHS Principal Tr. 12/9/2009 pp. 134-136)
119. Student's Mother's Friend, a Licensed Clinical Social Worker, reflected on her approximately twelve years of friendship with Mother and Student. She had accompanied Student's Mother to many of Student's PPT meetings over those years. Mother's Friend commented on Student's good computer skills and described her preparation of grocery lists and accompanying her Father on shopping trips. Student is also very interested and skillful at handling the family's dogs. She described Student's learning style as:
... experiential, hands-on ... and in the context of a functional setting. (Student's Mother's Friend Tr. 1/14/2010 pp. 115, 146-149, 158-162; 1/19/2010 pp. 24, 27)
120. Student's Mother has worked as a professional advocate for families of students with disabilities. (PHS Principal, Tr. 12/9/2009 p. 45; Mother 1/25/2010 Tr. Pp.76-77, 151-153)

CONCLUSIONS OF LAW:

Note: several issues which were not formally included in the request for hearing from the Board came up frequently during this hearing. Some of them are addressed here, although they are not included in the final decision and order.

Section 10-76h, Connecticut General Statutes (C.G.S.), and related regulations at Section 10-76h, Regulations of Connecticut State Agencies (R.C.S.A.), authorize an impartial hearing officer to conduct a special education hearing and to render a final decision in accordance with Sections 4-176e through 4-180a, inclusive, and Sections 4-181a of the C.G.S. Section 20 U.S.C. § 1415(f) and related regulations at 34 C.F.R. § 300.511 through § 300.520 also authorize special education hearings.

The standard for review of special education programs for individual students with disabilities was established by the U.S. Supreme Court in the case of *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176 (1982). *Rowley* requires two tests: 1) were the procedural requirements of the Act complied with; and 2) was the educational program developed for the child reasonably expected to provide educational benefit. The IEP must provide more than a trivial educational benefit, *Polk v. Central Susquehanna Intermediate Unit 16*, 853 F.2d 171 (3rd Cir. 1988), cert. denied 488 U.S. 1030 (1989) and *Oberti v. Board of Education of the Borough of Clementon*, 995 F.2d 1204 (3rd Cir. 1993). In addition, Boards of Education involved in a due process special education hearing must prove the appropriateness of a student's program and placement by a preponderance of the evidence (*Walczak v. Florida Union Free School District*, 142 F.3d 119, 122 (2nd Cir. 1998)).

Consent/Revocation of Consent

Fundamental procedural protections under IDEA include the requirement at 34 C.F.R. § 300.300 (a) (1) (i) for parental consent for initial evaluation for special education; at 34 C.F.R. § 300.300 (b) (1) for parental consent prior to initial special education placement and at 34 C.F.R. § 300.300 (c) (1) (i) for parental consent for re-evaluations. Parents may also revoke consent at any time pursuant to 34 C.F.R. § 300.9 (c) (1). If a parent refuses consent for a specific special education service, pursuant to 34 C.F.R. 300.300 (d) (3), the school district may not remove or deny access to other special education services in the child's IEP. In this case, Parents have used their rights to refuse to consent and to revoke consent to limit evaluations and to reduce special education services to the point where the Student is receiving only a few hours of transitional vocational/community services and S/L each week. Parents have limited the standardized testing used to establish eligibility for special education, to develop IEPs, to measure progress on IEP goals and objectives and to revise IEPs. Parents have also rejected evaluators who are professionally qualified, both Board staff members and independent professionals. This misuse of the consent requirements has hurt their daughter as well as frustrating several professionals who have dedicated time, thought and effort to the Student's individual program.

There have been court decisions that include mention of parental interference in the name of advocacy. The one most on point with this situation is *Michael D.M., ex. Rel. Michael M. v. Perrin-Baker Regional 11 School District*, 2004 D NH 128 at 22:

... it is clear from the record that [Parents] have made it very difficult (and expensive) for the School District to honor its reasonable obligations to [the student] under the IDEA. The District has, nevertheless, done so, and should be commended.

In *DuBois v. Connecticut State Board of Education*, EHLR 555:398 (2nd Cir. 1984), the court held that the school district was entitled to up-to-date data by qualified professionals before funding a special education placement.

