

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

DECISION

H.S. AND M.S. ON BEHALF OF A.S.,

Petitioners,

v.

**HARRISON TOWNSHIP
BOARD OF EDUCATION,**

Respondent.

OAL DKT. NO. EDS 15976-12

AGENCY DKT. NO. 2013 19039

**HARRISON TOWNSHIP
BOARD OF EDUCATION,**

Petitioner,

v.

H.S. AND M.S. ON BEHALF OF A.S.,

Respondents.

OAL DKT. NO. EDS 580-13

AGENCY DKT. NO. 2013 19226

(CONSOLIDATED)

Jamie Epstein, Esq., appearing for H.S. and M.S.

Brett Gorman, Esq., appearing for Harrison Township Board of Education
(Parker McCay, attorneys)

Record Closed: September 11, 2013

Decided: October 11, 2013

BEFORE **SUSAN M. SCAROLA, ALJ:**

STATEMENT OF THE CASE

H.S. and M.S. (parents), on behalf of their son A.S. (A.S.), filed for a due-process hearing against the Harrison Township Board of Education (District), seeking that the District find A.S. eligible for special education, reimburse them for unilateral placement at out-of-district Cherrywood Academy and Private Preschool (Cherrywood), continue

A.S.'s placement at Cherrywood, and provide compensatory education to him. They also contend that placement at Cherrywood was the appropriate educational program and placement for A.S. The District contends that placement was not necessary, that A.S. could have received a free and appropriate education at the District's schools, and that because Cherrywood is unlicensed and unapproved, reimbursement for fees is not permitted.

The District filed a due-process petition seeking a pediatric neurological evaluation of A.S. after the parents declined to give consent.

PROCEDURAL HISTORY

On November 1, 2012, the parents filed their due-process petition, which was transmitted by the Office of Special Education Programs (OSEP) of the Department of Education (DOE) to the Office of Administrative Law (OAL), where it was filed on December 4, 2012, under docket number EDS 15976-12.

On January 10, 2013, the District filed its petition, which was transmitted by OSEP to the OAL, where it was filed on January 10, 2013, under docket number EDS 580-13. These petitions were consolidated for hearing.

On March 13, 2013, the District filed a motion for summary decision contending that reimbursement is not permitted for a placement in a school that is unapproved and unaccredited by the DOE, and therefore the parents' due-process petition must be dismissed.

The hearing on the petitions was held on March 18, 19, and 27, May 20 and 21, June 19, July 9, and September 11, 2013, at which time the record closed.

FACTUAL DISCUSSION

The following school history of A.S. is not in dispute.

A.S. was born on August 23, 2007. He was identified as a child requiring the Early Intervention Program (EIP). In 2010 he was transitioned from the EIP and was classified as a preschool child with a disability. From September 2010 to June 2011, at the age of three, he attended school in the Harrison Township school district for a half-day session.

In June 2011, A.S. was found not eligible for special-education services and was declassified. From September 2011 to September 2012, at the age of four, he attended Holding Hands Day Care (HH), a preschool, on a full-time basis.

In June 2012, when A.S. was reevaluated for special education, he was again found not eligible for special-education services. From September 2012 to June 2013, at the age of five, he attended Cherrywood, where he had been unilaterally placed by his parents.¹

Testimony

For Harrison Township

Tina Heil, a school social worker, became A.S.'s case manager in April 2010 because he had been referred to the child study team (CST). She reviewed A.S.'s history within the District starting with school year 2010–11 when he was identified as a preschool child with a disability. Because of his articulation and communications problems, A.S. was placed in a preschool program with a special-education teacher, with speech and language therapy three times per week. In the spring of 2011, speech and language assessments were conducted by the District's speech therapist, Kristin Piperno. At an eligibility conference on June 14, 2011, A.S. was declassified. He was then placed at HH by his parents.

¹ The parents did not reveal the plans for A.S.'s school attendance for the 2013–14 school year, although it was represented at the hearing that Cherrywood's curriculum ended at kindergarten.

In early 2012, the parents asked to have A.S. reevaluated and observed at his day-care facility. A report from Cooper Hospital dated February 10, 2012, indicated that A.S. had an autism spectrum disorder (ASD). The audiology evaluation conducted on March 28, 2012, and reported on April 13, 2012, recommended that the school use an FM system, preferential seating, pre-teaching, cueing, and continued speech therapy. The District adopted this report but did not implement the recommendations, nor convene a 504 meeting or develop a 504 plan.

The parents wanted a neuropsychological evaluation and more comprehensive evaluations. A report from Nemours dated April 13, 2012, indicated that A.S. had a left-sided hearing loss. The parents and the District met in April 2012 for an evaluation meeting. Heil's report of April 13, 2012, did not address the audiologist's recommendation. The observations of A.S. by the District indicated that he was functioning well in preschool, although it appeared that A.S. might be eligible for a 504 plan. Assessments by the occupational therapist, Veronica Diciccio, indicated that A.S. had no occupational therapy (OT) needs, and a psychological examination by Dr. Press indicated no cognitive disabilities or academic difficulties. A speech and learning evaluation by Kristina Jones found that A.S.'s language skills were average.

At the eligibility conference in June 2012, the District found that A.S. was not disabled in any category and that his learning was not adversely affected by his disability. As a result, he was declassified. The CST did not offer him a 504 plan. Even though the child was not eligible for services, Heil wanted the school to be aware of the parents' issues and told her supervisor that A.S. may need an FM system and a structured environment during class. A report was received after the date of the conference, on August 13, 2012, from Dr. Evelyn Gonzalez, a pediatric neurologist, but the parents withdrew A.S. from the school on September 20, 2012, and placed him at Cherrywood.

As A.S.'s case manager, Heil had observed him in the classroom, and also at his day-care facility (HH) on February 22, 2012, for two hours. She saw some behaviors, but did not recall the specific incidents. She felt that he did not meet the eligibility

criteria for special services because his disability had no adverse impact on his education.

A.S. had come to the District in 2010–11 as a preschool placement. During the 2010–11 school year, no records were maintained on his progress. Dr. Press did an evaluation, but not an observation, as did Jones and Piperno. The CST accepted the psychological evaluation of Dr. Sarah Woldoff, who had made a provisional diagnosis of attention deficit hyperactivity disorder (ADHD) and had made fifteen recommendations for him. Almost none of the recommendations were provided for in A.S.'s individualized education plan (IEP). Nothing was suggested to the parents about a 504 plan or other intervention plans, although the parents could have requested a 504 plan.

The CST did not disagree with the audiologist that A.S. had mild hearing loss, but the diagnosis of autism required further evaluation. They had a neuropsychological evaluation, but the District needed a doctor to diagnose autism. Dr. Gilda Johnson reported that A.S. had a seizure disorder. The school nurse summarized his medical history, but that did not affect his eligibility for special education. The school did not seek to supplement Dr. Woldoff's evaluation with the others that she had recommended. A 504 plan could have been implemented in the school to address all of Dr. Woldoff's concerns.

Heil believed that the District had previously sent two students to Cherrywood.

Kandie Press, Ed.D., has been a certified school psychologist for twenty-three years. Dr. Press had not observed A.S. at HH preschool because he had been withdrawn in June 2012.

She evaluated A.S. on July 3, 2012, using the Wechsler Preschool and Primary Scale of Intelligence (WPPSI), which is considered the gold standard for measurement. She asked the mother to leave the room during testing, and the room was quiet with no distractions. A.S.'s normal school environment had many distractions, and Dr. Press had not seen what he was like in the HH preschool. Nothing had prevented her from going to HH. A.S. was thoughtful, careful, self-correcting, and persistent during testing.

He had no problem with concentration. The test took an hour and he did not ask for a break.

A.S. scored very well, with high-average ability. The test showed he should do well in regular kindergarten. He had an excellent ability to maintain attention; there was no language impairment; he was able to respond to lengthy directions; and he was able to handle anxiety. She did not see signs of autism. She found no demonstrative behaviors of ADHD.

Dr. Press participated in the evaluation meeting with the parents. Each party spoke as to whether A.S. met the criteria for classification, and he did not. He was no longer a preschool child with a disability. The concerns raised by the parents, such as hearing loss, ADHD (as diagnosed by Dr. Woldoff), ASD and other health impairment (OHI), were discussed, and the conclusion was that A.S. was not eligible for special education. She agreed with that conclusion.

The purpose of the WPPSI was to identify cognitive learning, and nothing in A.S.'s evaluation indicated that A.S. had impaired cognitive skills. No other reports were relied on at the meeting. They did not discuss Dr. Gonzalez's report or the hearing impairment or epilepsy. Dr. Press was aware that the parents had referred to hearing loss and autism. Dr. Press is not a physician. Her belief was that the CST relied on the parents' letters and the report from the Center for Neurological and Neurodevelopmental Health (CNNH). There was no report concerning A.S.'s neurodevelopment, except for Dr. Gonzalez's, and she did not remember if she had seen it. The conclusion had been reached in June that A.S. did not need an IEP before she had administered the WPPSI to him. Dr. Woldoff said A.S. needed an IEP, but Dr. Press said A.S. would be fine in a regular kindergarten.

The CST met on August 1, 2012. The team had information from A.S.'s neuropsychologist. Although it could have obtained its own report, the team accepted the medical reports that were provided. The team had not received Dr. Woldoff's findings. There was a discussion of a 504 plan, and Dr. Press believed a colleague would make a recommendation to the administration to make a referral for a 504 plan.

She did not know if there ever was a 504 conference. She had no further involvement with A.S.

