

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Farmington Board of Education

Appearing on behalf of the Student:

The Parent

Appearing on behalf of the Board:

Attorney Julie Fay
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Hartford, CT 06103-1919

Appearing before:

Attorney Raymond J. Rigat
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Whether the Board failed to meet its Child Find obligations by not identifying the Student as a special education student earlier?
2. Whether the Board committed a procedural violation by offering a follow-up PPT one week prior to school starting thereby failing to provide the Student with adequate transition time to move from one program to the next?
3. Whether the Board failed to properly assess the psychological and psychiatric needs and supports necessary for the Student to access her education?
4. Whether the IEP is appropriate given the Student's mental health and emotional needs?
5. Did the Board offer FAPE for the 2018/2019 school year?
6. Whether the proposed private placement is an appropriate special education program?
7. Whether the Board should be required to pay for the Student's private placement?
8. Whether the Student is entitled to compensatory education?

SUMMARY:

The 18-year-old Student who is identified as eligible for special education and related services under the category of Specific Learning Disability, has also been diagnosed with Reactive Attachment Disorder, ("RAD"), Attention Deficit Hyperactivity Disorder, ("ADHD"), anxiety, Posttraumatic Stress Disorder, ("PTSD"), significant behavioral problems, and language processing inefficiencies.

The Parent's educational consultant made a referral on May 7, 2016, but the Parent failed to provide a release allowing the Board to communicate with the consultant. Despite the Board's multiple efforts to obtain a release it received no further contact from the Parent for two years.

In the meantime, the Parent unilaterally placed the Student at the Cornerstone Christian School in Vermont without providing the Board advance written notice ten days prior to placement.

Following three PPT meetings over the summer of 2018, the Board offered the Student enrollment its STEP Program, a therapeutic day program at the local high school, for the 2018/2019 school year which the Student refused.

The Parent unilaterally placed the Student at the Miracle Mountain Ranch School of Discipleship in Pennsylvania without providing the Board advance written notice ten days prior to placement.

The Student proceeded to hearing with claims that the Board violated Child Find by not identifying her earlier as a special needs student, by not having her properly evaluated, and by failing to provide FAPE. She requests tuition reimbursement for both private placements, and also seeks compensatory education.

PROCEDURAL HISTORY:

The Board received an initial request for a Due Process Hearing by the Parent on July 26, 2018 and a prehearing telephone conference convened on August 13th. At the conference, the Parent represented that she would be filing an amended request for hearing. The Student turned 18 during the pendency of the initial request, and an amended request for a Due Process Hearing was received by the Board from the Student on September 25th.¹ The filing of this amendment altered the initial mailing date of the decision to December 10, 2018. Requests for extension of the mailing date of the decision were granted to allow the parties to schedule additional hearing dates.

The hearing convened on three dates, to include December 7, 2018, December 20, 2018, and January 11, 2019. Both parties made closing arguments at the conclusion of the third day of the hearing and were given until January 25, 2019 to submit briefs in support of their respective positions.

The Student's witnesses were Dr. Barbara Ziogas, MD, (the Student's pediatrician), the Student's mother, and Ms. Nancy Parent, (the official who runs the local Juvenile Review Board). The Parent attempted to call another witness, Ms. Laurie Landry, LMFT, but the Board's

¹ It should be noted, that the Parent is an attorney in Connecticut and is now representing the Student in the capacity as the Student's attorney.

objection to the relevancy of this witnesses' proposed testimony was sustained by the Hearing Officer and Ms. Landry was not permitted to testify.

The Board's witnesses were Dr. Laurie Singer, (Director of Special Services for the Farmington Schools), and Ms. Sarah Sumner, (School Social Worker).

The Student submitted exhibits P-1 through P-13. The objections to exhibit P-3 was sustained and this exhibit was not entered as a full exhibit. The Student did not submit a post hearing brief in support of her position.

The Board submitted exhibits number B-1 through B-45, which were entered as full exhibits. The Board submitted a post hearing brief in support of its position.

All exhibits and the testimony of the witnesses were thoroughly reviewed and given their due consideration in this decision.