Parent Participation in PPT Meetings and Development of IEP

The extensive summaries of discussions at ten PPT meetings held on June 9, 2008, October 23, 2008, December 10, 2008, January 26, 2009, February 11, 2009, March 19, 2009, March 30, 2009, June 15, 2009, September 30, 2009 and November 10, 2009 confirm that Parents were active participants in the PPT process. In some cases, parental requests or suggestions were accepted and incorporated into her IEP; in others, they were not. Professional staff members gave reasons for rejecting Parents' suggestions.

In the case of *Buser v. Corpus Christi Independent School District*, (20 IDELR 981, S D. Tex. 1994) the District Court pointed out that the U.S. Supreme Court had described the parents' role on the special education process as 1) "guaranteeing parents both an opportunity for meaningful input into all decisions affecting their child's education and the right to seek review of any decisions they think inappropriate" (*Honig v. Doe*, 484 U.S. 305, 311 (1988) and 2) a "large measure of participation" for parents (*Board of Education v. Rowley*, 458 U.S. 176, 205 (1982)). The Fifth Circuit Court of Appeals affirmed the District Court's *Buser* decision (22 IDELR 626 5th Cir. 1995).

Attempts to Negotiate Program Changes outside the IEP/PPT Process

In addition to rejecting the PPT-designed and approved placement at PHS, in early July 2009 Student's Mother tried to modify the IEP developed by the PPT for ESY services directly with 1st VCS staff. There were also many changes of schedule necessitated by Student's horseback riding and other family activities. The result was the abrupt resignation of the SpEd Teacher, and then the abrupt termination of services by 1st VCS. A related problem has been parental desires for direct, one-on-one meetings with the individuals providing services to their daughter. The PHS Principal has stood firm, insisting that he coordinate meetings with staff members. PPT notes record Student's Mother's style of advocacy as aggressively questioning all Board recommendations and actions, including qualification of professional staff and outside evaluators.

Procedural Issues at the Hearing

Parents violated the "Five Day Rule", 34 C.F.R. § 300.512 (b) and Section 10-76h-11 (a) (3), R.C.S.A., providing a list of their possible witnesses on the first day of hearing, December 9, 2009, and their exhibits on December 21, 2009, the fourth day of the hearing. The Hearing Officer overruled the Board's valid objections and admitted the documents, commenting that the Parent was *Pro se* and that anything she reasonably wanted on the record should be admitted. (Hearing Officer Tr. 12/21/2009 pp. 3-13) It is unlikely that someone who has advised other parents of their rights concerning special education is unaware of the disclosure requirements.

Parental Access to Education Records Issues

Issues regarding parental access to the Student's school records and their right to copies of those records were raised in the course of this hearing. Essential parts of the Family Educational Rights and Privacy

Act of 1975 (FERPA) and related regulations at 34 C.F.R. § 99 are incorporated in the Individuals with Disabilities Education Improvement Act (IDEIA) regulations at 34 C.F.R. §§ 300.610 through 300.627.

Parents made many requests to inspect Student's education records and for copies of the Student's education records. Complicating factors in provision of these records included, but were not limited to, multiple requests for the same documents, time allowed for release of documents, and locations of documents at PHS and in the possession of PHS staff members, at the Board and in the possession of Board staff members and in the possession of Board contractors. Section 10-76d-18 (b), R.C.S.A., requires that parental requests to inspect a student's records must be in writing, and that parents are entitled to make a written request for one free copy each record.

Some of the copies requested by Parents could be characterized as therapists' notes, which might fall under the "Personal Notes" exception, 34 C.F.R. § 99.3 (b) (1). The "test" for personal notes protection is whether they are in sole possession of the maker and not revealed to anyone other than a substitute for the maker of the notes. If the therapist holding such notes uses the notes at a PPT meeting, or in consulting with other school staff members or parents, they lose personal notes protection.

Judging from the volume of Student's records submitted by the Parties at the hearing, the Student's multiple services on several sites had generated an unusually large record. While Parents certainly have access rights to these records, and have exercised that right to maintain awareness of Student's education, they have not always been tactful or patient with school officials who did not respond immediately to their requests.

"Stay-put" Placement Pending the Hearing

The status of a student requiring special education during the pendency of a special education hearing (and any appeal of such hearing) is set forth at 34 C.F.R. § 300.518:

... during the pendency of any administrative or judicial proceeding ... the child involved in the complaint must remain in his or her current educational placement.

And at Section 10-76h-17 (a), R.C.S.A.:

Unless the public agency and the parent agree otherwise, the child shall remain in his or her then-current educational placement during the pendency of any administrative or judicial proceeding

...