Dr. Press was not aware that A.S. had to be restrained when he came to school on August 28, 2012, for the kindergarten orientation. The testing indicated that he learned well. The CST did not determine if A.S.'s behaviors interfered with his learning. Dr. Woldoff said his fidgeting interfered with his learning, and recommended a functional behavior assessment in school. The collaborative process concluded that A.S. was not eligible. Dr. Woldoff's report was not addressed at the meeting. Heil had said A.S. had inappropriate behaviors, but none of the behaviors seen at the February 22, 2012, observation were addressed in the evaluation plan. Dr. Press did not participate in the de-classification. Johnson's recommendations were consistent with Dr. Woldoff's. But Dr. Press had no records from Johnson. She relied on Heil, the case manager.

Kristina Jones is a certified speech/language pathologist who has worked in the District since 2004. She works with students with articulation and language disorders and has done thousands of evaluations. She is familiar with A.S. and gave him the Tests of Language Development (TOLD and TOELD) on July 9, 2012. Jones found that A.S.'s expressive and language skills were average to above average. His overall spoken language score was 65%. His listening skills were 82%. Jones had knowledge of A.S.'s diagnoses of autism, epilepsy, and a hearing disorder.

Jones had not done the testing earlier because of her case load, as well as because of delays by the parents in bringing A.S. in. She generally saw children for testing when they came into kindergarten. Jones looked at Piperno's evaluation and at copies of other evaluations. She made no outside observations of A.S. She did not remember Dr. Gonzalez's report or the audiologist's report. When she reviewed Dr. Gonzalez's report, she did not know how to interpret it. She was not aware that A.S. was epileptic. She was present at the August 1, 2012, eligibility conference.

Kristin Piperno has nineteen years of speech/language experience and has been a speech/language pathologist with the District for five years. She has done

hundreds of screenings, evaluations and therapies. No outside expert oversees her work. Her supervisor is Joan Ruberton.

Piperno was familiar with A.S. Her first contact with him was on August 3, 2010, when he was tested and found to have significant delay. He was then eligible for special services under emerging skills. At the evaluation meeting, his medical history was not provided, but a follow-up by an ear, nose, and throat (ENT) physician was mentioned in a report. Piperno did not consider whether A.S. was hearing impaired.

Piperno tested A.S. in a room with no distractions, either auditory or visual. He was then classified as a preschool child with special needs. A.S. was placed in a self-contained preschool with speech and language therapy three times per cycle (two individual sessions and one group). Nine children were in the group with teacher Andrea Startare and two aides. At the evaluation meeting, it was determined that A.S. showed delayed language skills. Piperno did not assess the educational aspect of his disability. No recommendations were made for A.S., even though they could have been, for such things as preferential seating, noise reduction, FM system, proximity to teacher, etc. For that school year, none of this was in place. No modifications were made to the classroom such as carpets or rugs, or tennis balls on chair legs to reduce noise.

A.S.'s IEP was updated on October 19, 2010, and some additional goals were added. During the 2010–11 school year, Piperno did not monitor the ENT report. At no time did she consider that A.S. might have a hearing problem. Every one of A.S.'s goals and objectives had an 80% success rate noted. All goals were based on his performance on the August 2010 evaluation. There were eight objectives and she wanted 80% proficiency. Goals were measured through the data she collected.

Piperno reported that A.S. was successful in seven areas during the year, although one area was not good. Overall, he made tremendous progress. The evaluations conducted in June 2011 showed scores in the above-average or high-average range, and indicated that A.S. was no longer eligible for special education. His processing was not evaluated that school year. The observations of A.S. were general

and did not assess his ability to attend to a task. A.S. achieved 80% of all goals Piperno was working on by the end of the school year.

Piperno's records, including meeting notes, therapy notes, evaluations, test protocols and progress notes on A.S., were shredded when he was de-classified and left the District. When A.S. was screened by the school nurse, Piperno believed that there was no significant hearing loss, but she was not sure. The school nurse would ordinarily perform an audiometric test, but she would not do a hearing evaluation if the student were being seen by a doctor. Piperno never saw an audiologist's report for A.S.

Once A.S. left the school, Piperno had the opportunity to observe A.S. only once at HH. There were fifteen to twenty students with three adults, at least one of whom was a teacher.

A.S. had surgery in December 2010 at the Children's Hospital of Philadelphia, but Piperno did not know what type of surgery. He was out of school for a month and had tubes placed in his ears. In the June 2011 report there was no mention of the surgery, or report on receptive language, or mention of contact with doctors. She did not speak with anyone from the hospital about the tubes. Any impairment of A.S.'s hearing would be relevant to Piperno's work.

A.S. was exited from special education after Piperno discussed his progress with Heil. No other disabilities were mentioned. There was no mention of an observation of A.S. at HH or of the educational impact of his disability during the school year.

A.S.'s fine motor skills and social skills were not assessed. These behaviors can affect ability to learn. The IEP did not address A.S.'s behaviors such as problems with taking turns and sharing, not keeping his hands to himself, or following directions. At the reevaluation on April 26, 2011, the mother raised concerns only about speech, so language was addressed, but not the behavioral concerns.

On June 14, 2011, Piperno spoke with the case manager and discussed test results and the progress of therapy. There was agreement that A.S. was not eligible.

There was no discussion of other evaluations or any follow-up to the hearing exam in June. There was still no mention of the hearing impairment and the CST had no audiometric results. A.S. went to the audiologist six days after the meeting, but it did not matter because after the meeting he was no longer classified.

Veronica Diccio has been an occupational therapist for five years and a contract employee at the District for the past year. As an occupational therapist, she evaluates and assesses fine motor skills and whether they impact a child's education. She has performed hundreds of evaluations. On July 2, 2012, she performed an OT assessment of A.S., and his mother completed a sensory profile of him. Diccio knew A.S. from having seen him three years earlier in a class in which she was observing other children.

Diccio and the child sat at a table, and the mother was present. The child saw a swing in the room and was promised he could use it when he finished the test. She did not give rewards for performance on the test. No one had reviewed her testing skills since college. As she was in private practice, no one reviewed her work. She did not consider that having the mother present during testing affected his behavior. Her role was to assess A.S.'s fine motor skills and sensory processing and how they impacted his ability to perform in a classroom. His skills were very good during the test. She made no determination of whether the mother's attendance affected his performance.

Diccio administered the Peabody test for visual-motor skills to A.S. He was able to manipulate objects at her request, but she did not know what the result would be if A.S. could not hear in the classroom. She received information from the parents on his sensory processing. A.S. performed eleven skills and had a raw score of 141. The mother completed the sensory profile, but Diccio did not go over the mother's responses with her. The profile form that is normally filled out by a teacher was not completed because A.S. was not in school.

Page two of the report showed a definite difference in scores. Diccio did not use software that could generate a summary, but used the profile to gather information.

She interpreted the scores using the paper form to get the results. A.S. definitely had a sensory-profile difference.

The sensory profile completed by the parent showed problems, but A.S. did not demonstrate all of these problems during her evaluation. Diccio did not agree that his sensory input would affect his ability to perform. The CST would need additional observations, because A.S. was able to attend to tasks. The guidelines suggested additional classroom observations were necessary, but she did not make that recommendation and did not know whether other people had observed him. The reports of other evaluators would not be read, but would be discussed at the meeting.

As far as the manipulation section of the test, Diccio did not know how the publisher of the test would interpret A.S.'s scores. The interpretation of the sensory profile was not in the report. A.S.'s sensory profile was a gray area. She did not know what the publisher recommended with these results.

As far as his behavioral and emotional responses, Diccio agreed that A.S. might have difficulty performing some tasks. A learning evaluation was not done, nor was a functional school assessment. At the classification meeting, she said he was not eligible for OT services because she felt he was accessing his education.

The Peabody test is objective and A.S. performed well; he was above average. If the sensory-profile information were accurate, then his performance on the Peabody test would affect his ability to perform at that level. There was a discrepancy between the two tests, she said, because he performed above average on skills necessary to perform in the classroom. When there was a disparity between the impressions from the test itself and the sensory profile, she followed the test. A.S. was ineligible because he could perform in the classroom. The Peabody test took into account the sensory behaviors described. The test did not say exactly that A.S. has underlying skills. The Peabody test is an assessment tool that allowed her to make a recommendation.

A.S. scored 75% on the Peabody test in developmental motor skills; 91% in visual-motor integration; and overall was in the 89th percentile. As such, A.S. can

provide above-average skills. There was a definite difference between his sensory profile and A.S.'s sensory problems impacting his ability to learn. As an occupational therapist, she determined that there was a discrepancy between the parent report and her observations. She took this into account when she concluded that A.S.'s sensory problems do not impact his ability to access education.

Although Diccio had spoken with the mother before A.S.'s testing, she did not attend the evaluation plan meeting which determined eligibility and whether the child needed OT. She did not maintain information that is kept in the CST file. She reviewed no other records, including the April neuro-pediatric evaluation, because she had enough information. She did remember a discussion about that evaluation. Her report did not mention A.S.'s seizures, autism or hearing loss. She did not consider a hearing impairment because he was able to follow her directions. She did not remember speaking with the CST about the Dr. Woldoff report, and there was no discussion of it in her report.

Diccio made no observations at the preschool because A.S. was not in a program and was home with his mother at the time of her report. She did not speak with the teachers at the preschool and did not remember speaking with CST members. Her report was done soon after the evaluation was completed and sent to the parents. She did not review it with the CST before sending it. She agreed that having a hearing impediment could affect A.S.'s school performance.

Dr. Sarah Woldoff is a neuropsychologist, licensed in New Jersey and Pennsylvania, and the director of autism services at the CNNH. She has been involved in psychology for twenty-one years and has specialized in autism for thirteen years. She performs neuro-pediatric evaluations and has performed over one hundred Autism Diagnostic Observation Schedule (ADOS) evaluations. She is not a physician or a medical doctor. She was qualified as an expert.

