

COMPLAINT INVESTIGATION REPORT

Parent v. District

Complaint 22.0246C

Complaint Investigator: Rebekah J. Smith, Esq.

May 26, 2022

INVESTIGATION PROCEDURE

Complainant:

Respondent:

Student:

The Department of Education received this complaint on March 16, 2022. A Draft Allegations Report was issued on March 18, 2022. An information session was held by videoconference on March 30, 2022, which was attended by _____ the Parent; _____ Director of Special Education; and _____, Advocate for _____. On April 3 and 15, 2022, the Parent provided four exhibits, marked as Parents Exhibits #1 to #4. On April 4, 2022, _____ filed a response to the complaint as well as a set of exhibits, marked by the Investigator as School District Exhibits #1 to #25. On May 4, 2022, _____ provided the Student's progress report for the third trimester, which is identified as School District Exhibit #26.

The Student's Mother is representing herself. The Student's Father did not participate in the information session and did not respond to a request for an interview. _____ is represented by advocate _____.

The Complaint Investigator reviewed all documents, information, and responses from the parties. Both parties identified witnesses that they requested be interviewed. The following individuals were interviewed via videoconference:

1. _____, Parent
2. _____, Social Worker in _____
3. _____ Teacher
4. _____ Guidance Counselor
5. _____ Principal
6. _____ Special Education Director

7.

Math Teacher

All staff were interviewed in the presence of .

PRELIMINARY STATEMENT

The Student is years old. He resides in with his Father, Stepmother, and Siblings. The Student began attending in October 2020 as a student. The Student entered with an IEP from his prior school district under the category of Emotional Disturbance. He exhibited difficulty with attention, focus, and behavior in the classroom upon arrival. An accommodation was put into place for the Student in February 2021 allowing him the opportunity to leave school early on Fridays if his work was completed and he had a minimal number of behavioral incidents. School District staff feel the Student has been extremely successful and his behavior has improved greatly over the past year since the accommodation was put into place. They feel that the Friday early dismissal accommodation is a significant factor that has contributed to the Student's success. The Student's Father wishes to keep the Friday early dismissal accommodation in place. The Student's Mother wishes to have the Friday early dismissal accommodation removed from his IEP due to her concerns that he is falling behind academically. She also would like continued BCBA services for the Student and for school staff to better understand and utilize the accommodations in the Student's IEP.

ALLEGATIONS

1. The School District has allowed the Student to leave school early on Fridays in a manner inconsistent with the Student's IEP and the provision of a free appropriate public education in violation of MUSER VI.2.I (IEP Team shall determine the services needed to support the student's involvement and participation in the general curriculum and to achieve agreed-upon goals; IEP Team should work toward consensus) and MUSER I (Requiring that students with disabilities have available to them a free appropriate public education).
2. The School District has not properly developed or revised an IEP that is reasonably calculated to enable the Student to make progress in light of his circumstances and did not include agreed upon changes in the Student's IEP in violation of MUSER IX.3.A (Identifying the components necessary in a IEP, specifically (d) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child) and MUSER VI.2.J.4 (Identifying the major responsibilities of an IEP Team, specifically (4) To develop or revise an IEP to provide each identified child with a disability a free appropriate public education).

FACTUAL FINDINGS

Documentary Record.

1. On October 15, 2020, the Student's Father enrolled the Student in grade at in . (School District Exh. #2.) The Student had been attending School in while residing with his Mother. (School District Exh. #2.)
2. On November 5, 2020, the Student's IEP Team in met to conduct a Transfer and Program Review meeting and to initiate his IEP in the District. (School District Exh. #3.) The Student's Father and Stepmother attended the IEP Team meeting. (School District Exh. #3.) The Student's Mother did not attend. (School District Exh. #3.)
3. The Student's IEP at School identified him as a student with an Emotional Disturbance. (School District Exh. #3.) The Student was overdue for his triennial evaluation at the time he entered but his prior school had agreed that he needed academic and psychological assessments along with a classroom observation. (School District Exh. #3.)
4. During the November 2020 IEP Team meeting, , the Principal, reported that the Student's defense mechanism was to be a tough guy but he was easily redirected and responded well to being talked to in a calm manner and having things explained to him. (School District Exh. #3.) , the Student's Social Studies Teacher, reported that he was hyperactive in class although he was smart and enjoyed class. (School District Exh. #3.) explained that the Student could get overly anxious about completing quizzes and benefitted from reminders to slow down. (School District Exh. #3.) She noted that the Student needed to be redirected due to getting bored or when class was not moving fast enough, at which time he would socialize with others and needed to be prompted to get back on task. (School District Exh. #3.) The Team noted that the Student ended the prior school year with fairly good grades with Math as a strength; he was in the Gifted and Talented program for Math at School. (School District Exh. #3.) The Student's Father and Stepmother reported that the Student was adjusting well to living with them and they wanted him to do well in school and to obtain good grades. (School District Exh. #3.)
5. The Student's IEP in effect from May 12, 2020, to May 11, 2021, was amended. (School District Exh. #4.) Consultation services from the special education teacher for 15 minutes per week and social work services of 40 minutes per week were added. (School District Exhs. #3 & #4.) A consultation goal was added to the Student's IEP. (School District Exh. #3.) In addition, the accommodations in the Student's IEP were updated to include availability of organizational tools. (School District Exh. #3.) The Student was noted to be on par with his peers with regard to his ability to perform

- age-appropriate tasks and demonstrate appropriate skills in reading, writing, listening, speaking, and math problem solving. (School District Exh. #4.) The goal of social work services was to allow the Student to increase his ability to regulate his behaviors and emotions by utilizing coping skills/strategies in three out of four opportunities as measured by teacher reports and informal observations. (School District Exh. #4.) The goal of special education teacher consultation services was to allow the Student to make progress and maintain the skills necessary to prepare for tests, monitor anxiety, and meet the standards at grade level as measured by communications with staff, progress monitoring, and classroom assessments. (School District Exh. #4.)
6. The classroom observation report conducted on January 11, 2021, by Special Education Teacher _____ as part of the Student's triennial evaluation concluded that the Student was unable to stay focused during the 45-minute observation. (School District Exh. #5.) The Student displayed an excessive amount of attention seeking behavior, such as calling out, arguing with the teacher, and addressing/interrupting other students. (School District Exh. #5.) The Student displayed impulsive, attention seeking behaviors that interfered with his learning and the learning of others. (School District Exh. #5.) The Student also had four sudden, mild outbursts that were noisy and involved a negative attitude towards the teacher. (School District Exh. #5.) The Student was off-task during most of the observation in contrast to his peers who were on task. (School District Exh. #5.) The Student participated less than his peers and did not raise his hand to ask a question or volunteer an answer as frequently as the majority of his classmates. (School District Exh. #5.) The Student presented with increased inattention, lack of self-control, and distractibility as compared to his peers. (School District Exh. #5.) Ms. _____ opined that the Student could benefit from a regular education program but needed a behavior plan in place if his negative behaviors continued to disrupt the classroom environment. (School District Exh. #5.) Ms. _____ noted that the Student was provided with accommodations such as redirection and assistance with classwork but he continued to disrupt the class after being redirected. (School District Exh. #5.) She recommended that the accommodations continue with the addition of varying the pace and type of activities to maximize his attention and checking in with him for understanding of concepts and reminders to stay on task. (School District Exh. #5.) She also noted that providing the Student with alternate enrichment high-interest activities to keep him engaged would be helpful. (School District Exh. #5.) Finally, Ms. _____ recommended a nonverbal cue when redirecting the Student because he displayed attention seeking behaviors when amongst his peers and argued with his teachers. (School District Exh. #5.)
 7. On January 22, 2021, _____, MS-NCSP, issued a Psychoeducational Evaluation of the Student as part of his triennial evaluation. (School District Exh. #6.) The Student's Father completed rating scales, indicating that he did not perceive the Student to have significant emotional or behavioral problems at home. (School District Exh. #6.) The two teachers who completed rating scales did perceive that the Student was at risk for the development of significant emotional or behavioral problems in the school setting. (School District Exh. #6.) _____ concluded that