In this case, the Student ceased attending the PHS five days prior to the end of the 2008-2009 school year. The Parents informed the School that she would not be attending PHS in 2009-2010, giving the reason that Student did not like PHS. An alternative placement was discussed, but the PPT continued to support placement at PHS for Student. The stay-put placement was clearly at PHS. Student did continue attending the program limited to vocational and community services with S/L services, roughly half of the "current educational placement."

DISCUSSION:

The PPT records for eleven PPT meetings from June 2008 through November 2009 show active participation by Parents in every meeting. They asked many questions and made many suggestions: the Board and PHS staff did not always agree with them, but they tried to accommodate their opinions. When they did agree with PPT decisions at meetings, Parents often changed their minds or had additional

questions later. Mother's aggressive advocacy style offended some Board and PHS staff members. Perceived slowness of Board response to suggestions, requests and criticisms, often by email, offended Parents. Parents wanted to be informed of everything about their daughter's education, including the PHS "elective" system for lunch time activities, which was designed to encourage student independence. Parents also wanted to know everything about staff members and contractors proposed by the Board: yet they withheld evaluations that might have been helpful to the PPT.

It is unusual for a Board of Education to initiate a special education hearing. In this case, it appears that the Board did so because of concern that the Student's educational program was being limited by her Parents' unwillingness for her to continue at PHS, where she had been happy and reasonably productive for two prior years. Withdrawing her from PHS deprived her of an academic program in reading, writing and math, as well as S/L therapy and work on social skills with a small group of peers, as recommended by more than one evaluator. Parents did not offer for the record any evidence that they were providing these important aspects of her educational program in the interim.

During the period from June, 2008 and December, 2009, the Board funded several independent evaluations. These evaluations yielded very little new information, and in most cases supported the appropriateness of the Board's IEP. Some evaluations undertaken by Parents reflected lack of knowledge of Student's then-current program.

Placement at job sites with a Job Coach is intended to help students discover the kinds of jobs they might be qualified to do and might enjoy. Part of the work experience is responding to direction from the employer or supervisor and from the Job Coach. A significant portion of preparation for work is understanding that the work place is different from school and family life. When parents show up on the job site to observe and comment, that interferes with a student's focus and the carefully planned interactions between student and Job Coach.

Mother's firm belief that Student had lost ground in recent years is not supported by any evidence offered at the hearing. The lack of comprehensive evaluations throughout Student's educational career has been the Parents' choice, but such data would have been helpful in tracking progress or lack of progress more systematically.

The record and testimony of various professionals who have worked with the Student show her to be a pleasant young woman who struggles to meet academic goals and is eager to have friends. She has an unusually long processing time for oral information, which must be accommodated in instruction and has implications for her social and vocational interactions. Of particular concern is her behavior, which is usually cooperative but occasionally her withdrawal from participation in class and unwillingness to respond interferes with academic instruction and could create problems in her vocational training. An FBA has been discussed frequently, and at one point Parents consented to one. But discussions of who would be the evaluator and what the scope of the FBA should be eventually led Parents to withdraw their consent and that prevented the evaluation. PHS staff discussed what was needed with a Behavior Specialist at DDS, and PHS collected some behavior data. The professional educators who worked with Student were unanimous in asking for an FBA by a qualified expert. One evaluator suggested that Student might benefit from counseling. This behavioral issue had been observed over several years and needs to be addressed to help Student prepare for job opportunities as well as social situation.

Parents also criticize the transition planning provided in recent IEPs, citing directives from the State Department of Education and specific language in Post Secondary School goals for their daughter. It is not clear from the record whether any of the procedural errors identified by Parents could or would impact post secondary planning for Student.

Mother desired to have detailed written plans and opportunities to inspect materials to be used for every aspect of Student's educational and vocational programs as a basis for coordination between home and school. However, the more Mother learned about Student's program and the professionals providing services to her daughter, the more she questioned, criticized and ultimately rejected.

Now that the Student is about to move from public school support to adult agencies, it is critical that adequate information about her strengths and weaknesses be available in order to develop realistic and meaningful programs and services for her. The Board, PHS and DDS have made great efforts to create a smooth transition.