The ADOS test looks like play-based observations, but it has been standardized to certain activities and is scored in a systematic way. The room is set up before the child enters. The hallmarks of autism include stereotypical behavior and qualitative

impairments. The test includes social overtures, with bids to engage in communication and reciprocal comments.

Woldoff tested A.S. on May 17, 2012, with the ADOS G, Model 3.² When A.S. entered the room, they started to chat. There were no signs of echolalia, i.e., repetition of words spoken to him. His eye contact was good and he volunteered speech. He responded to statements. Jessica Abart administered and scored the test, and Dr. Woldoff also scored it.³ No part of the test was completed without Dr. Woldoff's supervision. Abart was not involved with the mother.

An autistic child does not usually build on conversation, and eye contact is deficient in the autism spectrum. A.S. engaged in communication, which improved as it went on. He may have been anxious at first, with some difficulty separating from his mother.

A.S. responded to presses and leads. In his total score, A.S. did well. His level of activity was outside of normal limits. Woldoff's opinion was that A.S. did not meet the cutoff criteria to be considered autistic. Autism must be diagnosed by a physician. She went through a questionnaire with the mother, but the teacher's questionnaire that was sent out was never returned to the CNNH.

On the questionnaire answered by the mother, any score over 12 means that the child is "at risk." A.S. scored a 13. Areas covered include eye contact, imaginative play, and play with other children. She was not aware of any sensory-profile test completed for A.S. The social-communication questionnaire was consistent with a child at risk for autism. It included twenty to forty questions and evaluated communication in children.

Dr. Woldoff gave A.S. a provisional diagnosis of ADHD, but needed more information to confirm it. The basis for the diagnosis of ADHD was her observations.

² The test now given is the ADOS II.

³ Abart had her master's degree and had completed her course work for her doctorate (ABD). She was in the process of collecting hours for her license, and is now a Ph.D.

Dr. Woldoff noted A.S.'s short attention span, and considered the mother's comments and observations.

A pediatric neurologist evaluation was recommended, as well as some additional tests. As it had been a year since A.S.'s last evaluation, a new one would be beneficial. She did not agree with Dr. Gonzalez's conclusion that A.S. was autistic. She did not review other reports after the evaluation was complete. She did not even know they were being done. She did not get any other reports from the CST.

Dr. Woldoff's report was complete except for the BASC questionnaire, but neither the parent nor the preschool teacher returned the BASC.⁴ She wanted additional testing and wanted the BASC completed because it covered the DSM spread of disorders.⁵

Dr. Woldoff was not invited to the IEP meeting, and never attended them unless her attendance was requested. Between May 2012 and August 2012 there was no communication with the District about the testing, nor did Dr. Woldoff speak with Dr. Press about the report.

The medications that A.S. was on were not included in her report because they were listed in Dr. Gonzalez's report, although they were mentioned in her notes. Dr. Woldoff did not rule out some effects on behavior caused by the medications.

Dr. Woldoff's report was based on her observations and the mother's responses to her questions. Her concern was how A.S. would do in the educational environment. The report did not mention any difficulty in transitioning. Dr. Woldoff did not mention any struggles with multi-step instruction. She did not know if a functional behavior assessment had been done, and she had had no communication with A.S.'s preschool. Her notes indicated that he had some social anxiety at home, but she had not observed him at school.

4 BASC refers to the Behavior Assessment System for Children.

5 DSM refers to the Diagnostic and Statistical Manual of Mental Disorders.

Dr. Woldoff found that A.S. met the criteria for a classification of “other health impaired,” given his diagnosis of conductive hearing loss and related behavioral concerns, as well as deficits associated with a provisional diagnosis of ADHD. She agreed with the pediatrician about A.S. needing a 1:1 aide for instruction and preferential seating in the front. She also recommended a board-certified behavior analyst to conduct an educational assessment. A.S. also needed a functional behavior assessment at home and an FM system in school. She also recommended preferential seating, a daily visual schedule and token system, cueing and redirection, and other situational assistance for A.S. as part of a 504 plan. She noted that if A.S. were autistic, the recommendations would not be that different, as they were similar for ADHD, ASD and pervasive developmental disorder (PDD).

Dr. Woldoff’s recommendations were based on a provisional diagnosis of ADHD using the DSM. The problematic behaviors should have been seen both at home and in school. Some behaviors improved with maturity. If A.S. were autistic, his behaviors would be seen in every situation. As she was not able to get teacher input to consider, her conclusions were based on her observations.

Dr. Woldoff did not review a learning evaluation, but there was a need to have one completed. She sent out the form to the teachers and hoped it would come back. Nothing prevented her from going to the school to ask for it, but she was not asked to do so.

Dr. Woldoff disagreed with the neurologist and did not contact her. She did not suggest that the District get its own neurologist. She and her group now use a neurologist to give a diagnosis of autism, as the protocol has changed. Up to now, the school districts accepted her diagnosis. At this time, schools use doctors to confirm the diagnosis of autism. The neurologist works with them to come up with a diagnosis. It has become a more integrated approach.

Andrea Startare has been a special-education teacher with the District for eleven years. She was familiar with A.S. because he was her student during the 2010–11 school year. He came to her from early intervention and she had reviewed his

records. In May 2010 there was an evaluation plan meeting, but she had not attended. A.S. had been classified as a preschool student with a disability who needed language enrichment pursuant to an IEP of August 19, 2010. On October 19, 2010, the IEP was revised to add social goals. She remembered A.S. as having age-appropriate skills. As to the goals developed for A.S., he was successful: he participated in a large group; he answered questions; and he completed conversations with his peers. As to auditory issues, she recalled that when A.S. was in her class, he talked about tubes in his ears.

At the end of the year, his progress report indicated that he was where a typical three-year-old would be and was developing well. He did need reminders to keep his hands to himself and to follow directions, but these were skills that get worked on for typical three-year-olds. She did not think he needed speech therapy. At the reevaluation meeting in April 26, 2011, she recommended that he needed no special-education services because he had made progress in such a short time. He needed more challenges, not fewer. Startare considered him to be average to above average.

Startare did attend the eligibility conference of August 19, 2010. A.S.'s speech and language had been tested again, but not his gross motor, fine motor, self-help or social skills before he was declassified. No audiometric evaluation was done. There were no results for vision or audiometric processing. At the time of the evaluation meeting, no information was collected on A.S.'s behavior; his learning was not assessed; his intellectual functioning was not assessed; and his hearing was not assessed. There was nothing in the IEP about audiometric testing, even though A.S.'s difficulty with speech and language difficulties and other medical issues had been noted.

Three-year-olds attend the special-education program in the morning; four-year-old special-education students and typical peers attend in the afternoon. A.S.'s class had approximately nine students, all with IEPs. There were no non-classified children in his class. He was only exposed to typical peers in assemblies and gym. Although there had been concerns about processing needs, no evaluation of those was done, nor was a pediatric neurological evaluation requested. The IEP did not include an FM system.

A.S.'s ability to learn had not been evaluated by a learning consultant, nor was his behavior assessed. Startare had worked on A.S.'s behavior during the year and she felt that he did not exhibit atypical behavior during the school year. No token system was used, as he did not need it. No formal measure was made of A.S.'s ability to attend to tasks. A.S. was not assessed for placement with the general-education students because the school system used the self-contained classroom for three-year-olds. The school did not have a regular preschool program for A.S. to get his special education.

Goals and objectives were not included in the IEP because she did not know the child. That was the reason for the scheduled reevaluation meeting on October 19, 2010. Between the dates of the eligibility conference and the reevaluation meeting, they worked on the goals and objectives for A.S. It was not clear how the goals and objectives were to be calculated or determined, except by observation. And there had been no determination of his level of functioning. At the reevaluation meeting, there was no learning consultant, or psychologist, or speech therapist, or general-education teacher or District representative.

Two months before there had been concerns about A.S.'s behavior, but this IEP indicated that there were no significant concerns in the classroom. There was no information about an auditory screening. As the special-education teacher, she was to carry out the objectives. But no formal data were collected; the data were based solely on observations. Once the child was declassified, no records were maintained except for what the school had. The IEP was not modified for class placement for the 2010–11 school year. There was no accommodation for A.S.'s hearing impairment. A.S. attended the preschool program in the morning and HH in the afternoon. Startare did not visit with teachers in the HH program and had no knowledge of it. The IEP did not provide any plan for the parents or the teachers at the HH program.

Instead of a reevaluation in 2012, the District decided to do it early. On April 26, 2011, a reevaluation plan was developed. A.S.'s skills were based on school observations, even with the mother reporting that his ear tubes were being removed. The CST did not address this. The only additional data included was a speech/language assessment. No social assessment was performed. On June 14,

2011, A.S. was three years and nine months old. The CST made no assessment as to whether he could function in a regular-education class. But the reevaluation was not for that purpose; it was to determine whether A.S.'s speech and language problems were interfering with his education. The CST did not determine if he could perform in the least restrictive environment. A.S. was originally found eligible for special education, and then he was reevaluated and it was decided he no longer needed it. In the present levels of academic achievement and functional performance (PLAAFP), Startare felt that A.S.'s problems were typical for his age. No one considered whether A.S. was autistic, and there was no request for an audiology screening or a pediatric neurologist evaluation.

The IEP progress report included the same goals and objectives from the October 2010 IEP to the end of the school year in June 2011. They were not changed or modified during the year. After the declassification in June, Startare had no further involvement in the matter until a later date, but she did not remember when. She was present at the eligibility conference on June 1, 2012, when A.S. was entering kindergarten. She was asked to attend because she was familiar with him.

When A.S. was in her class, his behaviors were typical and there were none that impeded his education. He developed age-appropriate skills and his academic skills were good. He had a nice foundation for future learning. After the 2010–11 school year, he did not need special education. In June 2011, the CST found no speech or language deficits. There was no determination that his level of academic performance was not consistent with his ability to learn.