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. Bonnie Ann F. v. Callallen Independent School Board, 835 F.Supp. 340 (S.D. Tex. 1993).

STATEMENT OF JURISDICTION:

This matter was heard as a contested case pursuant to Connecticut General Statutes, ("CGS"), § 10-76h and related regulations, 20 United States Code § 1415(f) and related regulations, and in accordance with the Uniform Administrative Procedure Act ("UAPA"), CGS §§4-176e to 4-178, inclusive, §§4-181a and 4-186.

FINDINGS OF FACT:

1. The Student is 18 years old and currently attending the Miracle Mountain Ranch School, where she had been unilaterally placed by the Parent since September 7, 2018. [Testimony of Parent]
2. It is undisputed that the Student is eligible for special education and related services under the category of Specific Learning Disability. [Exhibit B-18, page 2]
3. The Student receives psychiatric treatment, medication, and the regular care of therapists and a psychiatrist. [Testimony of Dr. Ziogas]
4. The Student has mental health issues, to include: RAD; anxiety; PTSD; ADHD and significant behavioral problems. [Testimony of Dr. Ziogas; Testimony of Parent]

5. The Student requires therapeutic supports, to include counseling and medication monitoring. [Testimony of Dr. Ziogas]
6. The Student moved with her family to Farmington in 2013. [Testimony of Parent]
7. Dr. Singer received an e-mail request on Saturday, May 7, 2016 from an educational consultant on behalf of the Parent; the educational consultant requested that a PPT meeting be scheduled to begin the process of determining eligibility of the Student for special education services under the classification of Emotional Disturbance. [Testimony of Dr. Singer; Exhibit P-2; Exhibit B-43, page 1] Dr. Singer's office responded at least twice to this e-mail requesting a release to communicate with the consultant, but never received a response back from either the Parent or the advocate. [Testimony of Dr. Singer; Exhibit B-44, page 1]
8. At the time of the May 7, 2016 e-mail, the Student was privately enrolled at the Central Christian Academy in Southington, Connecticut. [Exhibit B-43, page 1] The Parent unilaterally placed the Student, with no prior notice to the Board, at the Cornerstone Christian Academy, in Vermont, from October 30, 2016 until August 27, 2018, without prior notice given to the Board. [Testimony of Parent; Exhibit B-10, page 6]
9. On May 7, 2018, (two years after the e-mail from the educational consultant), the Parent made a follow-up request for a PPT in an e-mail to Dr. Singer. [Testimony of Parent; Exhibit B-1, page 2]
10. The PPT was conducted on May 31, 2018 to discuss the referral. [Testimony of Parent; Exhibit B-6, page 1] At the meeting, the Parent expressed concerns about the Student's home placement and attending public school while on medications, her belief that the Student needed one on one help, and her belief that the Student needed a comprehensive evaluation to include psychiatric, psychosocial, and educational evaluations. [Testimony of Parent]
11. The PPT recommended a neuropsychological evaluation of the Student completed in order to ascertain the Student's academic and cognitive levels, as well as her social/emotional levels of functioning. [Exhibit B-6, page 13]
12. The Parent expressed agreement with this recommendation at the May 31, 2018 PPT and requested that the Connecticut Pediatric Neuropsychological group complete the evaluation. [Exhibit B-6, page 13]
13. The Parent signed consent for the initial evaluation along with a HIPPA release for medical records at the May 31, 2018 PPT. [Exhibit B-6, page 13]
14. The Parent withdrew her signed release the next day, June 1, 2018. [Testimony of Parent; Testimony of Dr. Singer]