FINAL DECISION AND ORDER:

1. The IEP and placement, including academics and S/L services at PHS and vocational/transition services, with additional S/L services, provided by 2nd VCS, proposed by the PPT on June 15, 2009, is appropriate to the Student's special education needs in the least restrictive environment for 2009-2010.
2. Since the IEP and placement are appropriate, it is not necessary to address another program or placement.
3. The stay put placement is the June 9, 2008, IEP as modified several times during the 2008-2009 school year, and placement at PHS.

Appendix A

(While it is relatively easy to track revisions, the numbering of goals varied and was sometimes illegible.)

IEP goals and objectives for the 2008-2009 school year developed at the June 9, 2008, PPT meeting/annual review (Exhibit B-21 pages 11-31)

Goal 1 To improve reading comprehension skills

Answers who, what, where, when questions regarding a story

Answers simple why questions regarding a short passage of two to three sentences when the answer is stated in the text.

Answers how questions regarding a short passage of two to three sentences.

Goal 2 To develop paragraph writing skills

Using prewriting skills (e.g. brainstorming) to create a paragraph of at least three sentences regarding a given topic: help given for spelling, with guided questions

Constructs sentences which support a topic sentence in the form of a cohesive paragraph

Given a topic sentence, write at least two original sentences to complete a paragraph

Goal 3 To improve reading vocabulary skills

Recognizes and demonstrates comprehension of vocabulary words from content area material

States 20 antonyms for words presented in isolation and context

States 20 synonyms for words presented in isolation and context

Goal 4 To improve spelling skills

Spells selected sight words

Spells reading vocabulary words

Distinguishes between commonly used homonym pairs

Goal 5 To improve spelling skills

Spells words with double consonants in the middle

Spells words with vowel teams: al, ay, ee

Spells words with vowel teams: ie, ea, oa, ou, ow

Goal 6 To demonstrate a variety of writing tasks

Performs writing task (functional letters, notes, journal writing, summaries)

Goal 7 To develop skills in the use of money

Reads money amounts using the name of dollar and coins (e.g. five dollars and twenty-five cents)

Given two priced items, identifies the total amount needed to buy them

Uses a calculator to determine change

Goal 8 To develop skills in the use of money

Given a menu, plans the cost of lunch for two people

Goal 9 To improve skills related to the concept of time and its application

Sets an alarm clock, hour and minute

Sets or tells how to use a time clock

Sets or tells how to use a timer

Goal 10 To enhance conversational skills

Responds appropriately when greeted by another person

Initiates a verbal exchange with a peer

Discusses ways to maintain a friendship

Goal 11 To improve pragmatic skills in a variety of settings

Answers “How would you find out questions?” by relating the steps necessary to obtain the desired information

Maintains a conversational exchange with a peer by asking specific questions when a general statement is made by the peer (e.g. If the other child says he went to a restaurant, ask “What did you eat?” or “Who did you go with?”)

States that he/she does not know the answer or information when appropriate

Goal 12 To improve verbal reasoning skills

Predicts an outcome or consequence of a situation in a picture

Answers “why” questions which require reasoning skills (“Why do we go to the doctor?”) based on information provided in a picture or pictures verbally

Answers a simple question soon after completing a familiar activity

Goal 13 To improve ability to provide appropriate solutions to problem situations

Selects a logical explanation for how a problem can be resolved

Answers questions of the type “What would you do if ...?” that present problems for which child must generate a solution

Encodes a given problem in a pictured situation

Goal 14 To possess employable skills

Demonstrates at work responsibilities by: accepting changes in routine or schedule

Increases rate of productivity after learning a particular task

Demonstrates increased stamina by working continuously without a break at a familiar task

Goal 15 To improve socialization skills

Engages in appropriate individual/group activities during break time

Responds appropriately to constructive criticism

Goal 16 To acquire daily living skills to enhance independent functioning Increases
organizational skills such as maintaining a personal calendar

Plans and properly uses needed article for personal hygiene (comb, brush, toothbrush, deodorant) without prompting

Creates an emergency phone book which includes name and phone number for doctor, dentist, fire department and hospital

Goal 17 To recognize and observe precautions and safeguards in the community

Verbalizes when it’s safe to cross a parking lot or street by observing and attending to oncoming traffic

Independently verbalizes where to cross the street: mid-street, at corner, stop sign or traffic light

Goal 18 To improve motor skills and stamina in a vocational area

Completes a project without requiring a rest period

Sustains energy to task completion

Demonstrates the stamina to stand for five minutes while completing a task

Goal 19 To derive benefit from physical activities

Increase self confidence in individual and group activities by making year

Maintains functional sitting position (i.e. head and trunk upright, hips at a 90° angle in trunk, feet flat on floor) during a fine motor or classroom desk activities