Christine Rivera is a kindergarten teacher and general-education teacher with the District. She is certified in kindergarten through eighth grade and has taught general-education and special-education students who were assigned to her general-education classroom. She was familiar with A.S., as she would have been his kindergarten teacher if he had attended kindergarten in the District. She met him once. She also taught at Cherrywood in preschool and kindergarten general education with special-education students in an inclusion classroom. She was educating special-education students at Cherrywood even though she was not licensed to do so.

The CNNH made recommendations that would have been contained in a 504 plan, including an FM amplification system; a token system; using cueing and staying on task; non-contingent room breaks; repeating instructions; breaking instructions down; situational teaching opportunities; and peer-mediated activities.

When Rivera taught at Cherrywood, as far as she knew, there were no students from the District in the class. There were general-education and special-education students in the preschool because either the parents or the school districts sent them there. She did not have contact with case managers or schools, but she attended IEP meetings.

In Rivera's class, the ratio of regular-education to special-education students was about 60 percent to 40 percent. She had about nine students in her class. There was a 1:1 aide for each special-education student, and she and another teacher taught all day. Then she was assigned to a kindergarten class with ten students. At Cherrywood the aides were a shadow to the student; they could not teach or direct. The total kindergarten population was small, with more special-education students. Some students received speech therapy, occupational therapy and physical therapy, which was in the room and also was offered for pull-out. At Cherrywood the aides used applied behavior analysis (ABA) techniques and worked on target behaviors. They gave non-verbal cues and positive feedback. The school determined the preferred reinforcement for each student and the shadow modulated that. As the teacher, she could not do everything for the student, but she could do cueing and redirection.

Rivera knew another teacher in the District who had taught A.S.'s older brother, and she received information about autism from her. Rivera was concerned as to why A.S. was being tested for autism, and Ruberton assured her that A.S. was "okay," but that he would need more support. Assessments about A.S. were never provided to her. She was not surprised that the parents were seeking a private placement. In one email to Rivera, Ruberton discussed a 504 plan, but there were no other discussions about A.S.

On August 28, 2012, Rivera was in the gym for the kindergarten orientation. There were five kindergarten classes, with one teacher and one aide in each class. When all the children went to the kindergarten classroom, A.S. slapped another student in a playful manner. At that point she had not reviewed his evaluations. If he had attended the kindergarten, there would have been sixteen students in that class with one aide. In her special-education kindergarten class at the District, there were no inclusion children. In other kindergarten classes, there were inclusion classes taught by general-education and special-education teachers. The meeting scheduled for September 11, 2012, was canceled because A.S. was no longer attending the school.

For H.S. and M.S.

Joan Ruberton has been the supervisor of special services at the District for eleven years. The school system contracts with many agencies, but she did not recall whether special-education services contracted with Advance Group, a private practice that provides consulting and autism and other school therapies. The Division of Youth and Family Services, within the Department of Children and Families (DCF), licensed Cherrywood as a community preschool. She did not recall if District students were getting services at Cherrywood and did not know whether any of her staff had gone there to observe. She did not know whether contracting with Advance Group was unauthorized. A Notification of Placement Form was signed by the superintendent on October 20, 2007, relating to Advance Group. She did not recall any role in placing students at Cherrywood Academy or Country Acres Private Preschool.

The Notification of Placement Form was not clear, as it cannot be discerned whether a student was placed at Country Acres. Ruberton would not place a child if the school were not on the approved list, as the District must place students only in approved schools. The documents shown to her did not indicate which students were referred to Cherrywood, although there was a voucher authorizing payment.

Kathleen McCabe-Odri is a board-certified behavioral analyst. She is a co-founder and executive director of Advance Group and Partners in Learning, a non-profit organization that operates the Cherrywood Academy and Country Acres school. The

schools rely on tuition, fundraising and consulting to generate income. Dr. McCabe-Odri was a special-education teacher and was familiar with various presentations of autism. Dr. McCabe-Odri completed her coursework for her doctor-of-education degree in 2005 and expected to receive the degree shortly, as she had recently completed the defense of her dissertation.

In September 2012, Dr. McCabe-Odri reviewed A.S.'s records, spoke with his parents, and reviewed the evaluations of Dr. Woldoff and Dr. Gonzalez. A program was then developed for A.S. at Cherrywood. He had a 1:1 aide to help him remain on task, provide reinforcement, and help with visual supports. He attended school daily from 9:00 a.m. to 3:30 p.m. There was a maximum of eleven students in his class, but various groups could have from six to fifteen students. About 30 to 50 percent of the students had educational disabilities and IEPs, and the rest were general-education students. The class had two teachers, one regular education and one special education. A.S.'s OT and speech therapies were one time per week with an integrated group with normal peers.

A.S. also attended sessions in "zones," which are similar to a pull-out resource. The zones were areas where increased instruction was provided. His rotation might be forty-five minutes in four areas. It might be to a small group to work on social development. A.S. went from needing nine zones to needing five zones by the end of the school year. A.S. had a 1:1 aide, but it might be a different aide in the different pullout rooms.

A.S.'s goals and objectives were defined in his treatment plan by his insurance carrier. Progress summaries were provided every four to six weeks, and the school met with the parents at least twice per year, and more as necessary.

A video of A.S. in Cherrywood was shown at the hearing (over objection). His performance demonstrated a student who appeared to be responding appropriately to the instructor, although he knew he was being filmed and observed. Dr. McCabe-Odri testified that his performance on the video was consistent with his performance in school. The school also provided services for home activities. The parents were given

training and were able to help modify his behavior with regard to self-care (germs, putting hands in his mouth, etc.).

Cherrywood has been licensed by the DCF since 2006–07 and Country Acres since 2009. There were educationally handicapped children in the kindergarten, and some students were sent by New Jersey public schools, which paid for the services. Cherrywood had a nursery program for children ages two and a half to three and a half, a preschool for children for ages three and a half to five, and a kindergarten for children ages five and six. Cherrywood also offered before-care, after-care and summer care. There was no kindergarten at Country Acres. Over the years, approximately twenty districts sent approximately sixty to eighty students to the school. Two students had been sent by the District, which paid for services at Cherrywood. Advance Group also provided outreach and preschool support for a District student in his community school.

Invoices were identified for three students from the District who had attended Country Acres or Cherrywood. One student went to Country Acres; two went to Cherrywood. One of the students had attended Cherrywood after finishing preschool. The District had an IEP meeting for that student, which was attended by Heil and Ruberton. The invoices were sent to the District and were paid in monthly installments. No one ever said that a student could not be placed at Cherrywood or questioned the DCF license. No county had ever disapproved a placement at her schools. It was a recognized integrated and inclusive program.

A portion of A.S.'s bill was paid by his medical insurance carrier, and the parents paid the balance. Based on the diagnosis by Gonzales, the carrier was satisfied with the program at Cherrywood. Recommendations for A.S. were based on a verbal behavior assessment and map, and a barrier assessment. The combination of observation and interview helped guide his curriculum. A.S.'s score was 158 and was used to develop a behavior intervention plan (BIP) to address areas that might impede his learning. This assessment was scored over a few months and was considered with curriculum and teacher assessments. A.S. needed training with social skills. Dr. McCabe-Odri relied on the health records and the evaluations of Dr. Woldoff and Dr. Gonzalez. Dr. Gonzalez had diagnosed autism, and he was a neuro-developmental

pediatrician. Her opinion was that A.S. required special education and that he was progressing. A.S. was in an appropriate educational placement, although it was neither free nor public. She believed it was beneficial for him to spend over 50 percent of his time with neuro-typical peers.

Dr. McCabe-Odri reviewed A.S.'s records from the District. The District did not make special education or a 504 plan available to him. None of the recommendations suggested by the experts were offered by the District. The District's plan for A.S. was a regular kindergarten with no special educational or 504 plans. She agreed that the recommendations suggested for A.S. (1:1 trained educational instruction, integrated OT and speech, visual supports, differential reinforcement schedules with behavior analysis, preferential seating, daily peer mediation, and monthly monitoring) and all the services provided by Cherrywood could also be provided to him free by a public school. But they were not offered to him.

H.S. is the mother of A.S. She resides with her husband, A.S. and another child, age seven, at the family residence within the Harrison Township school district. H.S. has been employed as a general-education elementary-school teacher for fourteen years. She has taught in inclusive classrooms and was familiar with children who have IEPs.

A.S. was born five weeks prematurely and spent ten days in the neonatal intensive care unit. After his release from the hospital he became sick within one week, and then spent another two weeks in the hospital for a respiratory virus, respiratory syncytial virus. A.S. was referred for early intervention around age two. Although some delays had been expected because of his premature birth, his delays continued. He had delays in walking and verbal communication, and problems with grabbing utensils, participating in activities, drooling, and mouth issues.

He was in early intervention until he entered the District's program in 2010 at age three. He received OT, which started at two, and then went to three, times per week.

An assessment in August 2009 found A.S. eligible for speech therapy because of his problems with speech, communications skills and fine motor skills. For approximately one year, therapists came to the home two times per week, which was then increased to three times per week because of his deficits. The plan was to transition A.S. to the District schools. A.S. was attending HH preschool and received his therapy there. His teachers were supportive of the EI plan. There was no special education at HH. A.S. continued to have problems attending to tasks, transitioning, following directions, and needing extra time for activities. He had some problems with peers such as sharing, being withdrawn, and refusing to participate in activities.

During the 2009–10 school year, A.S. had serious respiratory issues, including asthma, colds and viruses.

Other assessments were needed, including social, speech/language and audiometric. A social evaluation was performed. The eligibility conference of August 19, 2010, was attended by several people. As of that date, the District had not done auditory testing of A.S. A.S. was then classified as a preschool student with a disability.