the Student had an academic weakness in written expression with an implication that some of his difficulty with written expression was related to ADHD. (School District Exh. #6.) Ms. _____ recommended as follows: consistency, stability, and structure; frequent interactions to help with focus; use of nonverbal signals to redirect and refocus; allow the Student to stand or use alternative seating when working; standing near the Student when giving directions and ask him to repeat the directions; limit distractions; clearly define expectations for classroom behavior and repeat at the start of each class; conference privately with the Student about behavior concerns; show consistency, acceptance, and warmth; speak in a calm voice; give choices instead of comments; avoid conflict; do not take defiant behavior personally; state requests in “do” form rather than “do not” form; allow stretch time; treat the Student with respect; praise and reward flexibility and cooperation; reward good faith attempts; praise good behavior, kindness, and courtesy; explicitly teach the Student how to write a paragraph before moving on to essay writing; provide the Student with an essay template; provide the Student with a list of essay writing steps; encourage the Student to slow down and think about what he is writing; and provide assistance with self-regulation skills. (School District Exh. #6.)

8. The Student’s IEP Team met on February 9, 2021, to review the triennial evaluation results. (School District Exh. #7.) The Student’s Father and Stepmother attended the IEP Team meeting. (School District Exh. #9.) The Student’s Mother did not attend. (School District Exh. #9.) The Team agreed that the Student continued to be eligible for special education services on the basis that he needed to develop executive functioning skills related to written expression. (School District Exh. #7.) The Team also determined that the Student no longer qualified for special education as a student with an Emotional Disturbance but he qualified as a student with Other Health Impairment due to ADHD. (School District Exhs. #8 & #9.) The Student’s ADHD was noted to cause inattention, impulsivity, hyperactivity, and executive functioning skills deficits that adversely impacted his ability to self-regulate his emotions as well as his performance in written language. (School District Exh. #9.)
9. During the February 9, 2021, IEP Team meeting, Principal _____ reported that the Student liked peer attention and he had struggled since the holiday break with attention seeking behaviors. (School District Exh. #9.) She noted that the Student had spent time in the hallway during classes due to his disruptive behavior and had spent time working in the office. (School District Exh. #9.) Principal _____ indicated that the Student’s grades were not reflective of his abilities but he was missing time in the classroom. (School District Exh. #9.) The Team reviewed the accommodations that were being provided by teachers. (School District Exh. #9.) _____, the Guidance Counselor, reported that the Student struggled with behavior that was peer related which caused him to get into trouble although he was cooperative in working with her. (School District Exh. #9.) She noted that the Student was strong-willed and would self-sabotage to get kicked out of class. (School District Exh. #9.) _____, LCSW-CC, the Social Worker for both the school and the _____ school in _____, reported that the Student felt safe, which allowed him to exhibit behaviors. (School District Exh. #9.) She recommended that

he be placed in a positive leadership role. (School District Exh. #9.) The Student's classroom teachers reported that the Student was very smart but rushed through his work, had difficulty focusing, and needed reminders. (School District Exh. #9.) His motivation was noted to be variable, which was reflected in his grades, and he got frustrated with academics at times. (School District Exh. #9.) His teachers noted that he was disruptive in class, which could be a problem particularly because he was seen as a leader. (School District Exh. #9.) The Student's Father agreed that the Student had a hard time focusing sometimes but he noted his desire to avoid putting the Student on medication. (School District Exh. #9.) The Student's Stepmother noted that the Emotional Disturbance identification had been given when the Student's life was more chaotic. (School District Exh. #9.) She observed that the Student liked to be the funny guy in class but he was starting to understand when it was not appropriate. (School District Exh. #9.) The Student's Stepmother explained that she had to stay on him to turn in work and he needed accommodations for follow through, organization, and focus. (School District Exh. #9.) The Student had shared with Ms. [redacted] that he liked the fun parts of school but not the learning parts; he found math class to be the most difficult because he had forgotten what he previously learned; he noted his dislike of sharing writing projects with the class in Language Arts; and he had difficulty remembering what he read sometimes. (School District Exh. #9.)

10. The Student's IEP for the period of February 19, 2021, to February 19, 2022, included specially designed instruction in executive functioning and organizational skills for 100 minutes per week, social work services for 30 minutes per week, BCBA consultation services for 15 minutes per month, and social work consultation services for 15 minutes per month. (School District Exhs. #9 & #10.) The Student's accommodations were updated to add several of those recommended by Ms. [redacted] as well as utilizing a predetermined cue to prompt him to take a break when dysregulated and access to a quiet work space when dysregulated and unable to be redirected as part of a behavior intervention/positive reward system, to include the option to earn early release on Friday when he was able to stay in class and regulate his behavior for the week. (School District Exhs. #9 & #10.) The Student's goals related to social work and special education consultation remained the same; a goal was added for BCBA consult that given the consult, pre-correction, cueing from staff, and a reinforcement schedule, the Student would allow others to focus by not engaging in disruptive behaviors 90% of his class periods over three consecutive weeks and would comply with staff instructions during nine out of ten opportunities over three consecutive weeks. (School District Exh. #10.) All Team members were in agreement with the changes to the Student's IEP. (School District Exh. #9.) The Student's next review date was set as February 8, 2022. (School District Exh. #9.)
11. Data was collected on the Student's behavior between March 1, 2021, and June 14, 2021. (School District Exh. #11.) The data documented the Student's non-compliance with instructions and disruption to other students. (School District Exh. #1.)

12. The Student's grades at the end of _____ ranged from a 76 to a 93. (School District Exh. #12.) He had a grade of 90 in Math. (School District Exh. #12.)
13. In June 2021, a Stipulated Order Amending Divorce Judgment was issued granting the parties shared parental rights and responsibilities with the Student's Father allocated the right to make final decisions in case of disagreement about a major decision regarding the Student. (School District Exh. #1.) The Student's Father's home is the Student's primary residence. (School District Exh. #1.)
14. The Student's progress on his March 2021 IEP goals was assessed for the final time in January 2022. (School District Exh. #14.) By January 2022, he achieved a score of 4, on a scale of 1 to 4, in his social work services goal of using appropriate coping skills and social skills to demonstrate his leadership and peer interaction in a positive way without disrupting the learning environment. (School District Exh. #14.) He received a score of 3 on his consultation services goal of making progress in and maintaining the skills necessary to prepare for tests, monitor anxiety, and meet the standards at grade level. (School District Exh. #14.) The Student had received a score of 3 in June 2021 on his BCBA consultation goal of allowing others to focus by not engaging in disruptive behaviors and complying with staff instructions; because the BCBA consultation ended at the end of the 2020-2021 school year, no score was given regarding this goal in January 2022. (School District Exh. #14.)
15. The Student's IEP Team met on March 2, 2022, for an annual review. (School District Exh. #15.) The Student's Father, Stepmother, and Mother attended. (School District Exh. #15.) _____, the Student's Special Education Teacher, noted that his teachers helped the Student with organization which helped him get through the day. (School District Exh. #15.) She recommended that his special education services be developed as consultation due to the progress he had made. (School District Exh. #15.) _____, the Student's Math teacher noted that he had at that time a grade of 66/67, which had been brought down by a 42 score on a recent test that the Student could have retaken but chose not to. (School District Exh. #15.) Mr. _____ noted that the Student continued to struggle with impulsivity and attention, struggled to remember to raise his hand before talking, and struggled to remember he had a pencil. (School District Exh. #15.) Mr. _____ opined that the Student's difficulty focusing impacted him in class and he struggled with complex, multi-step math. (School District Exh. #15.) Mr. _____ observed that the Student was able to stay organized with a folder and a sheet to record what would be due each day. (School District Exh. #15.) Principal _____ reported that the Student's opportunity to leave early on Friday had worked well for the Student, who had turned his behavior around. (School District Exh. #15.) She noted his good relationships with her and other office staff and observed that he had made significant progress from his initial entry into _____ in October 2020. (School District Exh. #15.) Ms. _____ reported that the Student's struggle with escalated behavior the prior school year had improved greatly and his current plan was working very well. (School District Exh. #15.) She noted that he visited her office to use her fidget tools, he had a great