Goal 20 To increase functional use and movement of body in a variety of common daily activities through development of improved gross motor skills

Step over an elevated stick positioned 12 inches over the floor

Catch a thrown ball while in a standing position

Throw a playground ball to another person

Goal 21 To enhance interactive behavior

Works cooperatively with a partner or within a small group to perform an activity or game

Play as part of a team

Encourages others

IEP goals and objectives as revised at the October 23, 2008, PPT meeting:

Goal 1 unchanged (reading comprehension)

Goal 2 changed

Researches biographical information on a person or animal.

Uses a graphic organizer to record and organize information

Given a relevant word bank and organized research results, will develop a first draft or a biographical report

Produces a final copy of her work: written or typed

Reads completed work aloud to classmates and teacher

Goal 3 unchanged (reading vocabulary)

Goal 4 unchanged (spelling)

Goal 5 unchanged (spelling)

Goal 6 unchanged (writing tasks)

Goal 7 unchanged (money)

Goal 8 unchanged (money)

Goal 9 unchanged (time)

Goal 10 unchanged (conversational skills)

Goal 11 unchanged (pragmatics)

Goal 12 unchanged (verbal reasoning)

Goal 13 unchanged (problem situations)

Goal 14 deleted (employable skills)

Goal 15 deleted (socialization skills)

Goal 16 unchanged (daily living skills)

Goal 17 deleted (community safeguards)

Goal 18 deleted (motor skills, stamina)

Goal 19 modified (physical activities) ***

First objective: 11/08, 1/09 needs encouragement

Second objective: 11/08, 1/09 with adaptations (foot stool, slant board, chair pushed in, verbal cue)

Goal 20 unchanged (exercises)

Goal 21 unchanged (interactive behavior)

Goal 22 (new) To improve ability to access community

Deposits monthly pay check in personal account

Shops for personal care needs

Goal 23 (new) To refine vocational preferences and skills through community-based career exploration

Identifies preferred and non-preferred activities based on experiences at job sites

Perseveres on assigned jobs through completion (Exhibit B-36 pp 6-25)

The goals and objectives approved by the January 26, 2009 PPT meeting. (Exhibit B-37)

Goal 1 unchanged (reading comprehension)

Goal 2 unchanged (paragraph writing)

Goal 3 unchanged (reading vocabulary)

Goal 4 unchanged (spelling)
 Goal 5 unchanged (spelling)
 Goal 6 unchanged (writing tasks)
 Goal 7 unchanged (money)
 Goal 8 unchanged (money)
 Goal 9 unchanged (time)
 Goal 10 unchanged (conversational skills)
 Goal 11 unchanged (pragmatics)
 Goal 12 unchanged (verbal reasoning)
 Goal 13 unchanged (problem situations)
 Goal 12 unchanged (language skills)
 Goal 13 unchanged (articulation)
 Goal 14 unchanged (physical activities)
 Goal 15 unchanged (career exploration)
 Goal 16 unchanged (vocational preferences)

IEP Goals and objectives were revised at the February 11, 2009, PPT meeting. (Exhibit B-52 pp 17-49)

Goal 1 unchanged (reading comprehension)
 Goal 2 unchanged (paragraph writing)
 Goal 3 unchanged (reading vocabulary)
 Goal 4 unchanged, combined two goals (spelling)
 Goal 5 unchanged, combined two goals (money)
 Goal 6 unchanged (time)
 Goal 7 unchanged (writing)
 Goal 8 unchanged (conversation skills)
 Goal 9 unchanged (pragmatics)
 Goal 10 unchanged (verbal reasoning)
 Goal 11 unchanged (problem situations)
 Goal 12 unchanged (language skills)
 Goal 13 unchanged (articulation)
 Goal 14 unchanged (physical activities)
 Goal 15 unchanged (career exploration)
 Goal 16 (revised) Refine vocational preferences through program plan using the interview with [Student], research options, reviewing want ads, etc. and community experience
 After general exploration, reading, discussing and experiencing, list job interests
 Implement plan to gain employment experience in preferred activities
 Explore additional job responsibilities in current job placement
 Goal 17 (revised) To improve ability to access community services
 Deposits monthly paychecks in personal account
 Shops for personal care needs
 Goal 18 (revised) To acquire daily living skills to enhance independent functioning
 Increase organizational skills such as maintaining a personal calendar
 Plans and properly uses needed articles for personal hygiene (comb, brush, toothbrush, deodorant) without prompting
 Creates an emergency phone book which includes names and phone numbers for: doctor, dentist, fire department and hospital