The CST had no OT or speech assessment. No behavioral evaluation was performed. The District did not conduct an OT assessment or an auditory processing evaluation.

As part of the IEP of 2010, A.S. received speech and language therapy. The IEP of 2010 did not use the words “goals and objectives” and did not include benchmarks for social/emotional, or physical or cognitive or science/social studies. The subjects were listed without goals and objectives.

At the preschool he was placed with nine to thirteen students in a class with one special-education teacher (Startare) and two aides. There were no non-special-education students in the class and A.S. was not exposed to regular-education peers during this time. His IEP had goals and objectives but no current levels of academic functioning and performance. H.S. was not clear about the expectations for A.S. There

was no accommodation for any hearing impairment. Prior to the IEP, A.S. received OT three times per week. No reason was given for cutting it off.

At the IEP meeting of October 19, 2010, attended by Heil and Startare, the PLAAFP was not based on any assessments performed by the District. No functional behavior assessment was completed. A.S.'s medical status had changed from thirty days before, but no assessment had been done.

In October 2010, A.S. was attending HH after school and was still exhibiting behaviors. H.S. went to the school on several occasions and saw the behavioral problems. HH is a State-licensed preschool program. No one from the District contacted the school, as far as she knew. The District did not get communication from the school, and, to her knowledge, no assessments were performed on which to base the social/emotional benchmarks. The District was not keeping data on meeting objectives. Speech therapy continued, but no OT.

A reevaluation meeting was held on April 26, 2011. Present were Heil, Startare, and Piperno, but no general-education teacher or administrator. The District reported A.S.'s inappropriate behavior but did not evaluate the behavior. A.S. needed a speech and language assessment. By May 2011, A.S. had a history of chronic ear infections, surgery, removal of adenoids, ear tubes replaced, asthma and medications. The CST did not ask for medical releases or for records from HH.

At the eligibility conference reevaluation on June 14, 2011, Heil, Piperno and Startare were present. No one had evaluated A.S. at HH. No evaluations were done to make a determination of his PLAAFP. No data collected by Startare was shown to H.S. Audiometric screening was never done. The speech evaluation was not updated for the reevaluation meeting, nor was the health. As a result of this conference, A.S. was found not eligible for special-education services. H.S. and her husband were surprised, because they thought A.S. was doing well in school only because he had the added supports.

From June 2011 to February 2012 A.S. was at the HH preschool full-time and not attending classes in the District. There were between twenty-two and twenty-six students with one teacher and two aides. A.S. was there Monday through Friday from 8:00 a.m. to 5:00 p.m.

In February 2012, H.S. asked for a reevaluation meeting because between June 2011 and February 2012, A.S. continued to exhibit behaviors at HH and at home. He was defiant and non-compliant and was shy. H.S. observed A.S. banging his head against a wall, and becoming frustrated when he could not master certain activities. He was placed on different behavioral charts for rewards.

Then there were new developments. H.S. and her husband received the neurology evaluation from Dr. Gonzalez, which they shared with the District. Dr. Gonzalez diagnosed autism spectrum disorder, abnormal electroencephalogram (EEG), complex partial epilepsy and carnitine deficiency. Based on this diagnosis, Dr. Gonzalez felt that A.S. should be classified as other health impaired and have a 504 plan in effect. H.S. was not aware that Dr. Gonzalez's letter of August 13, 2012, indicated that symptoms could improve at their tempo. H.S. also provided the summary from Cooper, which included EEG testing, and diagnoses of autism spectrum, conductive hearing loss and epilepsy. On April 13, 2012, the doctor from Nemours followed up with post-surgery issues and had audiometric testing conducted by Dr. Schmidt, which showed conductive hearing loss on A.S.'s left side. H.S. also had the report of Tammy Reigner, the audiologist.

Up to 2012, the District had never asked for an auditory evaluation of A.S., or an OT evaluation, or audiometric screening. The IEP did not call for a reduction in distractions, or pre-teaching or the continuation of speech therapy, because A.S. had been declassified. After receiving Reigner's report, the District accepted it as its own and did not ask to do its own audiometric evaluation.

The epilepsy affects A.S. because he has seizures during the day where he stares ahead; the seizures are followed by a behavioral or emotional outburst. A.S. will

cry or become angry. At night, the seizures keep him awake and prevent him from sleeping.

At the evaluation conference of April 13, 2012, Startare, Piperno, Heil, Dr. Press and a learning disabilities consultant were present, but no administrator. Additional data was needed. There was no educational assessment or neurological evaluation, no PT evaluation, no health evaluation, no psychological evaluation. The Township asked to do a neuro-developmental evaluation, so the parents approved the release of school records to the CNNH and to Dr. Woldoff. No neurological evaluation was sought.

The report of the student's physical exam on May 30, 2012, by Dr. Gilda Johnson on a medical form for students entering kindergarten indicated asthma, global delays, conductive hearing loss and allergies. The District did not ask for its own medical evaluation.

The psycho-developmental evaluation at the CNNH took place on May 17, 2012. H.S. provided a social, medical, behavioral and academic history to Dr. Woldoff. Abart did the testing of A.S. Dr. Woldoff provided H.S. with two questionnaires to fill out, one for the school and one for home. H.S. gave the form to the teacher and aide at the school, and never heard from the CNNH that the forms were not returned. H.S. did not send hers back because it seemed to be the same questions she had answered for the doctor.

On July 9, 2012, Christine Tice, a school social worker, interviewed H.S. for one hour as she provided a social history, and she indicated medical concerns about A.S.'s behavior. On July 2, 2012, Diccio performed an OT assessment on A.S. at the District. H.S. was present during testing and completed a questionnaire on A.S. similar to Tice's and Dr. Woldoff's.

For the 2010–11 school year, A.S. was not classified as other health impaired and was not placed in an inclusion or typical program. He had no 1:1 aide. No data collection was in place for that school year. In the IEPs developed both before and after May 2012, no OT evaluation was offered, nor was a functional behavior assessment

completed. The District never offered services, or an FM system, or any of the recommendations set forth in Dr. Woldoff's or Dr. Gonzalez's reports.

H.S. had become aware of increased issues with A.S. during school year 2010–11 and continued to seek evaluations at Cooper Hospital, and then the District referred them to the CNNH. She felt that A.S. should have other services that year and that the recommendations should have been implemented. The recommendations are being implemented at Cherrywood, but A.S. has no IEP.

At the eligibility conference for the 2012–13 school year, H.S. signed releases for the CNNH records to go to the CST, and agreed to the evaluation by Dr. Press.

Copies of all the evaluations were presented at the meeting of August 1, 2012, when A.S. was still enrolled in the District. Present at this eligibility classification conference were Dr. Press, Heil, Johns, Diccio, Johnson, and Startare, but no administrator. A.S. had been evaluated by a neurologist and the evaluation was provided to the District. The eligibility form had boxes to check off, and the boxes indicating **not** autistic or auditorily impaired were checked off. The District did not have another neurological assessment completed. There was no request for additional evaluations at the conference. The District wanted a neuro-developmental evaluation, but no neurological evaluation was needed at that time.

H.S. was shocked that A.S. was not classified, because she thought he needed services during the 2010–11 school year. The CST did not recommend a 504 plan. The District wanted A.S. to attend regular kindergarten without an aide or an accommodation plan.

On September 2, 2012, A.S. attended the kindergarten orientation. He reacted badly to the rest of the kindergarten students. H.S. was able to get him to a classroom, but A.S. remained agitated. He was slapping another student and was impulsive, as noted by the teacher. H.S. requested to speak with the teacher after the meeting about a BIP or 504 plan, and was trying to give her a “heads up” on A.S.

H.S. and her husband decided not to put A.S. in the District kindergarten and looked for other options. They found Cherrywood. They then notified the District that A.S. would be withdrawn from the District. There was no response from the District about the withdrawal. H.S. was shocked at the declassification and had not been expecting that because A.S. needed services.

The cost of Cherrywood is paid by the parents' insurance carrier, which covers the ABA units, except for a \$15.00 per day co-pay which the parents have paid through June 10, 2012. The parties stipulate to the out-of-pocket cost paid by the parents and due for tuition for school year 2012–2013 (164 days) as \$2,460.00.

H.S. and her husband are seeking reimbursement for Cherrywood, plus the transportation costs at the rate of \$0.31 per mile.⁶ Because Cherrywood does not offer transportation, they also seek to be reimbursed for the extra travel time.⁷

H.S. is satisfied with Cherrywood. A.S. has made remarkable improvements. The school works on an ABA BIP. He repeats areas of weakness and verbalizes emotions. He masters skills and he reviews his letters. The students went on a chaperoned field trip to Sesame Place and they worked on A.S.'s ABA plan all day. The parents are trained in the BIP at Cherrywood. H.S. can observe A.S. in class, and once a month aides come to the house. For the most part, the recommendations of Reigner, the audiologist, and Dr. Woldoff are implemented at Cherrywood. A.S. has a small class, a special-education teacher and two aides.

At Cherrywood, A.S. has a 1:1 aide. He is in inclusion kindergarten and is expected to do the same thing as the others. When his issues present themselves, the aide steps in and helps to get him back on track. The teacher has a SMART board and

⁶ The parties agreed to the use of Google maps to calculate distance. They stipulated the following distances: house (19 C. Lane, to Cherrywood (8 Cherrywood Drive, Clementon) 17.8 miles, house to work (1200 C. Road, Camden) 14.6 miles, house to school to work 27.6 miles. The total difference per day is 26 miles.

⁷ The travel takes an extra hour one way, for a total of two hours per day. The extra time for the dropoff at Cherrywood is forty-five minutes to an hour per day. The parents seek reimbursement of the time at the minimum wage of \$7.25 per hour.

aides have iPads to help students. A.S. is working on attending behaviors. H.S. gets reports from the teacher and principal and has monthly visits and observations.