- attitude, and he was working successfully with one peer in particular to get work done. (School District Exh. #15.) Ms. _____ reported that the Student had become increasingly resistant to working with her, including being borderline rude and uncooperative the last time he visited her office. (School District Exh. #15.) The Student had shared with Ms. _____ that he had been working with an outside counselor for a while and liked him and that his Stepmother was a huge support for him. (School District Exh. #15.) Ms. _____ indicated that she did not feel school-based social work services were necessary for the Student given that he was accessing outside social work services. (School District Exh. #15.)
16. The Student's Father expressed that the Student was doing pretty well in school although he had some work to make up. (School District Exh. #15.) The Student's Stepmother noted his difficulty with following through on completing homework or turning it in but otherwise he was fine with school and liked his teachers. (School District Exh. #15.) The Student's Mother expressed concern that the struggles that the Student showed were present prior to him taking medication for ADHD when he lived with her but subsided while he was on medication. (School District Exh. #15.) The Student's Mother objected to the accommodation allowing the Student to leave early on Fridays. (School District Exh. #15.)
17. Given the Student's improvements in social-emotional and behavioral regulation, the Student's services were altered to be special education consultation services for executive functioning skills for 20 minutes per week and social worker consultation services for 10 minutes per week. (School District Exh. #15.) In addition, the Team added accommodations of allowing extra time of up to an additional week to complete assignments and a visual aid/predetermined cues/checklist to accompany verbal instructions/routines as need. (School District Exh. #15.) The Student's Mother disagreed with the accommodation allowing the Student to earn an early release on Friday as part of his behavioral support plan. (School District Exh. #15.) Team Members explained that the Student was able to self-regulate and complete work throughout the week with this accommodation in place and that his behavior and academic progress had increased significantly as a result of the accommodation. (School District Exh. #15.) The Student's Father and School District staff members agreed that the accommodation should remain in place. (School District Exh. #15.)
18. On March 7, 2022, the Student's Mother emailed Ms. _____ and copied the other members of the Student's IEP Team to report that she had discussed the Student's IEP with him over the weekend and informed him that leaving early on Fridays would no longer be an option. (School District Exh. #16.) She noted that she had requested that the Student spend more time with the outside social worker but since she had not received a response from the Student's Father, she was requesting that the school-based social work services remain in the Student's IEP. (School District Exh. #16.) The Student's Mother also expressed a variety of concerns about the accommodations that were being provided in the Student's IEP. (School District Exh. #16.) The Student's Mother noted that she had requested an IEP facilitator from the Maine Department of Education. (School District Exh. #16.) The Student's Father

- responded that he did not wish for another IEP to be scheduled but that other than the Friday early dismissal accommodation, which he wanted to be retained, he was open to the Student's Mother's other ideas for amending the IEP, asking her to provide a list. (School District Exh. #16.)
19. On March 8, 2022, Ms. _____ informed the Student's Mother that the School District was open to amending the Student's IEP in ways the Student's Mother requested other than removing the Friday early dismissal reward. (School District Exh. #17.) Ms. _____ asked the Student's Mother to make a list of the changes she was requesting. (School District Exh. #17.)
 20. On March 9, 2022, Ms. _____ informed school staff on the Student's Team that the Student's Father did not wish to hold another IEP Team meeting but was open to an IEP amendment by agreement after the Team was polled regarding the Student's Mother's requests. (School District Exh. #18.)
 21. On March 15, 2022, the Student's IEP was modified by agreement without an IEP Team meeting. (School District Exhs. #19 & #20.) Access to fidgets and calming tools and workplace choice were removed from Section 6 of the Student's IEP; a provision was added that school staff would quietly and respectfully suggest that the Student might like to take a walk if he was becoming dysregulated during class. (School District Exhs. #19 & #20.) In addition, the social work consultation service of 10 minutes per week was replaced with social work direct services for 30 minutes per week with the caveat that the service would be offered to the Student and he would have the option to refuse the service. (School District Exhs. #19 & #20.) The Written Notice accompanying the amended IEP indicated that the IEP Team had rejected the Student's Mother's request to remove the Friday early dismissal incentive in the Student's IEP because the Student's Father was not in favor of the change and the incentive motivated the Student. (School District Exh. #19.) Along with the Written Notice, a list of responses to each of the Student's Mother's requests and answers to the Student's Mothers specific questions the Student's Mother were provided. (School District Exh. #19.) One of the Student's Mother's questions was what coping skills the Student was using while in school. (School District Exh. #19.) In the list of responses, Ms. _____ explained that the Student used manual fidgets to allow him to focus and speak while he was with her. (School District Exh. #19.) She noted that she had given him gum in the past which he stated was helpful to him to remember not to speak when he should be listening. (School District Exh. #19.) Ms. _____ explained that the Student took breaks outside the classroom when he needed to; he had reported that taking deep breaths was not helpful but taking space sometimes was helpful. (School District Exh. #19.)
 22. As of March 17, 2022, the Student had been absent 11 days, had been dismissed 14 days, and had been tardy 5 days during the school year. (School District Exh. #21.)
 23. Special education disciplinary records indicate that the Student had accumulated six infractions during the school year as of March 17, 2022. (School District Exh. #24.)

- The causes of the infractions were: not following directions, distracting others, and being loud and disruptive on September 15, 2021; having a difficult time in health class on September 23, 2021; not having his materials, yelling, and distracting the class on September 28, 2021; ignoring warnings to do his work and failing to stay in his space on November 5, 2021; being disrespectful to the teacher, blaring his computer, disrupting the class, and refusing to shut his computer off when directed to do so on December 6, 2021; and refusing to do his work on February 15, 2022. (School District Exh. #24.) A chart of write-ups indicates that the Student had received 23 write-ups as of March 17, 2022. (School District Exh. #24.) The reason for each write-up was not included in the chart. (School District Exh. #24.)
24. On April 1, 2022, the Student's Mother emailed school staff to ask questions about a situation in which he left class to call her about something. (School District Exh. #25.) Ms. responded that the Student seemed anxious to speak with the Student's Mother so she allowed him to call her from her office. (Parent Exh. #2.) She noted that the Student had asked his classroom teacher for a movement break and to go to her office, which were appropriate uses of his accommodations. (Parent Exh. #2.) Ms. explained that after calling his Mother, the Student returned to class and the rest of his day went fine. (Parent Exh. #2.) Ms. concluded that the Student was appropriately and successfully using his accommodations and was doing really well in utilizing his plan and having a successful experience at school. (Parent Exh. #2.)
25. The Student's averaged first and second trimester grades ranged from 74 to 97, with a 73 in Math. (School District Exh. #26.) The Student's progress report for the third trimester, issued on May 4, 2022, showed grades of 84 to 97, with an 84 in Math. (School District Exh. #26.)