15. The Parent also stated at the May 31, 2018 PPT that she did not feel that the public schools would be the appropriate placement for the Student. [Exhibit B-6, page 13]
16. Dr. Carr, a pediatric neuropsychologist with the Connecticut Pediatric Neuropsychology Associates, conducted a neuropsychological evaluation of the Student on July 5, 2018. [Testimony of Dr. Singer; Exhibit B-16, page 1]
17. Dr. Carr's evaluation included neuropsychological testing, intellectual evaluation, assessment of academic skills, comprehensive testing of phonological processing, clinical evaluation of language fundamentals, executive functioning, and a clinical interview. [Exhibit B-16] Further, Dr. Carr received input from the Parent who completed the BASC-3, a standardized behavior rating scale assessing symptoms of emotional and behavioral disorders in adolescents. The Student was rated with at-risk symptoms of attention difficulties and hyperactivity. No clinically significant emotional or behavioral challenges were reported. However, the Student was rated with clinically significant deficits in terms of adaptability, as well as at-risk challenges with functional communication and adaptive behavior skills. [Exhibit B-16, page 11]
18. Dr. Carr made the following diagnoses of the Student:
 - Attention Deficit Hyperactivity Disorder-Combined Presentation
 - Specific Learning Disorder with Impairment in Reading (accuracy, comprehension)
 - Reactive Attachment Disorder by history
 - Language Processing Inefficiencies [Exhibit B-16, page 15]
19. Dr. Carr made the following recommendations: regarding educational accommodations for the Student:
 - The evaluation indicates the presence of attentional and learning difficulties characterized by diagnoses of ADHD and a Learning Disorder in reading. In this context the Student would benefit from support services at school, specifically in terms of accommodations/interventions to mitigate the impact of her ADHD and Learning Disorder in Reading. Given that the Student has not attended public school since fourth grade, it is recommended that the Student's school district team review the evaluation findings in concert with her previous school history in order to determine how best to provide supports/services.
 - The Student should have access to any available study skills and supported study hall opportunities offered at her high school.
 - Given her documented additional challenges, the Student should qualify for 50% extended time on all exams, including in-class assessments and standardized exams. This will allow the Student to compensate for attentional continuity deficits. It is also suggested that the Student be permitted to take exams in an alternate, distraction-reduced environment.

- Placement in co-taught academic classes will be helpful where indicated so that differentiated instruction and curriculum modifications can be most easily provided.
 - The Student will be most successful in classes that offer a slower pace of instruction and where she can receive extra teacher support to orient to/learn new concepts.
 - Access to note-taking supports is recommended due to the Student's reading and attentional challenges.
 - It is recommended that the Student be provided access to support/counseling for emotional well-being at school in order to assist her with managing potential social conflicts and stress/frustration appropriately. [Exhibit B-16, page 16]
 - Ongoing monitoring psychiatrically and psychotherapeutically will be important. The family may wish to seek further in-depth psychiatric evaluation through their psychiatrist if indicated. The Student's mother reported that she planned to reengage the Student in psychotherapy after she returns from her 11th grade year in Vermont for support for the further development and reinforcement of coping skills. This plan appears to be well indicated given the Student's history.
 - It is recommended that the Student's mother share a copy of this report with the student's psychiatrist in order to inform medication decisions. The Student continues to exhibit significant attention and processing issues while taking her psychostimulant medication, and as such, modifications to her current regimen may be indicated. The Student's Mother reported that the Student had recently undergone genetic testing for medication metabolism, and her mother is urged to share those results with the Student's psychiatrist. [Exhibit B-16, page 22]
20. A second PPT was conducted on August 27, 2018 to review the neuropsychological evaluation that was conducted by Dr. Carr, to determine eligibility, and discuss placement of the Student on August 27, 2018. [Exhibit B-18, page 2]
21. The PPT determined that the Student was qualified for special education as a student with a Specific Learning Disability given the results of her evaluation along with historical information. [Exhibit B-18, page 2]
22. The PPT developed as the annual goal for the Student that she will improve her executive functioning skills in the area of organization of materials, use her planner, and prioritize her assignments for her classes. As objectives, the PPT established that the Student would receive explicit instruction on prioritizing and organizing her assignments through the use of a planner or technological organizer, that the Student would arrive on time to class with all materials necessary for daily assignments, and that she will keep school related materials easily accessible in her backpack. [Exhibit B-18, page 8]
23. The PPT further recommended that the Student be placed in the STEP program at Farmington High School with services in social skills, academics, reading and transition

planning. The School Social Worker was to contact the Mother before August 31, 2018 to set up a time to meet with the Student. The Parent agreed to let the STEP program staff know what date the Student would begin attending the STEP program. [Exhibit B-18, p. 2]