H.S. did not recall getting A.S.'s report cards, and the District never gave her data on benchmarks.

A.S. is good at sports and uses his gross motor skills. He plays basketball, baseball and soccer. He still has some issues with new environments and the unknown. For example, a visit to Chuck E. Cheese's restaurant or Funplex is sensory overload. A.S. has friends at Cherrywood. He likes math, but needs help in recalling letters and sounds. In language, he has improved, but he still cannot vocalize emotion. His conversations are better. There is a synergistic effect of epilepsy, hearing loss and sensory issues, and the ABA techniques are useful in dealing with the combination.

Rebuttal for Harrison Township

Joan Ruberton testified about the District's dealings with Dr. McCabe-Odri's groups and was shown 222 pages of records of contracts. The District has contracted with Dr. McCabe-Odri's groups for three students who received services. One received services at the student's home. Ruberton was involved in selecting Advance Group for that student. These were services to the parent pursuant to an IEP. OSEP did not have to approve.

The second student received services at Country Acres during the 2007–08 school year as a preschool inclusion program. There was a contract with the group for services, which did not have to be approved by OSEP, but just the Board of Education.

The third student went to preschool, including Partners in Learning, and at age five went to a continuation of the program at Cherrywood in 2009. Ruberton was not sure if it had to be approved. The Notification of Placements Form was completed and sent to the county for Partners in Learning for the home instruction. Ruberton was not sure if they did this form for OSEP for the student within the District. In ten years, only

three students were approved by the District: two who attended school, and one who received home instruction.

Findings

Each witness testified forthrightly and credibly. After reviewing the evidence, reports and evaluations, and considering the testimony, I **FIND** that A.S. was identified as a child requiring early intervention. In May 2010, social, speech/language and vision or auditory assessments were needed as he exited early intervention. At the eligibility conference in August 2010, A.S. was identified as a preschool child with a disability. The IEP of August 19, 2010, noted delays in receptive and expressive language and oral motor skills. The IEP was modified in October 2010 to provide goals and objectives for A.S.

In April 2011, the IEP was reviewed, and it was noted that A.S. was going for a hearing evaluation on June 8, 2011. A.S. also had tubes in his ears. A speech/language assessment was required. On June 1, 2011, Piperno performed a speech/language evaluation of A.S. and found that he had no delay and his auditory and expressive language skills were above average. On June 14, 2011, the eligibility conference found no disability. As a result, A.S. was declassified as of June 17, 2011. He then attended HH preschool, where he spent the year with typical-peer students.

The parents again requested a CST evaluation in the late winter-early spring of 2012 because the troublesome behaviors that had been observed in the school setting continued. A.S. had an audiometric evaluation in February 2012 at Nemours and was diagnosed with a left-sided mild to moderate conductive hearing loss. Recommendations were made to assist A.S. with learning, including an OT assessment, FM system, reverberation, preferred seating, pre-teaching, cueing and other supports. An evaluation at Cooper Hospital in February 2012 resulted in a medical diagnosis of autism spectrum disorder (ASD), transient alteration, and abnormal EEG suggestive of epileptiform activity. A report from Dr. Gonzalez at Cooper Hospital stated that A.S. had an abnormal EEG, complex partial epilepsy, and ASD.

At the evaluation conference on April 12, 2012, the CST stated that it required data including assessments in OT, social, psychological, speech/learning, vision, and neurology. The audiological evaluation from Nemours was accepted. An evaluation of A.S. at the CNNH by Dr. Woldoff found PDD-NOS (pervasive developmental disorder not otherwise specified), not ASD, and ADHD. She made recommendations for further evaluations, as well as supports for the classroom setting, such as inclusion kindergarten with support and a 1:1 aide.

The OT assessment of July 2, 2012, showed some difficulty processing sensory input. The psychological evaluation of Dr. Press showed an average to above-average ability to express himself. The speech and language evaluation of July 9, 2012, showed average expressive/receptive language.

At the eligibility meeting on August 1, 2012, it was determined that A.S. was not eligible for special education. The auditory deficit was not noted on his evaluation. No referral was made for a 504 plan, even though emails from Heil suggested that A.S. may need one. The child was withdrawn from the District on September 2, 2012, and placed at Cherrywood Academy, which provided A.S. with ABA techniques.

The real concern that did not appear to be addressed by any evaluation meeting in 2011 or 2012 was the lack of learning assessments to gauge how A.S.'s disabilities affected his ability to learn in the classroom setting. He did well when he received the supports in the District's class for four-year-olds. Without the supports, he regressed and his behaviors became more apparent. Dr. Gonzalez's and Dr. Woldoff's recommendations should have been taken seriously, but were not. The medical diagnoses of autism, epilepsy and hearing loss were given short shrift.

LEGAL ANALYSIS AND CONCLUSION

Several issues are presented here by the parents: first, did A.S. receive a free and appropriate public education (FAPE) in the District school? Second, if he did not, then was the placement by the parents at Cherrywood appropriate and did it confer a meaningful educational benefit? And third, if the placement at Cherrywood was

appropriate, are the parents entitled to reimbursement? If they are, are they entitled to travel expenses and compensation for additional time in the car?

The issue presented by the District is whether it can compel, over the lack of consent of the parents, the completion of a pediatric neurological evaluation of A.S.

The Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. §§ 1400 to 1487, requires that all children with educational disabilities have access to FAPE and related services designed to meet their unique needs. States receiving federal funding under the IDEA must have “in effect a policy that ensures all children with disabilities the right to [FAPE].” 20 U.S.C.A. § 1412(1). New Jersey has enacted regulations at N.J.A.C. 6A:14-1.1 to -10.2 to ensure these rights.

The FAPE mandate requires “educational instruction specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child ‘to benefit’ from the instruction.” Hendrick Hudson Dist. Bd. of Educ. v. Rowley, 458 U.S. 176, 188–89, 73 L. Ed. 2d 690, 701, 102 S. Ct. 3034, 3042 (1982). The education provided must confer some educational benefit, but the State is not required to “maximize the potential” of handicapped children. Id., 458 U.S. at 197 n.21, 200, 73 L. Ed. 2d at 706 n.21, 708, 102 S. Ct. at 3046 n.21, 3048.

In this matter, in terms of what was offered to A.S. during his first three years of experience within the District, the record is pervaded by an absence of attention to A.S.’s very particular and specific needs. While initially diagnosed as a child requiring early intervention due to speech and language deficiencies, and then as a preschool child with a disability, A.S. was then not seen as a “whole child,” but rather as a child capable of doing well in a testing situation without regard to his functional ability and ability to learn in the classroom setting.

In August 2010, A.S. had significant delays in language skills. However, he was tested in a classroom with no distractions. For school year 2010–11, no modifications were made to his classroom to reduce noise, such as carpets or rugs. Piperno, the

speech/language pathologist, believed that A.S. had no significant hearing loss, but she never saw an audiologist's report. A.S. had surgery in December 2010, but Piperno did not know for what, although he was out of school for a month and had tubes put in his ears.

For that same school year, Startare did not think A.S. needed further speech therapy. She thought that by the end of the year he did well and was typical for his age, although he needed reminders to keep his hands to himself and to follow directions. She was not aware of a hearing problem. A.S.'s class had no FM system. While a few months before there had been concerns about A.S.'s behavior, the IEP indicated no significant concerns in the classroom. His IEP was not modified for class placement. No accommodation was made for a hearing impairment. No formal data were collected on his performance in class.

In April 2011, no assessment had been made as to whether A.S. could function in a regular classroom. The reevaluation focused on whether his speech and language problems were interfering with his education, but the CST could not determine whether he could function in the least restrictive environment. No one considered whether A.S. was autistic and there had been no request for an audiology screening or pediatric neurology evaluation, or any mention of a hearing impairment. The IEP included the same goals and objectives for the entire school year and had never been modified. The IEP did not address A.S.'s problematic behaviors, such as his difficulties in taking turns and sharing, in keeping his hands to himself, or in following directions. In June 2011, A.S. was found not eligible for special-education services. For the entire 2011–12 school year, A.S. received no special-education services.

At the parents' request, A.S. was evaluated again in the spring of 2012. In July 2012, Dr. Press found no demonstrative behaviors of ADHD or signs of autism. But in May 2012, Dr. Woldoff had tested A.S. and had given a provisional diagnosis of ADHD, but she needed more information to confirm that. She concluded that A.S. did not meet the cutoff for autism, although given the score of the mother's questionnaire, A.S. was

indicated to be at risk. Dr. Woldoff noted A.S.'s short attention span and the mother's concerns, but she did not agree with Dr. Gonzalez's conclusion that A.S. had autism.

The concerns raised by the parents such as hearing loss, ADHD, ASD and OHI were discussed and not accepted by the CST. Jones, the speech/language pathologist, did not know how to interpret Dr. Gonzalez's report and was not aware that A.S. was epileptic.

Dr. Gonzalez and Dr. Woldoff had made specific recommendations, including a 1:1 aide, FM system, and preferential seating. Dr. Woldoff thought that a board-certified behavior analyst should perform an evaluation, and that A.S. needed a functional behavior assessment in the home. Dr. Woldoff wanted an IEP, but Dr. Press said none was necessary.

Rivera had observed A.S.'s reaction to the kindergarten orientation session and raised the issue of a 504 plan with Ruberton, but this was never followed up. Rivera was concerned about why A.S. was being tested for autism and was told not to worry.

Heil, the case manager, had also seen and noted some behaviors of A.S. during her observation of him in February 2012. She wanted the school to be aware of the parents' issues and told her supervisor that A.S. might need an FM system and a structured environment during class, but nothing further was done.