Interview with the Student's Mother

26. The Student's Mother works full-time and has four children. (Interview with Student's Mother.) It is challenging for her to stay involved with the Student's special education services and accommodations. (Interview with Student's Mother.)
27. On March 18, 2022, the Student's Mother received an email that left her still confused as to what time the Student was leaving school on Fridays. (Interview with Student's Mother.) The Student's Mother wanted to know if the Student was being signed out, and if so by who, and what periods he was missing. (Interview with Student's Mother.) The Student's Mother wants this information so she knows where the Student is and whether he is safe. (Interview with Student's Mother.)
28. The Student's Mother feels that she is not getting adequate responses to her inquiries of school staff. (Interview with Student's Mother.) The Student's Mother feels she has to rely on information provided by the Student. (Interview with Student's Mother.) The Student's Mother is disturbed about the Student's progress, she feels that his grades don't reflect his potential, and she is concerned that he is not receiving

- a free appropriate public education. (Interview with Student's Mother.) At the time of her interview the Student was receiving grades of 66 and 79, which were of concern to the Student's Mother. (Interview with Student's Mother.) The Student used to be in the Gifted and Talented program for Math at his prior school, when he lived with his Mother. (Interview with Student's Mother.) She is worried that the absent and tardy count is underreporting absences and that his missing school on Friday afternoons is negatively impacting his grades. (Interview with Student's Mother.)
29. The Student's Mother feels the School District is withholding information and has not provided her with copies of all IEPs she requested. (Interview with Student's Mother.) The Student's Mother is frustrated by what she perceives to be a lack of responses from teachers and school staff members. (Interview with Student's Mother.) The Student's Mother feels that the Student's behavior in school is as challenging as it was during the classroom observation that occurred in January 2021, citing teacher reports that he is fidgety, has a hard time focusing, and often forgets his pencil. (Interview with Student's Mother.)
30. The Student's Mother feels that the data collected in the spring of 2021 reveals that the Student struggles with focus and inattentiveness; she believes that the Student is being given too much leeway by the school. (Interview with Student's Mother.) The Student's Mother believes the Student has taken it to a whole new level and if he were participating in school all day Friday, some of the issues would be resolved. (Interview with Student's Mother.) The Student's Mother feels that the Student is leaving class for inappropriate reasons. (Interview with Student's Mother.) She asserts that the School District is not collecting data in accordance with the Student's IEP. (Interview with Student's Mother.)
31. The Student's Mother is comfortable with the reinsertion of school social work services in the Student's IEP at the Student's discretion. (Interview with Student's Mother.) The Student's Mother continues to have concerns about other aspects of the Student's IEP and his accommodations. (Interview with Student's Mother.) The Student's Mother has requested but not received from the School District notes from the BCBA consultation in 2021. (Interview with Student's Mother.) The Student's Mother feels that school staff do not understand the purposes of the accommodations that are in the Student's IEP. (Interview with Student's Mother.) The Student's Mother cites as an example that the Social Worker stated that chewing gum helped the Student remember to not speak when he should be listening but that gum was originally included in the Student's IEP in order to help him alleviate anxiety. (Interview with Student's Mother.) The Student's Mother feels that school staff should better understand the purposes of the accommodations and should make sure they are using them. (Interview with Student's Mother.) The Student's Mother feels that the Student is failing academically because school staff are not working on what could be helpful to him, he continues to be dysregulated, and he leaves school early on Fridays. (Interview with Student's Mother.)

32. The Student's Mother would like a BCBA to work with the Student and questions whether a manifestation determination should be made by the Student's IEP Team since he is being removed from school on Fridays. (Interview with Student's Mother.)

Interview with _____, _____ Special Education Director

33. _____ is the Special Education Director in _____. (Interview with _____.) The Student enrolled in _____ just as they returned from the COVID shut down and had all the COVID protocols in place. (Interview with _____.) The Student came with an overdue triennial review because the shutdown had caused delays at his sending school. (Interview with _____.)
34. The first IEP Team meeting was a transfer IEP meeting because the Student was moving in with his Father, who lived in the district. (Interview with _____.) The Student's Father was familiar with the special education staff because another child of his had received special education services. (Interview with _____.) School staff members have a good working team relationship with him. (Interview with _____.) The Student's Stepmother is a teacher in _____ and also has a good working relationship with school staff. (Interview with _____.) At the transfer IEP meeting, they needed to start working on the triennial review since it was overdue. (Interview with _____.) The Student had been out of school because of remote learning in his prior school district. (Interview with _____.)
35. Ms. _____ still feels like she is getting to know the Student and that he is still settling in. (Interview with _____.) The Student had some ups and downs with settling in. (Interview with _____.) The Student's ADHD causes him to exhibit inattention, hyperactivity, and impulsivity and executive functioning skill deficits. (Interview with _____.) The Student's behavior scales as filled out by teachers initially showed that his behaviors were attention seeking and his behaviors were getting reinforcement by peers.
36. Ms. _____, the guidance counselor at _____, did a lot of work with the Student and attempted different approaches to his initially challenging behavior. (Interview with _____.) The Student now has a very positive daily connection with Ms. _____. (Interview with _____.) The Student reaches out to Ms. _____. (Interview with _____.) The Student is very well liked by staff and students. (Interview with _____.)
37. Adding the Friday afternoon early release as an accommodation if the Student was getting his work done and did not engage in attention seeking behavior during the week, "worked like a charm" to motivate the Student to improve his behavior. (Interview with _____.) This was evident by the next IEP Team meeting after the accommodation had been implemented. (Interview with _____.) The Student's Stepmother and Father were very much in support of the accommodation. (Interview with _____.) This accommodation had the additional benefit of giving the

- Student some time with the Student's Father before he left to go visit his Mother on the weekends. (Interview with .) Although the School District has attempted to honor the Student's Mother's requests, during the most recent IEP Team meeting, the Student's Mother and Father were not in agreement regarding the Friday accommodation. (Interview with .) During the meeting, the Student's Mother explained that she wanted the Student to return to taking ADHD medication to which the Student's Father was opposed. (Interview with)
38. The Student's IEP was amended to accommodate the Student's Mother's requests after receiving the Student's Father's consent. (Interview with .) The School District has attempted to respond to the Student's Mother's requests for data and other information. (Interview with .) Ms. believes that they have addressed all the Student's Mother's concerns other than the Friday early release. (Interview with .) The Team added back to the Student's IEP social work services with the School District social worker at the Student's discretion. (Interview with .) The Student was at a point where Ms. believed that the Student longer needed to meet with her. (Interview with .) The Student did not want to be pulled out of class and he was not interested in talking about some personal topics. (Interview with .) Because the Student was getting outside counseling, Ms. recommended that the Student's school-based social work services be discontinued. (Interview with .) The Student's Mother wants to keep the social work services in the IEP because she is concerned that the Student is not getting counseling outside of school and so they agreed to add it back in but make it discretionary. (Interview with .)
39. Shortly after the IEP Team met to review the Student's Mother's requests, the Student's Mother sent out an email with additional concerns. (Interview with .) Ms. began the process of setting up another IEP Team meeting at the Student's Mother's request but the Student's Father indicated he did not want another Team meeting to be convened and he was content with the Students' IEP. (Interview with .) Ms. and Ms. began working with the Student's Father individually. (Interview with .)
40. By this point, the Student's Mother had been in touch with DOE and DOE had offered to schedule a facilitated IEP. (Interview with .) The Student's Father continued to request that no IEP Team meeting be held. (Interview with .) In lieu of a meeting, upon follow up by Ms. , the Student's Father agreed to most of the changes that the Student's Mother wanted to make to the Student's IEP if the changes could be made through amendment without another meeting, which is what happened. (Interview with .)
41. All IEP Team members other than the Student's Mother agreed that the Friday early release accommodation is positive and motivational for the Student. (Interview with .) Ms. has no concerns about the Student's current behaviors or his ability to transition to school after grade. (Interview with .) The Student appears to be happy with the school and all the way around. (Interview

- with .) The Student has good peer relationships and a natural leadership ability. (Interview with .) The Student was using those leadership skills negatively when he first arrived and although it took a little while to get a handle on that, the Student is now doing very well with behaviors. (Interview with .) The Student is paired with another student for some academic work and the two do very well working together and supporting each other. (Interview with .)
42. Although the BCBA was arranged to consult on the Student's behavior when he initially enrolled, the Student's behaviors were quickly recognized as typically resulting from a diagnosis of ADHD, which school staff are very familiar with. (Interview with .) There is no need for BCBA consultation now because the Student has settled in and formed positive relationships and his plan adequately addresses his impulsivity and inattention. (Interview with .)
43. Ms. feels that school staff have done an amazing job reaching the Student and meeting his needs. (Interview with .) The Student's testing is proficient and he meets grade level standards. (Interview with .) Ms. feels that the Student may be caught in a disagreement between his parents. (Interview with .) The Student's Mother wants him to be placed on ADHD medications while his Father does not. (Interview with .)