24. The PPT was set to reconvene at the end of September 2018 to review the Student's progress, update goals and objectives, and discuss the need for any further evaluations. [Exhibit B-18, page 2]
25. The STEP Program has been in place in the Farmington school system for seven years; it offers an array of services to students with a full-time certified special education teacher, a full-time certified social worker and three paraprofessionals on staff. [Testimony of Dr. Singer] It has a full-time therapist available for students to get therapy as needed, and at least once per week. [Testimony of Ms. Sumner] The STEP Program has students with RAD who have experienced trauma, and coordinates with outside agencies, outside psychologist, and ICAPS (a service offered through the Connecticut Department of Children and Families). [Testimony of Dr. Singer; Testimony of Ms. Sumner] The programs social worker, Ms. Sarah Sumner, has extensive experience working with students diagnosed with Reactive Attachment Disorder. [Testimony of Ms. Sumner] The STEP Program is contained in two large classrooms on the campus of the Farmington High School together with two connected office rooms for staff. It also has space for cooking meals which the students do together. [Testimony of Dr. Singer] Significantly, the program offers the Student the opportunity to be "co-taught", i.e. receive both regular classroom instruction and special education. Further, the program offers significant transition programming, to include a guidance counselor, and arranges visits to various community colleges, cosmetology schools and various other post high school educational institutions. [Testimony of Dr. Singer]
26. The Parent unilaterally placed the Student at the Miracle Mountain Ranch School of Discipleship, ("Miracle Mountain"), in Pennsylvania on September 7, 2018. [Testimony of Parent]
27. The Board was not informed of the Parent's intention to unilaterally place the Student at Miracle Mountain prior to her placement. [Testimony of Dr. Singer]
28. The Parent provided no evidence regarding an academic program at Miracle Mountain.
29. Miracle Mountain is not accredited and offers no diplomas to residents. [Testimony of Parent]
30. Miracle Mountain provides no clinical support to its students. [Testimony of Ms. Sumner]
31. A third PPT meeting was conducted on October 16, 2018. [Testimony of Parent; Exhibit B-30, page 1]
32. The purpose of the third PPT meeting was a progress review. [Exhibit B-30, page 2]

33. At the third PPT meeting it was noted that the STEP Program Social Worker attempted to meet with the Student following the second (August 27, 2018) PPT meeting but did not hear back from either the Student or the Mother. [Exhibit B-30, page 2]
34. Mr. Hoffman, the STEP Program's full-time special education teacher offered to go to Pennsylvania to offer transition services to the Student who had been unilaterally placed at the Miracle Mountain by her Parent. [testimony of Dr. Singer]
35. The Parent requested the Board fund the student's costs for Miracle Mountain; this request was denied by the PPT given that Miracle Mountain is not a school, is not accredited and does not award a diploma. [Exhibit B-30, page 2]

DISCUSSION/CONCLUSIONS OF LAW:

1. It is undisputed that the Student is eligible for special education and related services as set forth in the Individuals with Disabilities Education Act, ("IDEA"), 20 U.S.C. Sections 1400 et seq. Free Appropriate Public Education, ("FAPE"), is defined as special education and related services that are provided at public expense, meet the standards of the state educational agency, include an appropriate school education, and that are provided in conformity with the Individualized Education Program, ("IEP"). 20 U.S.C. § 1401(8).
2. The IDEA's purpose is "to ensure that all children with disabilities have available to them a free and appropriate education." 20 U.S.C. § 1400(d)(1)(A). FAPE includes both "special education" and "related services." § 1401(9). "Special education [is] specially designed instruction... to meet the unique needs of a child with a disability"; "related services" are the support services "required to assist a child... to benefit from" that instruction. §§ 1401(26) and (29). A State covered by the IDEA must provide a disabled student with such special education and related services "in conformity with the student's individualized education program." § 1401(9)(D).
3. The IEP is "the centerpiece of the statute's education delivery system for disabled children." Honig v. Doe, 484 U.S. 305, 311 (1988). A comprehensive plan prepared by a student's "IEP Team" (which includes teachers, school officials, and the parent), an IEP must be drafted in compliance with a detailed set of procedures. § 1414(d)(1)(B). These procedures emphasize collaboration among parents and educators and require careful consideration of the child's individual circumstances. § 1414; *see Honig*, 484 U.S. at 311.
4. The Board had the burden in this case to prove by a preponderance of the evidence that its IEP was appropriate and in compliance with IDEA's requirements. Regulations of Connecticut State Agencies, ("R.S.C.A."), § 10-76h-14(a).
5. In Board of Education v. Rowley, 458 U.S. 176 (1982) ("Rowley"), the United States Supreme Court set out a two-part test for determining whether a local board of education