In June 2012, Diccio performed an OT assessment. A.S. had shown a difference between his sensory profile as reported by the parent and his sensory problems impacting his ability to learn, but Diccio had not seen it. The mother had been present during the testing. Diccio did not attend the evaluation plan meeting to determine if A.S. needed OT, nor did her report mention hearing loss, autism or epilepsy. The CST would need additional observations and the guidelines suggested these were necessary, but she did not make that recommendation to the team.

In contrast to the disparity between the experts, one of whom (the medical doctor) diagnosed autism, one of whom diagnosed ADHD, and one who diagnosed no condition, was the parent who had been relaying her concerns to the CST since 2009. In 2009, A.S. was found eligible for early intervention and speech therapy because of problems with speech, communications and fine motor skills. He also had problems with attending to tasks, transitioning, following directions, and needing extra time for activities, and problems with his peers in sharing, being withdrawn and refusing to participate.

In 2010, A.S.'s IEP had goals, but no current levels of academic functioning and performance. In October 2010, while at HH, A.S. still exhibited behaviors. The reevaluation of April 2011 noted his inappropriate behavior but did not evaluate it. By May 2011, A.S. had a history of chronic ear infections, surgery, removal of adenoids, ear-tube replacement, and asthma, and he was taking medications, but no medical releases had yet been requested by the District.

In June 2011, A.S. was declassified and became a full-time nursery-school student with no IEP.

The parent requested the February 2012 reevaluation meeting because A.S. continued to exhibit behaviors at HH and at home. He was defiant and non-compliant. The neurology exam from Dr. Gonzalez noted his problems, but indicated that symptoms could change. A classification of OHI and a 504 plan were recommended for A.S. as well. At the April conference it was clear that additional data were needed, but the District did not ask for it. There had been no educational assessment of A.S., or PT or health or psychological evaluations. When the District did ask for records, they were released to the CNNH and Dr. Woldoff.

In August 2012, A.S. was again not found eligible for special-education services or classified, and no 504 plan was recommended for him. The boxes on the evaluation form indicated that A.S. was not autistic or auditorily impaired, although the medical report indicated autism and a psychological report indicated ADHD.

The District urges that A.S. did not qualify for special-education services after 2011 because his progress was satisfactory and he had no impediments to learning. It also argues that it could have provided every accommodation recommended by Dr. Gonzalez and Dr. Woldoff in a 504 plan, and therefore, no out-of-district placement was necessary. However, while almost each witness for the District noticed or identified an issue that needed to be addressed in an IEP or 504 plan for A.S., whether it be attending behaviors, or peer relationships, or communications, no special-education or 504 plan was offered to him after school year 2010–11. For the next two school years, A.S. was attending preschool, and then private kindergarten, outside the District, without a distinct IEP or 504 plan in place, despite having being diagnosed as autistic by a physician.

I therefore **CONCLUDE** that A.S. was not offered FAPE within the District. This conclusion is based on the following: the inability of the child to communicate well consistently when not in a testing situation and the failure to address that issue; the disparity between the test results and his performance in school; the lack of reasonable accommodations to his hearing loss; the lack of a 504 plan to accommodate A.S.'s hearing loss and behavior issues; the medical diagnoses of autism/ASD and epilepsy which were not addressed in the evaluations; the need for further evaluations which were not performed; and the failure to address the behaviors that were observed but not considered in the evaluations. The education provided to A.S. at the District was not specifically designed to meet his unique needs and did not provide sufficient support to permit the child to benefit from the instruction.

In such a case, when the public school fails to provide FAPE, the parents can remove their child from the school, and an administrative law judge (ALJ) may order the district to reimburse the parents for tuition expended. N.J.A.C. 6A:14-2.10(b); T.R. ex rel. N.R. v. Kingwood Bd. of Educ., 205 F.3d 572, 577 (3rd Cir. 2000) (citing Sch. Comm. of Burlington v. Dep't of Educ., 471 U.S. 359, 370, 105 S. Ct. 1996, 85 L. Ed. 2d 385 (1985)). An ALJ may determine that a parental placement in an unapproved school is appropriate even if it does not meet the standards provided by the district board of

education. N.J.A.C. 6A:14-2.10(b). It would be inconsistent with the IDEA's goals to forbid parents from educating their child at a school that provides an appropriate education simply because the school lacks the stamp of approval of the same public school system that failed to meet the child's needs in the first place. Florence Co. Sch. Dist. Four v. Carter, 510 U.S. 7, 14, 114 S. Ct. 361, 365, 126 L. Ed. 2d 284, 293 (1993).

In this matter, the parents placed the child at Cherrywood, an unlicensed and unapproved school, although licensed by the DCF. Reimbursement for unilateral placement in an unaccredited, unapproved school is appropriate if: (1) the school district is unable to provide FAPE; and (2) the private-school placement is appropriate under the IDEA. Id., 510 U.S. at 15, 114 S. Ct. at 366, 126 L. Ed. 2d at 294. An education is "appropriate under the IDEA" if it provides "significant learning" and "confers a meaningful benefit." Lauren W. v. DeFlaminis, 480 F.3d 259, 272 (3d Cir. 2007). Thus, parents who unilaterally place a child in a private school do so at their own financial risk, should they lose the litigation. Burlington Sch. Comm. v. Dep't of Educ., 471 U.S. 359, 373-74, 105 S. Ct. 1996, 2004, 85 L. Ed. 2d 385, 397 (1985).

The fact that Cherrywood is neither accredited nor approved by the Department of Education for the education of disabled children does not bar authorizing reimbursement if a determination is made that A.S. received an "appropriate" education that conferred a meaningful educational benefit while at Cherrywood.

Additionally, the District has argued that because Cherrywood is only licensed as a "child care center," reimbursement is unauthorized. A "child care center" is a facility "which is maintained for the care, development or supervision of six or more children who attend the facility for less than 24 hours a day." N.J.S.A. 30:5B-3(b). Programs operated by private schools that are run "solely for educational purposes" are not "child care centers." N.J.S.A. 30:5B-3(b)(2). Parents are not precluded from being reimbursed for unilateral placement on grounds that a facility is licensed as a child care center. Rather, the critical inquiry is whether the facility conferred a meaningful educational benefit to the student. See R.J. v. Collingswood Bd. of Educ., EDS 4926-96, Final Decision (October 28, 1997), <<http://njlaw.rutgers.edu/collections/oal/>>, (ALJ

determined that reimbursement was not appropriate because of the lack of a meaningful educational benefit).

The testimony of Dr. McCabe-Odri and the parent support the conclusion that Cherrywood has in fact conferred an educational benefit on A.S. and was appropriate. He has made progress; his behaviors have improved; and he is learning with the support provided by the school. It is also noted that his medical-insurance carrier is satisfied that the school implemented its individualized education plan and utilized ABA techniques and behavior modification, to the extent that the cost of the school was covered, with the exception of a \$15.00 per day co-pay. I conclude that under these circumstances, reimbursement of the co-pays in the amount of \$2,460.00 is permitted. I also conclude that the transportation expense of \$1,321.84 for mileage reimbursement is permitted. However, the parents' request for compensation at the minimum wage for time spent with their child cannot be granted.⁸

It should be noted that this reimbursement is for school year 2012–13 only, and is not for any future placement at Cherrywood, which would not be authorized. Because unaccredited schools do not meet the standards of the State educational agency, such facilities are unavailable as a placement option for school districts. T.R. ex rel. N.R., supra, 205 F.3d at 581.⁹

As to the District's petition for a pediatric neurological evaluation, it has been at least fourteen months since a neurological evaluation was performed on A.S. Dr. Gonzalez indicated that A.S. is autistic. Other experts, Dr. Woldoff and Dr. Press, disagreed. Dr. Woldoff, although not a medical doctor, but having much experience in the area, opined that A.S. met provisional criteria for ADHD-combined subtype, but that more testing and observations were required to confirm. Dr. Press found no problems

⁸ Such time is priceless and cannot be quantified.

⁹ However, once it is determined that the general education classroom is not appropriate for a child, N.J.S.A. 18A:46-14 provides a variety of alternative placement options. One of these options, a so-called "Naples placement," permits placement at an accredited private school which has not been specifically approved for the education of handicapped students. N.J.A.C. 6A:14-6.5. However, N.J.S.A. 18A:46-14 does not permit districts to place children in unaccredited schools.

with A.S. that could affect his ability to learn. Clearly, more specific medical information is necessary to determine and confirm the nature of A.S.'s disabilities and their effect on his ability to learn and communicate. Pursuant to N.J.A.C. 6A:14-3.5(c)(2), only a medical doctor can diagnose autism, and I accept Dr. Gonzalez's conclusion in her report. However, that report also indicated that the diagnosis is susceptible to change, particularly when evaluating such a young child. As a substantial amount of time has elapsed since the last medical evaluation, I **CONCLUDE** that a current pediatric neurological evaluation is warranted and necessary in order to provide A.S. with the opportunity to have an effective individual plan in place so that he can successfully access his learning.

Based on the foregoing, I **CONCLUDE** by a preponderance of the credible evidence that A.S. was denied a free and appropriate public education reasonably calculated to provide a meaningful educational benefit to him in the least restrictive environment during the 2011–12 and 2012–13 school years. I further **CONCLUDE** that his placement at Cherrywood for the 2012–13 school year was reasonable and appropriate under all the circumstances and provided A.S. with a meaningful educational benefit and significant learning. Accordingly, the parents' due-process petition for reimbursement by the District for the daily co-pays and mileage expenses is appropriate and reasonable, and is granted. The petition for compensatory education is denied, as A.S. has made satisfactory progress at Cherrywood and is on track with the assistance provided to him by the school.

I also **CONCLUDE** that the District has demonstrated by a preponderance of the credible evidence that a pediatric neurological evaluation is appropriate and reasonable under the circumstances presented herein, and should provide substantial information with which to make the correct educational placement decisions for A.S.