Interview with , School Principal

44. is the Principal of School. (Interview with .) Ms. has been part of the Student's IEP Team. (Interview with .) When the Student first came to the school he struggled with behavior. (Interview with .) The Student had a hard time paying attention and focusing in the classroom. (Interview with .) The Student had disruptive behaviors and he would get asked to leave the classroom after the teacher tried their "bag of tricks." (Interview with .) The Student earned a lot of detentions. (Interview with .) The IEP Team met to come up with a plan and to review the Student's accommodations. (Interview with .) As a reward to the Student, if he can maintain behavior in the classrooms he gets to leave early on Fridays. (Interview with .) The Student really likes this because he gets to spend time with his Father. (Interview with .) Last year, also as an IEP accommodation, the Student's brother got to go home on Friday afternoons too. (Interview with .) The Student's brother is a at the school this year. (Interview with .)
45. Ms. has built and developed a relationship with the Student and understands how he ticks. (Interview with .) Ms. feels that the Student is doing a great job now and that this year has been awesome for the Student. (Interview with .) It has not been perfect but they understand each other and the teachers get him. (Interview with .) The Student is staying in his classrooms and doing well with his work. (Interview with .) Ms. feels that there has been a vast improvement. (Interview with .) The Student has been sent to her

- office approximately ten times this year. (Interview with .) Usually, the Student will talk to her, the guidance counselor, or the secretary. (Interview with .) The Student has a really good relationship with all three of them. (Interview with .) Sometimes they sit out in the lobby where they have tables set up. (Interview with .) Sometimes the Student will sit there and then go back to class after ten minutes or so. (Interview with .) Sometimes the Student will just talk to them about his behavior and then go back. (Interview with .) Ms. does not think that the Student has been sent home this year due to his behavior at school. (Interview with .)
46. Although the Student's Mother has concerns about the IEP, school staff have been following the IEP and as an administrator she needs to implement the Student's Father's wishes since he has the final say on educational decisions. (Interview with .) Ms. does not know if the Student's Mother still has outstanding issues with the IEP. (Interview with)
47. Ms. feels like the Friday early dismissal accommodation is a motivating factor for the Student to maintain his behavior. (Interview with .) The Student misses three classes on Friday afternoons; he leaves right after lunch. (Interview with .) One of the classes is a special. (Interview with .) The classes he misses each week alternate because it is a rotating class schedule. (Interview with .) The Student has earned his Friday accommodation every week this year. (Interview with)
48. The Student is getting Cs and Bs in the third trimester, which is typical of his performance. (Interview with .) The Student has silent reading time each morning and can make up missed English Language Arts work during that time. (Interview with .) The Student also has Math in the mornings during an extended period. (Interview with .) They use Friday as a kind of "review day" so the Student is not missing any new learning. (Interview with .)
49. The Student's Father is content with the Friday afternoon accommodation and he is pleased with the way things are doing. (Interview with .) The difference in the Student's behavior between last year and this year is significant. (Interview with .) The Student's home environment has stabilized. (Interview with .) The Student's Stepmother works in the district and she is very supportive of him. (Interview with .)
50. The Student had an 84 in Math as of Ms. 's interview on April 28, 2022. (Interview with .) The Student's weekly grades for habits of the mind, determined by a student's behavior in the classroom and effort to do their work, have been strong in Math; in the last several weeks he has had scores of 9 or 9.5 out of 10 in Math. (Interview with .) In English Language Arts, over the past several weeks, the Student received a 6.8, an 8.5, a 9.3, an 8 and a 7.2. (Interview with .) The Student's work habits are generally scored in the 9 range. (Interview with .)

51. Ms. _____ never heard from the Student's Mother until right before Christmas of 2021. (Interview with _____.) The Student's Mother then became heavily involved. (Interview with _____.) Ms. _____ is unsure of what prompted the Student's Mother to contact the school and get involved. (Interview with _____.) The Student's Mother now receives the Student's progress reports and report cards and is able to access information online. (Interview with _____.)
52. Ms. _____, Mrs. _____, and Mrs. _____ determined that school staff would utilize only email communication with the Student's Mother because verbal communication has not been accurately reported by her. (Interview with _____.) Ms. _____ has instructed school staff to route communications through her or the guidance counselor. (Interview with _____.)
53. Ms. _____ can tell which weekends the Student spends with his Mother because on the following Mondays his behavior is elevated. (Interview with _____.) The Student is a little more disruptive and agitated and his body is moving more. (Interview with _____.) The Student reported that his Mother sat him down one weekend and went through his IEP step by step. (Interview with _____.) The Student is aware of his mother's unhappiness with the Friday accommodation. (Interview with _____.)
54. Ms. _____ does not believe the Student's Mother is requesting any changes to the Student's IEP at this time other than the removal of the Friday early dismissal accommodation. (Interview with _____.) The teachers understand and are accommodating the Student's behavior. (Interview with _____.) Ms. _____ feels like teachers have used all accommodations in the IEP before sending him to the office. (Interview with _____.)
55. The Student will have the same teachers next year as this year. (Interview with _____.) The Student can access the social worker at his discretion, which the Student is content with. (Interview with _____.) The Student takes a break when he needs one; the Student will come down and say hello to them in the office. (Interview with _____.) The Student likes all three of them in the office (Ms. _____, Ms. _____, and Ms. _____, the secretary) so he does not really have a preference as long as he gets to talk to somebody when he needs to. (Interview with _____.)
56. Ms. _____ believes that the Student started seeing an outside counselor during the past year. (Interview with _____.) A contracted BCBA provided them with consultation last year after the Student first enrolled in the district. (Interview with _____.) The BCBA gave advice as to which sorts of data to collect. (Interview with _____.) Ms. _____ does not see a need for continued BCBA consultation; this service is not in the Student's IEP. (Interview with _____.)

Interview with _____, Guidance Counselor

57. _____ is the Guidance Counselor at _____. (Interview with _____) Ms. _____ primarily helps students get through day and helps student learn and utilize coping skills. (Interview with _____)
58. Ms. _____ was concerned when the Student first enrolled. (Interview with _____) After reading his reports, she knew that the Student had experienced trauma and appeared to be very dysregulated. (Interview with _____) Ms. _____ has a good working relationship with the Student's Father and the Student's Stepmother due to her work with the Student's older sibling. (Interview with _____) The Student arrived exhibiting very feisty behaviors but school staff soon recognized that he was sweet and caring. (Interview with _____) Ms. _____ could tell that the Student wanted to learn but was scared and wanted help. (Interview with _____) The Student was communicating in a defiant and rude manner, which she understood were his way of showing that he needed attention. (Interview with _____)
59. The IEP Team quickly learned that some of the aspects of the Student's IEP as forwarded by his prior school district were not working for him at _____. (Interview with _____) There was a lot of communication with the Student's Father to transition the Student and understand his behaviors. (Interview with _____) The IEP Team and the Student worked really hard, with the end result being that Ms. _____ feels that the Student's progress is the biggest success story of her four years at the school. (Interview with _____) The Student is an incredible human, he is respectful, he is regulated, he knows routine, he knows what is on his IEP, he knows what skills that he can utilize, and he properly utilizes accommodations. (Interview with _____) It is rare for the Student to be asked to leave class now; he also made the baseball team this spring. (Interview with _____)
60. This year, the Student's Mother reached out to school staff, who have all shared their enthusiasm regarding the Student's progress. (Interview with _____) The Student's Mother asked Ms. _____ questions about whether the Student was medicated and whether he should be medicated. (Interview with _____) The Student's Mother stated that when the Student lived with her he took ADHD medication and he was in the Gifted and Talented program in Math; the Student's Mother was upset that the Student was getting a C in math at that time. (Interview with _____) That was the only time Ms. _____ spoke to the Student's Mother on the phone because the Student's Mother thereafter told the Student's Father that Ms. _____ had advised that the Student should be put on ADHD medication and he was doing really poorly. (Interview with _____) Ms. _____ explained to the Student's Mother that the Student's eligibility for the Gifted and Talented program in Math at his old school but not at _____ could be due simply to the school's having different curriculums; she also reassured the Student's Mother that the Student was working very hard and that his C grade in Math was not due to a lack of attention or lack of class attendance due to the Friday early release accommodation. (Interview with _____)