has offered a student FAPE in compliance with the IDEA. The first part is whether there has been compliance with the procedural requirements of IDEA; The second part is whether the student's IEP is reasonably calculated to enable the student to receive educational benefits. Id. at 206-207.

6. The first prong of the Rowley inquiry, whether the Board complied with IDEA's procedural mandates, is critical to the implementation of the stated goals of the IDEA. As the Supreme Court stated in Rowley, Congress based IDEA on the "conviction that adequate compliance with the procedures prescribed would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP." Rowley at 206.
7. The procedural requirements of IDEA are designed to guarantee that the education of each student with a disability is individually tailored to meet the student's unique needs and abilities and to safeguard against arbitrary or erroneous decision-making. 20 U.S.C. § 1412(1) and § 1415(a)-(e); Daniel R.R. v. State Board of Education, 874 F.2d 1036, 1039, and 1041 (5th Cir. 1989). It is significant, that compliance with IDEA's procedural requirements is the responsibility of the board of education, and not the parents. Unified School District No. 1 v. Department of Education, 64 Conn. App. 273, 285 (2001).
8. While a student is entitled to both the procedural and substantive protections of the IDEA, not every procedural violation is sufficient to support a finding that a student was denied FAPE. Mere technical violations will not render an IEP invalid. Amanda J. v. Clark County School District, 267 F.3d 877, 892 (9th Cir. 2001). In matters alleging a procedural violation a due process hearing officer may find that a student did not receive a FAPE only if the procedural violation did one of the following: (1) impeded the child's right to a FAPE; (2) significantly impeded the parent's opportunity to participate in the decision-making process; or (3) caused a deprivation of educational benefits. 34 C.F.R. § 300.513(a)(2); L.M. v. Capistrano Unified School District, 556 F.3d 900, 909 (9th Cir. 2008).
9. One of the most fundamental procedural requirements of IDEA is Child Find. Child Find describes a public school district's affirmative and ongoing duty to locate, identify and evaluate students within its jurisdiction who have a disability. 20 U.S.C. §§ 1401(3) and 1412(a)(3); 34 C.F.R. § 300.111; R.C.S.A. §§ 10-76d-6 through 10-76d-9. Each board of education is required to ensure that children with disabilities, to include children attending private schools and who are in need of special education and related services, are located, identified and evaluated in accordance with the IDEA. R.C.S.A. §10-76d-6. The school district must accept and process referrals from school staff, parents, physicians, social workers and clinics for the initial evaluation of a child suspected of having a disability. R.C.S.A § 10-76d-7.
10. For students that have been unilaterally placed in a private school by their parents, as in the present case, the district where the private school is located has a child find obligation. See 34 C.F.R. 300.311; *see also* Doe v. E. Lyme Bd. of Educ., 790 F.3d 440, 450 (2nd Cir. 2015), cert. denied, 136 S.Ct. 2022, 195 L.Ed. 2d 218 (2016); *see also* R.C.S.A. 10-76d-6(b). Here, the Student has been enrolled in parentally placed out of

district schools since 2011, and none of the districts where these private schools are located identified or evaluated the Student.