Goal 19 (revised) To increase from baseline through functional applications for accessing community for employment, post secondary planning, community participation and independent living

Complete application and open savings and checking accounts

Manage earnings by depositing paycheck into bank account and understand how to balance and maintain register

Be able to securely access and keep confidential account information online for savings and checking accounts

Identify and have available funds for personal use from own account

Develop long-term savings goal (i.e.: vacation, clothes, recreation)

Identify an appropriate person at the bank with whom to share information/ask questions

Goal 20 (revised) Maintain own personal care supplies

Identify on a list personal care items and the frequency of use and resupply on a regular basis

Estimate money needed to purchase supplies and withdraw money

Plan and secure transportation to bank/stores in the community

Goal 21 (unchanged) (exercises)

Goal 22 unchanged (interactive behavior)

The March 19, 2009, changes to the IEP involved shifting of responsibility for some goals/objectives between PHS and 1st VT : The goals and objectives were unchanged.

The June 15, 2009, IEP goals and objectives were intended for the 2009 ESY program and the 2009-2010 school year (Exhibit B-107 pp 23-62)

Goal 1 To improve reading comprehension skills (unchanged)

Answers who, what, where, when questions regarding a story

Answers simple why questions regarding a short passage of two to three sentences when the answer is stated in the text.

Answers how questions regarding a short passage of two to three sentences.

Goal 2 To develop paragraph writing skills (unchanged, sixth objective added)

Researches biographical information on a person or animal.

Uses a graphic organizer to record and organize information

Given a relevant word bank and organized research results, will develop a first draft or [sic] a biographical report

Produces a final copy of her work: written or typed

Reads completed work aloud to classmates and teacher

Correctly identify a topic sentence and write a paragraph that includes a topic sentence

Goal 3 To improve reading vocabulary skills (unchanged)

Recognizes and demonstrates comprehension of vocabulary words from content area material

States 20 antonyms for words presented in isolation and context

States 20 synonyms for words presented in isolation and context

Goal 4 To improve spelling skills

Spells selected sight words

Spells reading vocabulary words

Distinguishes between commonly used homonym pairs

Spells words with double consonants in the middle

Spells words with vowel teams: al, ay, ee

Spells words with vowel teams: ie, ea, oa, ou, ow

Goal 5 To develop skills in the use of money (unchanged goal, some objectives deleted)

- Reads money amounts using the name of dollar and coins (e.g. five dollars and twenty-five cents)
- Goal 6 To demonstrate a variety of writing tasks (unchanged)
Performs writing task (functional letters, notes, journal writing, summaries)
- Goal 7 Demonstrate an understanding of time concepts (unchanged goal, objectives changed)
Correctly tell time to the half hour and quarter hour
Create a personal calendar to include upcoming events, social functions, and family
- Goal 8 Use the computer for research and typing information (new goal)
Develops a personal cookbook containing at least 10 recipes
- Goal 9 To enhance conversational skills (unchanged)
Responds appropriately when greeted by another person
Initiates a verbal exchange with a peer
Discusses ways to maintain a friendship
- Goal 10 To improve ability to provide appropriate solutions to problem situations (unchanged)
Selects a logical explanation for how a problem can be resolved
Answers questions of the type “What would you do if ...?” that present problems for which child must generate a solution
Encodes a given problem in a pictured situation
- Goal 11 Demonstrate an improvement in language skills necessary to speak and listen for information, understanding, expression and social interaction
Demonstrate an understanding and use of positional and spatial concepts (e.g. on, under)
Demonstrate the ability to understand and use vocabulary related to content area curriculum
Demonstrate the ability to comprehend and use basic “WH” questions (who, what, where, when)
- Goal 12 Demonstrate an improvement in articulation and phonological speech skills necessary for communication
Increase vowel duration to improve speech intelligibility
Produce /l/ in medial position of words
- Goal 13 Demonstrate an improvement in language skills necessary to speak and listen for information, understanding, expression and social interaction (objectives 4-6 duplicate those in Goal 11, 7th objective new)
Demonstrate the ability to comprehend and use auxiliary verbs (e.g. to be, to have, to do)
Demonstrate the ability to discriminate between minimal contrasting sound pairs
Demonstrate the comprehension of information from verbally presented sentences
Demonstrate an understanding and use of positional and spatial concepts (e.g. on, under)
Demonstrate the ability to understand and use vocabulary related to content area curriculum
Demonstrate the ability to comprehend and use basic “WH” questions (who, what, where, when, why)
Demonstrate the ability to verbalize in problem-solving tasks
- Goal 14 To derive benefit from physical activities (unchanged)
Increase self confidence in individual and group activities by making year
Maintains functional sitting position (i.e. head and trunk upright, hips at a 90° angle in trunk, feet flat on floor) during a fine motor or classroom desk activities
- Goal 15 To increase muscular strength, endurance, flexibility, body awareness and agility through fitness and recreational activities (new objectives)
Perform six individual skills jumping over a rope
Performs step-ups (eight inches) for one minute
Performs modified sit-ups for one minute