61. Ms. _____ does not believe that the Student being out on Friday afternoons impacts his grades. (Interview with _____.) Ms. _____ believes that the Student is focused on his academics. (Interview with _____.) The Student is not allowed to leave on Fridays if his work is not completed and turned in or if he has more than three behaviors. (Interview with _____.) The Student's Stepmother works with him to make sure his assignments are in. (Interview with _____.) Initiating the Friday early release accommodation was a huge motivator for the Student and changed everything about the Student's behavior. (Interview with _____.) Most of the time, the Student gets to spend Friday afternoon alone with his Father, including spending time working on a dirt bike. (Interview with _____.) When the accommodation began, the Student clarified what the conditions were for the early release on Fridays and he has stayed on target since then. (Interview with _____.)
62. Ms. _____ is unclear of why the Student's Mother initiated involvement this spring. (Interview with _____.) Ms. _____ feels the Student is doing so well; school staff are very proud of the Student. (Interview with _____.) Ms. _____ is concerned that if the Student's Friday afternoon accommodation is removed, his behavior will regress. (Interview with _____.)
63. One Monday, the Student explained that his Mother went through his IEP with him to make sure the school was doing everything it should. (Interview with _____.) The Student was panicking about not able to do half day Fridays. (Interview with _____.) The friction between the Student's parents put school staff in a pickle but they reached out to the Student's Mother, who has the last say on educational decisions. (Interview with _____.) The Student's Father wishes to keep the Friday early release accommodation in the Students' IEP. (Interview with _____.)
64. The Student utilizes his breaks appropriately in class. (Interview with _____.) He also knows that Ms. _____ door is always open and he often pops in when he is taking a brief break from class. (Interview with _____.) The Student will report that he was having trouble sitting still so he went for a walk down the hall and then he returns to his classroom. (Interview with _____.)
65. Ms. _____ notices that the Student does get super stressed about going to his Mother's house every other weekend and his emotional dysregulation increases as those weekends approach. (Interview with _____.) The Student acts panicky and indicates that he does not want to spend the weekend at his Mother's; he sometimes asks to call his Father. (Interview with _____.) Because the Student puts the phone on speaker, Ms. _____ can hear the Student's Father explain that he does need to spend time with his Mother since he spends most of his time with his Father. (Interview with _____.) When the Student talks his Mother on the phone about his reluctance, she yells at him that it is not a choice. (Interview with _____.) The first day back at school after he has been at his Mother's house, the Student is usually a little hyped up. (Interview with _____.)

66. The Student has a good connection with Ms. . (Interview with .) Ms. appreciates the Student's sense of humor, which he uses as a kind of diversion. (Interview with .) If the Student gets sent out of class it is because of his ADHD symptoms; for example, the Student was fooling around with other kids, becomes dysregulated, and forgets to follow his plan. (Interview with .) The Student always returns to class after leaving on his own or being asked to leave. (Interview with .) That is a big improvement from when the Student first arrived, when he would yell, get mad, and ask to go home. (Interview with .) The Student is motivated not to do those things because he does not want to lose his Friday early release. (Interview with .) The Student also wants to return to class so he does not end up with missing work because he knows his Stepmother will require him to do the work when he gets home. (Interview with .)
67. Ms. has no concerns about the Student's accommodations not being followed or him struggling in class. (Interview with .) Ms. feels is concerned that the Student's Mother is trying to remove accommodations that work for the Student. (Interview with .) The Student's selection to the baseball team was a significant indicator of his improved behavior, which in the past would have prevented him from being selected. (Interview with .)
68. Ms. has been in the Student's classroom and observes that the Student's ADHD results in him being a typical fidgeter but he is not distracting or hurting anyone. (Interview with .) The Student now raises his hand rather than blurting out answers, an indication of his increased ability to self-regulate. (Interview with .)
69. Ms. does not believe that the Student requires a BCBA consult. (Interview with .) Ms. feels that the initial consultation with the BCBA regarding the Student's behaviors was sufficient because it was observed that his behaviors were typical ADHD behaviors that school staff is readily used to addressing. (Interview with .) The IEP Plan that they have created is working well for the Student. (Interview with .) Ms. believes that if the BCBA observed the Student, who would report that the School District was spending a lot of money for her to observe a student who is successful in managing his behaviors and utilizing accommodations. (Interview with .)
70. The Student's Mother had asked for an IEP Team meeting even though she attended the most recent one, which lasted two-and-a-half hours and highlighted the animosity between the Student's parents. (Interview with .)

Interview with , Social Worker

71. is the Social Worker for both and (Interview with .) She has seen the Student approximately 35 to 40 times since his enrollment in the School District in October 2020. (Interview with .) Her office is in . (Interview with .) She saw him primarily during the 2020-2021 school year

- when he was struggling. (Interview with .) The Student arrived with a history of challenging behaviors in his prior schools. (Interview with .) The Student's difficult behaviors were evident as he transitioned into the School District. (Interview with .) The Student worked with Ms. primarily on being respectful to teachers and regulating his behavior such that he could be able to stay in class. (Interview with .) Ms. believed she was providing individual social work services, which is not usually within her role, while the Student got established with an outside social worker. (Interview with .)
72. Ms. observed that the Student is very smart. (Interview with .) She found that the Student's body did not always stay still when he wanted it to but over the course of the 2020-2021 school year, he made significant progress in his ability to regulate his body and his behavior. (Interview with .) She noted that the Student was able to still his body if he had something to manipulate with his hands. (Interview with .) When the Student came to see her as a break from class, he usually returned to class unless he had been asked to stay out for the entire period by the teacher or to participate in the class remotely from the school office. (Interview with)
73. Ms. observed that the Student had been very successful staying in class during the current school year. (Interview with .) She found that he had greatly improved in his ability to interact with peers and teachers in a way that was not disruptive. (Interview with .) Ms. also noticed that the Student had become a little more reticent in the current school year about sharing his feelings with her but she feels this is not of concern because he is seeing an outside counselor. (Interview with .) Ms. and other School District staff members do not have contact with the Student's outside counselor. (Interview with .)
74. The Student has discussed with Ms. the difficulty that the Student's Mother's request for an investigation has caused him. (Interview with .) He has indicated that he is very frustrated with his Mother for challenging his IEP accommodations. (Interview with .) The Student feels that the investigation has impacted his visits with his Mother because she was frequently asking him about his IEP and what accommodations the School District was utilizing. (Interview with .)
75. Ms. feels the Student is motivated to do well in his classes because he looks forward to the early dismissal on Fridays. (Interview with .) The Student has reported that he enjoys spending time along with his Father on Friday afternoons and working on a dirt bike they were repairing. (Interview with) Ms. is not concerned about the Student's academic progress or his readiness for school at the end of grade. (Interview with .)
76. Ms. has not seen the Student as frequently this year due to her out leave and his decreased interest and need to see her. (Interview with .) The Student and the Student's Stepmother have reported that he is now seeing an outside social worker

regularly. (Interview with .) Ms. has seen the Student only a few times since his IEP was amended to include social work services at his discretion. (Interview with .) Most recently when Ms. emailed the Student to ask if he wanted to meet with her, he indicated he would do so when she had restocked her snack supply. (Interview with .)