11. As to this first Rowley prong, there were claims presented by the Student that the Board committed multiple procedural violations, specifically: by failing to meet its Child Find obligations by not identifying the Student as a special education student earlier; by failing to properly assess the psychological and psychiatric needs and supports necessary for the Student to access her education; and by offering a follow-up PPT one week prior to school starting thereby failing to provide the Student with adequate transition time to move from one program to the next.
12. The Board made a timely identification of the Student as a Special Education student over the summer of 2018. Prior to this, the Parent's educational consultant made a request for a PPT in 2016, but the Parent failed to respond to the District's multiple attempts to obtain a release from the Parent in order to communicate with the consultant. The Board met its Child Find obligation, therefore it is not required to reimburse tuition at the Cornerstone Christian School.
13. The Board properly assessed the psychological/psychiatric needs and supports necessary for the Student to access her education. Dr. Singer credibly testified that the neuropsychological evaluation performed by Dr. Carr was the most complete evaluation the District could get to assess the special education needs of the Student given the areas of suspected disabilities.
14. Further, the District conducted three separate PPT's over the course of the summer of 2018. The District made appropriate efforts at providing the Student with transition to the STEP Program—even going so far as volunteering to have the STEP Program's special education teacher travel to Pennsylvania to meet the Student at the Miracle Mountain.
15. As to the second inquiry under the Rowley framework, i.e. whether the IEP was reasonably calculated to enable the student to receive educational benefits, the IDEA does not articulate any specific level of educational benefits that must be provided through an IEP. The Supreme Court, however, has specifically rejected the contention that the "appropriate education" mandated by the IDEA requires states to "maximize the potential of handicapped children." Walczak v. Florida Union Free School District, 27 IDELR 1135 (2nd Cir 1998), citing Rowley; K.P. v. Juzwic, 891 F.Supp. 703, 718 (D. Conn. 1995). The IDEA requires "the door of public education be opened for a disabled child in a 'meaningful' way." Walczak, 142 F.3d at 130. However, it does not guarantee "everything that might be thought desirable by loving parents." Id. at 132. The IDEA does not guarantee any particular level of education and "cannot and does not" promise any particular educational outcome. Andrew F. v. Douglas County Sch. Dist. RE-1, 580 U.S. ---, 137 S.Ct. 988, 998 (2017).
16. Each IEP must include: (a) a statement of the student's present level of performance in each area of disability as determined through periodic assessments; (b) a statement of measurable annual goals, including academic and functional goals, that are designed to meet each of the child's educational needs resulting from the disability; and (c) a

statement of the special education and related services to be provided in order to enable the child to attain the goals and progress in the general education curriculum. 20 U.S.C. § 1414(d)(1)(A); 34 C.F.R. § 300.320.

17. The IDEA further demands that each student's program be implemented in the least restrictive environment, so that children with disabilities are educated in integrated settings with non-disabled peers "[t]o the maximum extent appropriate." 34 C.F.R. § 300.550(b); Walczak, 142 F.3d at 122.
18. The Second Circuit has described the level of benefits that must be provided under the IDEA as "an education that 'afford[s] the student with an opportunity greater than mere trivial advancement.'" T.K. v. N.Y.C. Dep't of Educ., 810 F.3d 869, 875 (2nd Cir. 2016), quoting M.O. v. N.Y. City Dep't of Educ., 793 F.3d 236, 239 (2nd Cir.); accord Endrew F., 137 S.Ct. at 1001.
19. Overall, the goals and objectives proposed for the student must be measurable and reasonably calculated to enable her to receive educational benefit and to make progress rather than regress in her academic development. Rowley, at 206-207; Cerra v. Pawling Central School District, 427 F.3d 186, 191 (2nd Cir. 2005); M.S. v. Board of Education of the City School District of the City of Yonkers, 231 F.3d 96, 103 (2nd Cir. 2000).
20. It is significant, that the sufficiency of an IEP under the IDEA is assessed in light of information available at the time the IEP is developed; it is not judged in hindsight. Adams v. Oregon, 195 F.3d 1141, 1149 (9th Cir. 1999). "An IEP is a snapshot, not a retrospective." Fuhrmann v. East Hanover Board of Education, 993 F.2d 1031, 1026 (3rd Cir. 1993). It must be viewed in terms of what was objectively reasonable when the IEP was developed. Id.
21. "Where the IEP is substantively deficient, parents may unilaterally reject it in favor of sending their child to private school and seek tuition reimbursement from the State." T.K. v. N.Y.C. Dep't of Educ., 810 F.3d 869, 875 (2nd Cir. 2016). A school district will be required to reimburse parents for expenditures made for a private school placement, if the services offered the student by the school district are inadequate or inappropriate. *See* Florence Cty. Sch. Dist. Four v. Carter ex rel. Carter, 510 U.S. 7, 13-16 (1993); Sch. Comm. Of the Town of Burlington, Mass. V. Dep't of Educ. Of Mass., 471 U.S. 359, 369-70 (1995).
22. As to the second prong under Rowley, a claim was made that the IEP was not appropriate given the Student's mental health and emotional needs. This claim however goes against the great weight of the evidence which demonstrated that the STEP Program provides appropriate services—therapeutic supports, certified staff, access to outside providers—given the needs of the Student. The STEP Program offers the Student the possibility of a high school diploma, transitional services to include a guidance counselor, trips to post-secondary educational institutions, therapeutic counseling, psychiatric assistance if needed, and assistance with life skills. It further offers her the opportunity to receive mainstream instruction in regular classes something that Dr. Carr expressly recommended in her evaluation report.