Goal 16 To refine vocational preferences and skills through community-based career exploration (unchanged, objectives deleted)

Identified preferred and non-preferred activities based on experiences at job sites

Goal 17 Refine vocational preferences through program plan using the interview with [Student], research options, reviewing want ads, etc. and community experiences

After general exploration, reading, discussing and experiencing, list job interests

Implement plan to gain employment experience in preferred activities

Explore additional job responsibilities in current job placement

Goal 18 To enhance conversation skills in the work environment [similar]

Respond appropriately and independently when greeted by another person

Independently initiate a verbal exchange with a peer, co-worker or supervisor

Expand the number and variety of opportunities for increasing social connections

Communicate appropriately with job supervisors, customers and individuals in the community

Learn and use appropriate vocabulary for the work environment

Goal 19 To refine vocational preferences and skills through community based career exploration (?)

Identify preferred and non-preferred activities based on experiences at job sites

Maintains current job (nearby library) with natural supports versus job coach

Sign in and out without prompting

Explore additional job responsibilities in current job

Create a work experience diary

Goal 20 To improve ability to access community services (unchanged)

Shops for personal care needs

Goal 21 To acquire daily living skills to enhance independent functioning

Increase organizational skills such as maintaining a personal calendar (toothbrush, deodorant) without prompting

Creates and emergency phone book which includes names and phone numbers for: doctor, dentist, fire department and hospital

Goal 22 To increase from baseline through functional applications for accessing community for employment, post secondary planning, community participation and independent living (unchanged)

Manage earnings by depositing paycheck into bank account and understand how to balance and maintain register

Be able to securely access and keep confidential account information online for savings and checking accounts

Identify and have available funds for personal use from own account

Develop long-term savings goal (i.e.: vacation, clothes, recreation)

Identify an appropriate person at the bank with whom to share information/ask questions

Goal 23 Maintain own personal care supplies (unchanged)

Identify on a list personal care items and the frequency of use and resupply on a regular basis

Estimate money needed to purchase supplies and withdraw money

Plan and secure transportation to bank/stores in the community

Goal 24 To improve independent living skills and the ability to access community services

Identify and have available funds for personal use from own account

Withdraw necessary funds to purchase personal care items

Create lists and shop for personal care items as needed

Identify amount of money required and pay for purchased items

Prepare for next days activities by packing appropriate items

Learn about and/or utilize community services such as the bank, post office, police and fire services

Prepare healthy lunches

Goal 25 To increase functional math skills as they relate to independent living

Manage earnings by learning how to balance and maintain a checking account register

Be able to securely access and keep confidential account information

Access on-line banking on the computer

Develop long term savings goals for vacation, recreation, etc

Using a calendar/weekly planner will plan weekly activities

Goal 26 To improve health and safety skills

Identify preferred activities and participate in an exercise program at the YMCA

Secure and learn how to use a membership card

Learn how to use a locker and lock at the YMCA

Develop personal safety skills (responding to threats/strangers. Identify trustworthy individuals to ask for assistance, fire safety, etc)

Learn how to use cell phone for emergency purposes

Goal 27 To increase functional use and movement of body in a variety of common daily activities through development of improved gross motor skills

Step over an elevated stick positioned 12 inches over the floor

Goal 28 To enhance interactive behavior (unchanged)

Works cooperatively with a partner or within a small group to perform an activity or game

Plays as part of a team

Encourages others