Interview with , Health and Physical Education Teacher

77. is a Health and Physical Education Teacher at (Interview with .) Ms. had the Student in her Physical Education class during the first trimester; in her Physical Education and Health classes the second trimester; and in her Health class for the current third trimester. (Interview with .) The Student was moved out of her Physical Education class during the first trimester due to his challenging behavior. (Interview with .) The Student would often not follow through on requests. (Interview with .) The Student would not follow along with directions, which results in him being unsafe in the activity. (Interview with .) If the Student was not where he was supposed to be, it would disrupt other students. (Interview with .) The Student would be misbehaving, overly energetic, and not listening to her. (Interview with .) Ms. thought that maybe the Student didn't respond to women well and that perhaps the Student would be more successful in a class with a male teacher. (Interview with .) The Student was moved to another class by school administrators with input from the the Guidance Counselor. (Interview with .)
78. During the second trimester, Ms. got to know the Student a little better. (Interview with .) Once they developed a bit of a relationship, the Student started to respond better. (Interview with .) Ms. utilized positive reinforcements and praise and also learned how to navigate when the Student had more energy. (Interview with .)
79. Ms. attended the last IEP meeting at the beginning of March but left before the Friday dismissal issue was discussed. (Interview with .) The Student does not miss her classes on Friday afternoon. (Interview with .)
80. At the start of the current trimester, the Student seemed pretty solid. (Interview with .) There have been a few blips since then; for instance, on one occasion, the Student took himself out of her class and did not return so he had to make up an entire lesson. (Interview with .) The Student's Stepmother reached out to Ms. to ask what work was owed and the Student made it up. (Interview with .) Some of it is repeat behavior from the first trimester but the Student does seem to be regressing a little bit. (Interview with .) Ms. opines that the Student is not happy about this process and the possibility that his Friday accommodation would be removed. (Interview with .)

81. Ms. _____ feels that the Student is very capable. (Interview with _____) Ms. _____ believes that the Student can miss time in school as long as he is focused. (Interview with _____) Ms. _____ wishes that the school had other sports that they could offer the Student. (Interview with _____) The Student is playing baseball this spring and Ms. _____ hopes that will be motivating for him. (Interview with _____)
82. The Student is very energetic, is socially appropriate, and is succeeding academically. (Interview with _____) Ms. _____ believes that sometimes the Student needs moving breaks. (Interview with _____) If the Student needs to move and get energy out, he will go take a walk at her initiation or on his own initiative. (Interview with _____) The Student doesn't have to ask to do this. (Interview with _____) Typically, the Student will ask to go to the bathroom or get a drink. (Interview with _____) Ms. _____ does require the Student to sit in his seat even though he wants to sit on top of the desk at times. (Interview with _____) When Ms. _____ has allowed the Student to leave class, she has never had an issue with the Student not returning. (Interview with _____)

Interview with _____, Math Teacher

83. _____ teaches the Student in Math. (Interview with _____) Mr. _____ believes the Student is doing much better at this point in the school year. (Interview with _____) The Student's work towards the beginning of the year was more sporadic and some work was not done. (Interview with _____)
84. During the past month, the Student has been much more determined to get his work in and he has been asking more questions. (Interview with _____) Mr. _____ is not sure why the Student's determination level has increased. (Interview with _____) Mr. _____ knows that the Student wanted to play baseball and that it is the only sport he has any interest in playing. (Interview with _____) The school has an academic ruling that students cannot be failing and playing sports. (Interview with _____) The Student had a 66 at the end of the second trimester which put him on academic probation. (Interview with _____) The Student now has to have a weekly check-in to ensure he is passing classes in order to play sports. (Interview with _____) The Student is succeeding now and able to be an active member of the team. (Interview with _____)
85. Mr. _____ believes the Student's behavior is much better this spring. (Interview with _____) Earlier in the year, the Student was leaving the room a lot, which impacted his grade in the second trimester. (Interview with _____) Now, when the work is overwhelming, the Student asks to walk down the hall and when he returns to the classroom he gets back to work. (Interview with _____) The Student is a lot more focused and his comprehension seems to be better. (Interview with _____)
86. Mr. _____ feels that he really doesn't have a good understanding of whether the Student should be in the Gifted and Talented program for Math. (Interview with _____)

-) The Student has some days when he seems focused and he shows that he can do the math really well. (Interview with .) On other days, the Student can't maintain the focus to do simple tasks. (Interview with .) If the Student could always be focused, he could be a Gifted and Talented student. (Interview with .) Mr. noticed that the Student previously had trouble with recall but seems better now. (Interview with .)
87. The Student's disruptive behaviors in class have gone down drastically. (Interview with) Mr. ignores the Student when he speaks out of turn; the Student then realizes he can't blurt out answers and sits quietly with his hand up. (Interview with .) The Student has preferential seating at the front of the room. (Interview with .) Mr. hasn't had to use many of the accommodations in the Student's IEP. (Interview with) Mr. has the list and if the Student is not focused, he taps on the desk and provides other prompts to refocus the Student's attention. (Interview with .)
88. The Student has Math on Friday afternoons every other week due to the alternating day schedule. (Interview with .) If the Student misses class and Mr. is wrapping up a lesson, he tells the Student that he needs to finish up the work. (Interview with) If Mr. is starting a new lesson and the Student is missing the introduction period, when the Student comes back, he needs help catching up. (Interview with .) Ms. catches the Student up by working with the student one-on-one to review what he missed. (Interview with .)
89. The Student's time out of class is not having a big impact on his Math grade. (Interview with .) The Student has been making up the work. (Interview with) The tests are either open book or note based; the Student does well on tests. (Interview with .) Mr. is the only grade math teacher so he will have the Student again next year. (Interview with .)
90. Mr. was at the IEP Team Meeting with the Student's Mother earlier this year. (Interview with .) The Student's Mother requested that a poster be placed on the wall listing the procedures for entering the room. (Interview with .) Mr. agreed with the teacher who responded that if the Student was not looking at the wall, he would have to be redirected so perhaps a small sheet of paper that the Student could have would have been more useful. (Interview with .) Mr. has not had to write the Student up since the most recent IEP Team Meeting. (Interview with .) The Student has mentioned that Mother disagreed that the Friday afternoon accommodation should continue. (Interview with .)

DETERMINATIONS

1. The School District has allowed the Student to leave school early on Fridays in a manner that is consistent with the accommodation in the Student's IEP and the provision of a free appropriate public education. NO VIOLATION OF MUSER VI.2.1 OR MUSER I FOUND.

2. The School District has properly developed and revised the Student's IEP in a manner that was reasonably calculated to enable the Student to make progress in light of his circumstances and did not fail to include agreed upon changes in the Student's IEP. NO VIOLATION OF MUSER IX.3.A OR MUSER VI.2.J.4 FOUND.

ANALYSIS OF DETERMINATION #1

A student who has been identified as eligible for special education is entitled to a FAPE provided by the school district in which he resides. 20 U.S.C. § 1412(a)(1)(A); 20-A M.R.S. § 7201. A FAPE includes special education as well as related services. 20 U.S.C. § 1401(9); MUSER § II.13. A school district must develop and implement a service plan for each IDEA-eligible student that, among other things, describes the specific special education and related services that the school district will provide to allow the student to advance appropriately toward attaining annual goals; to be involved in and make progress in the general education curriculum in accordance with the regulation and to participate in extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and non-disabled children in the activities described in the regulation. MUSER § IX.3.A(1)(d). The IEP must also include a statement of individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on any State and District-wide and classroom assessments. MUSER § IX.3.A(1)(f).