ORDER

It is **ORDERED** that the petition of parents H.S. and M.S. on behalf of A.S. is **GRANTED**. A.S. shall be classified and provided special education. The District shall

compensate the parents and reimburse them the co-pays for tuition for the 2012–13 school year in the amount of \$2,460.00. I also **ORDER** that the transportation expense of \$1,321.84 for mileage reimbursement shall be paid to the parents by the District.

I further **ORDER** that the petition of the District to conduct a pediatric neurological evaluation of A.S. in order to determine the present state of his disability is **GRANTED**.

Pending completion of that evaluation, A.S. shall be classified as other health impaired and shall be provided with an IEP and special-education services designed to accommodate his particular needs. A 504 plan shall also be formulated to maximize his access to education in the least restrictive environment.

This decision is final pursuant to 20 U.S.C.A. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2012) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C.A. § 1415(i)(2); 34 C.F.R. § 300.516 (2012). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education.



October 11, 2013

DATE

SUSAN M. SCAROLA, ALJ

Date Mailed to Parties:

October 11, 2013

LIST OF WITNESSES

For H.S. and M.S.:

Joan Ruberton

H.S.

Kathleen McCabe-Odri

For District:

Tina Heil

Dr. Kandie Press

Kristin Piperno

Veronica Diciccio

Dr. Sarah Woldoff

Andrea Startare

Christine Rivera

LIST OF EXHIBITS

For H.S. and M.S.:

- P-1 8/1/12 HT Eligibility Information
- P-2 7/23/12 HT Speech/Language Assessment
- P-3 7/3/12 HT Psychological Evaluation
- P-4 7/2/12 HT Occupational Therapy Assessment
- P-5 6/7/12 HT Psychodevelopmental Evaluation
- P-6 5/30/12 HT Physical Exam
- P-7 5/15/12 HT Audiometric/Vision Screening
- P-8 5/1/12 Cooper Neurology Consultation
- P-9 4/13/12 HT Evaluation Plan
- P-10 4/12/12 Cooper EEG Order and Results
- P-11 4/5/12 Cooper MRI
- P-12 3/28/12 Nemours notes

P-13 3/20/12 HT Request for Parental Participation
P-14 3/2/12 Cooper Lab Results
P-15 2/23/12 HT Request for Parental Participation
P-16 2/10/12 Parental Permission Secure & Release Form
P-17 2/10/12 Cooper Medical Records
P-18 2/7/12 HT Request for Parental Participation
P-19 12/12/11 Nemours Outpatient Prescription
P-20 6/14/11 HT Special ED Evaluation/Eligibility
P-21 6/1/11 HT Speech/Language Evaluation
P-22 4/26/11 HT Reevaluation Plan
P-23 3/25/11 HT Request for Parental Participation
P-24 2010–2011 IEP
P-25 10/7/10 HT Request for Parental Participation
P-26 9/24/10 HT Request for Parental Participation
P-27 8/19/10 IEP
P-28 8/19/10 HT Eligibility Classification Conference
P-29 8/17/10 HT Speech Pathologist E-Mail
P-30 8/13/10 HT Request for Parental Participation
P-31 8/5/10 HT Social Assessment
P-32 8/4/10 HT Speech/Language Assessment
P-33 5/11/10 HT Evaluation Plan
P-34 4/27/10 HT Request for Parental Participation
P-35 4/14/10 Parental Request for HT Evaluation
P-36 4/14/10 HT Transition Planning Conference
P-37 4/7/10 HEIL Letter
P-38 3/10/10 ST. John Early Intervention Program
P-39 10/22/09 Preschool Special ED. Services
P-40 10/22/09 Individualized Family Service Plan
P-41 8/26/09 Initial Early Intervention Evaluation
P-42 8/13/12 Letter From Cooper Requesting 504 Plan
P-43 8/13/12 Cooper Visit Summary
P-44 12/7/12 Cooper Visit Summary

- P-45 2/6/13 CNNH Cover Letter and Notes
- P-46 Dr. Gonzalez C.V.
- P-47 3/8/13 Notes by McCabe-Odri
- P-48 McCabe-Odri C.V.
- P-49 Cherrywood Certifications & Licenses
- P-50 5/30/12 Harrison Report of Physical Exam
- P-51 9/7/12 Cherrywood Intake Note
- P-52 NOV. 2012 Cherrywood Assessments
- P-53 10/9/12-2/19/13 Cherrywood Bills
- P-54 9/6/12-3/1/13 Travel Records
- P-55 Harrison emails
- P-56 4/13/12 Screening
- P-57 4/13/12 Feedback Chart
- P-58 4/7/12 Parent Scale
- P-59 2/7/12 HS Letter for Re-Evaluation
- P-60 1/18/13 Progress Summary
- P-61 Health Insurance Authorization

For District:

- R-1 Letter to CST from Gloucester County Service Coordinator dated October 22, 2009 enclosing Parent Consent to Release Early Intervention Records, Evaluation /Assessment Summary and Individualized Family Service Plan
- R-2 Letter to CST from Gloucester County Service Coordinator dated April 14, 2010 enclosing Transition Planning Conference Notes Draft, Individualized Family Services Plan Team Page and Review Sheet dated
- R-3 Letter from Tina Heil to parents dated April 7, 2010
- R-4 Written Request for Evaluation to Determine Eligibility dated April 14, 2010
- R-5 Evaluation Plan dated May 11, 2010
- R-6 Social Assessment dated July 15, 2010
- R-7 Speech/Language Evaluation dated August 3, 2010
- R-8 Eligibility/Classification Conference dated August 19, 2010
- R-9 IEP dated August 19, 2010
- R-10 IEP dated October 19, 2010
- R-11 E-mail from Joan Ruberton to Susan Spence dated August 19, 2010

- R-12 IEP Progress Report 2010-2011
- R-13 Reevaluation Plan dated April 26, 2011
- R-14 Speech/Language Evaluation dated June 1, 2011
- R-15 Eligibility/Classification Conference dated June 14, 2011
- R-16 Special Education Evaluation Plan/Eligibility Information dated June 14, 2011
- R-17 Nemours Report dated December 12, 2011
- R-18 Letter from parent to Harrison Township School dated February 7, 2012
- R-19 Nemours Report dated March 28, 2012
- R-20 Evaluation Plan dated April 13, 2012
- R-21 Cooper University Hospital Office Visit and After Visit Summary dated February 10, 2012
- R-22 Holding Hands evaluation dated February 23, 2012
- R-23 Kindergarten Screening dated April 13, 2012
- R-24 Cooper Hospital Neurology Consultation dated May 1, 2012
- R-25 Letter from Tina Heil to Justine Summerfield of CNNH dated May 4, 2012
- R-26 Harrison Township School District Summary of Health and Medical Information
- R-27 CNNH Psychodevelopmental Evaluation dated May 17, 2012
- R-28 CNNH Notes dated May 17, 2012
- R-29 Harrison Township School District Report of Student Physical Examination dated May 30, 2012
- R-30 E-mail from Tina Heil dated June 6, 2012
- R-31 E-mail from Tina Heil to Kandie Press dated June 10, 2012
- R-32 Occupational Therapy Assessment dated July 2, 2012
- R-33 Occupational Therapy Testing Sample
- R-34 Psychological Evaluation dated July 3, 2012
- R-35 Social Assessment dated July 9, 2012
- R-36 Speech/Language Evaluation dated July 9, 2012
- R-37 Eligibility/Classification Conference dated August 1, 2012
- R-38 Special Education Plan/Eligibility Information dated August 1, 2012
- R-39 E-mail from Joan Ruberton to Tina Heil dated August 2, 2012
- R-40 E-mail from Tina Heil to Gail Milburn dated August 10, 2012
- R-41 Letter from Michael Serano dated August 13, 2012
- R-42 Letter from Michael Serano to Joan Ruberton dated August 14, 2012
- R-43 E-mail from Joan Ruberton to Gail Milburn dated August 19, 2010
- R-44 E-mail from Christine Rivera to Joan Ruberton dated August 28, 2012
- R-45 Blank
- R-46 Letter from parents to Joan Ruberton dated September 2, 2012
- R-47 E-mail from Tina Heil to Joan Ruberton and Gail Milburn dated September 5, 2012
- R-48 E-mail from Joan Ruberton to parents dated September 6, 2012
- R-49 E-mail from Linn Lindle to Joan Ruberton and Gail Milburn dated September 18, 2012

- R-50 Letter signed by parent and Lynn Lindle re A.S. transfer dated September 20, 2012
- R-51 E-mail from Lynn Lindle to Joan Ruberton dated September 20, 2012
- R-52 E-mail from Joan Ruberton to Lynn Lindle and Gail Milburn dated September 19, 2012
- R-53 E-mail from Lynn Lindle to Joan Ruberton dated September 19, 2012
- R-54 E-mail from Joan Ruberton to Tina Heil dated September 21, 2012
- R-55 E-mail from Joan Ruberton to Gail Milburn dated September 21, 2012
- R-56 Transfer Checklist
- R-57 Documentation regarding transfer of records
- R-58 Joan Ruberton resume
- R-59 Tina Heil resume
- R-60 Dr. Kandie Press resume
- R-61 Kristina Jones resume
- R-62 Veronica Diciccio resume
- R-63 Kristin Piperno resume
- R-64 Andrea Startare resume
- R-65 Christine Rivera resume
- R-66 Dr. Sara Woldoff resume
- R-67 Letter from Dr. Evelyn Gonzalez, MD dated August 13, 2012
- R-68 Report from Dr. Kathleen McCabe-Odri, Ed. D. dated March 8, 2013
- R-69 Blank
- R-70 Cherrywood Academy – Child Care Center License
- R-71 New Jersey Department of Education List of Approved Private Schools for the Education of Disabled Children