23. The Board offered an appropriate IEP designed to provide FAPE so it has no obligation to reimburse the Parent for the Student's private placement at Miracle Mountain. Moreover, the Student has not proved the appropriateness of the private placement. Miracle Mountain does not offer a diploma, does not have certified teachers or counselors, and has not been proven to be a school.
24. Moreover, the equities do not favor tuition reimbursement for both the Cornerstone Christian School or Miracle Mountain because the Parent did not act reasonably throughout the process. The Parent failed to give the Board advance written notice ten days prior to the unilateral placements of the Student at either school. The IDEA recognizes that a request for reimbursement for tuition may be denied when parents are not reasonable. Such unreasonableness may include the failure of a parent to provide written notice to a district at least ten business days prior to the removal of the child from the public school of their intent to make a unilateral placement. See 34 C.F.R. 300.148(d); *See also Frank G. v. Board of Educ. Of Hyde Park Cent. Sch. Dist.*, 46 IDELR 33 (2nd Cir. 2006), cert. denied, 552 U.S. 985 (2007).
25. The Student also seeks a compensatory education award in this case. Impartial hearing Officers have broad discretion to fashion appropriate remedies in due process cases, including to award compensatory education as an equitable remedy for denial of FAPE. *Draper v. Atlanta Independent School System*, 518 F.3d 1275, 1285 (11th Cir. 2008); *M. C. ex rel. J.C. v. Central Regional School District*, 81 F.3d 389, 397 (3rd Cir. 1996); *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 523 (D.C. Cir. 2005).
26. Compensatory education should be designed as a "replacement of educational services the child should have received in the first place" and should "elevate [the Student] to the position he would have occupied absent the school board's failures." *Reid*, 401 F. 3d 516 at 518, 524-27. An award of compensatory services is not based on an established logarithm, but instead on equitable considerations. *Id.* at 524. Equitable factors are generally relevant to the calculation of remedies in special education cases. *C.L. v. Scarsdale Union Free School District*, 744 F.3d 826 (2nd Cir. 2014).
27. The Student is not entitled to compensatory education remedy, because there was no denial of FAPE by the Board.

FINAL DECISION AND ORDER

1. The Board met its Child Find obligations.
2. The Board offered timely follow-up PPT meeting and provided the Student with adequate transition time to move from Miracle Mountain to the STEP Program.
3. The Board properly assessed the psychological/psychiatric needs and supports necessary for the Student to access her education.

4. The IEP was appropriate given the Student's mental health and emotional needs.
5. The Board offered FAPE for the 2018/2019 school year.
6. The proposed private placement at Miracle Mountain is not an appropriate special education program.
7. The Board is not be required to pay for the Student's private placements at Cornerstone Christian School and Miracle Mountain.
8. The Student is not entitled to compensatory education.