The IEP is the “legal touchstone for hearing officers and judges to assess [school districts’] efforts” to educate students with disabilities. York Sch. Dep’t v. S.Z., No. 2:13-CV-00042-NT, 2015 WL 860953, at 32 (D. Me. Feb. 27, 2015). An IEP is reviewed first for consideration of whether it was developed in accordance with procedural requirements and, second, whether the IEP and placement were reasonably calculated to provide the student with some educational benefits. Board of Educ. v. Rowley, 458 U.S. 176, 206-07 (1982) (analyzing predecessor statute to IDEA). An IEP must be designed to provide a student with “personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.” Id. at 203. In addition, an IEP must include the student’s present levels of performance, measurable annual goals, methods by which progress towards those goals will be measured, an explanation of to what extent the student will participate with non-disabled students, and the special education and supportive services necessary to help the student advance toward his goals, make progress in the general education curriculum, participate in nonacademic activities, and be educated with other children with disabilities as well as non-disabled peers. 20 U.S.C. § 1414(d)(1)(A); MUSER § IX.3.A.

As the First Circuit Court of Appeals has explained, the IDEA “does not promise perfect solutions to the vexing problems posed by the existence of learning disabilities in children and adolescents. The Act sets more modest goals: it emphasizes an appropriate, rather than an ideal, education; it requires an adequate, rather than an optimal, IEP. Appropriateness and adequacy are terms of moderation.” Lenn v. Portland Sch. Comm., 998 F.2d 1083, 1086 (1st Cir. 1993). Whether an IEP is reasonably calculated to enable a child to receive educational benefits depends on the student’s individual potential. Rowley, 458 U.S. at 203. A student’s program must be geared toward “the achievement of effective results – demonstrable improvement in the

educational and personal skills identified as special needs.” Town of Burlington v. Dep’t of Educ., 736 F.2d 773, 788 (1st Cir. 1984), aff’d, 471 U.S. 359 (1985); see also Sanford Sch. Dep’t, 47 IDELR 176 (Me. SEA 2006) (stating that progress must be made in a student’s specific area of need). Because there is no “bright-line rule on the amount of benefit required of an appropriate IEP,” each situation requires a “student-by-student analysis that carefully considers the student’s individual abilities.” Ridgewood Bd. of Educ. v. N.E., 172 F.3d 238, 248 (3^d Cir. 1999) (holding that the “meaningful benefit” standard requires ““significant learning”” (quoting Polk v. Cent. Susquehanna Intermediate Unit 16, 853 F.2d 171, 182 (3^d Cir. 1988)). An IEP can be appropriate even if it not “the only appropriate choice, or the choice of certain select experts, or the child’s parents’ first choice, or even the best choice.” G.D. v. Westmoreland Sch. Dist., 930 F.2d 942, 948 (1st Cir. 1991).

In 2017, the Supreme Court expanded on its explanation of these standards in Andrew F. v. Douglas County School District, 137 S.Ct. 988 (2017). The Court explained that the IDEA “requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances” and that the “progress contemplated by the IEP must be appropriate in light of the child’s circumstances.” Id. at 999 & 1001. The Court stated that “the adequacy of a given IEP turns on the unique circumstances of the child for whom it was created.” Id. at 1001. The Court noted that “for most children, a FAPE will involve integration in the regular classroom and individualized special education calculated to achieve advancement from grade to grade.” Id. at 1000.

The incentive of allowing the Student to leave school early on Fridays, if his work was completed and his disruptive behavior had not been significant that week, was added to the Student’s IEP as an accommodation in February 2021 by agreement of the IEP Team. This accommodation was in effect at that time for the Student’s older sibling, who also attended as of February 2021. The Student’s Father and Stepmother were in agreement with the accommodation.

staff, as well as the Student’s Father and Stepmother, with whom he primarily resides, continue to be in support of the accommodation as an incentive for the Student. School staff consistently report that the Student’s disruptive and impulsive behaviors have been significantly reduced since the accommodation was put into place. Ms. recalled that the Student specifically sought clarification of the requirements to earn this reward at the time it was implemented. Ms. reflected that the positive impact of the accommodation was evident by the Student’s next IEP Team meeting.

The Student has made significant gains in his behavior over the past year. Although he does continue to exhibit some behaviors reflective of ADHD, he has accumulated a variety of aids to help him focus and calm his body, including taking a walk down the hallway or speaking with the Principal, the Guidance Counselor, or the Secretary in the school office. The Student’s grades as averaged across the first and second trimesters ranged from 74 to 97. The Student’s grades at the middle of the third trimester ranged from 84 to 97. School District staff do not believe that the Student’s opportunity to leave early on Fridays, which he has consistently earned throughout the current school year, negatively impacts his grades. Ms. noted that the classes that the Student misses on Friday alternate each week because the school has an every

other day rotating schedule. She also noted that the Student has silent reading time in the morning, during which he can make up work, and that he has Math in the morning during an extended period that allows for additional time to make up work.

School District staff were very positive about the Student's behavioral and academic progress, his peer and staff relationships, and his leadership abilities. Although Mr. noted that the Student's behavior and effort at the start of the school year left room for improvement, he observed that the Student had been particularly motivated lately. Ms. noted that although it took some time for her to create a relationship with the Student this year, he began to respond to her instructions better once they had formed a relationship. It appears that staff have consistently and vigilantly worked to meet the Student where he is and help him implement tools to allow him to succeed in school, which he is doing by all accounts. Upticks in disruptive behavior are noted when they occur but the Student and staff consistently use the Student's accommodations to address and reduce disruptive behaviors.

The Student's Mother expresses concern that the Student was participating in the Gifted and Talented program in Math at his prior school but not at . The Student's grade Math teacher noted that the Student was not consistently focused, which impacted his ability to do more complex work, but that he had improved in his recall lately. Although the Student's Mother has noted that some of the behaviors that the Student exhibits were resolved when he took medication for ADHD when he lived with her, the Student's failure to be identified as Gifted and Talented in Math does not equate with the School District's violation of its obligation to provide the Student with FAPE. The Student's progress, behaviorally and academically, exhibit that the Student's IEP clearly meets the standards set forth to establish FAPE. School District staff uniformly expressed no concern about the Student's ability to transition to school in a little over a year. Furthermore, the Student's grades this academic year have been solid and his Student's graded IEP at the end of the 2020-2021 school year showed adequate progress towards his IEP goals.

Finally, the Student's Mother argues that the Friday early release accommodation should be evaluated under the abbreviated day standard. Pursuant to MUSER VI.2.L, an abbreviated school day can be initiated by a student's IEP Team for one of two reasons: 1) based upon the child's individual educational needs or 2) based upon the child's medical needs. The early release accommodation, however, is limited to one a day and is more accurately characterized as a behavior reward than a reduction in services. Even if the early release accommodation could be characterized as the imposition of an abbreviated day, the IEP Team clearly felt that it made the Student's educational needs by improving his academic performance and behavioral control throughout the week as he sought to attain the reward of early release.

In conclusion, has created an IEP for the Student that provides FAPE because it identifies the specific special education and related services that the School District will provide to allow the Student to advance appropriately toward attaining annual goals; to allow the Student to be involved in and make progress in the general education curriculum in accordance with the regulation and to participate in extracurricular and other nonacademic activities; and to allow the Student to be educated and participate with other children with disabilities and non-disabled children. Furthermore, the Friday afternoon early release

accommodation does not violate the Student's right to FAPE. Although the Student occasionally misses substantive academic content on Friday afternoons, there is ample opportunity to make the work up and he is supported by his parents in doing so. The IEP Team has reasonably determined that the benefits of the accommodation outweigh any challenges it creates. As such, has not violated MUSER VI.2.I or MUSER I by retaining the Student's Friday early release accommodation and exercising the accommodation that is consistent with the Student's IEP and the provision of a free appropriate public education.

ANALYSIS OF DETERMINATION #2

As discussed above, the School District has properly developed and revised the Student's IEP in a manner that was reasonably calculated to enable the Student to make progress in light of his circumstances consistent with special education regulations. In addition, School District staff have made all the changes that the Student's Mother requested other than removal of the Friday early dismissal accommodation and reinsertion of BCBA services.

As School District staff explained, the Friday early dismissal accommodation has been successful in motivating the Student to reduce disruptive behaviors and the Student's Father, who maintains final authority for educational decisions, is adamant that the accommodation be retained. School staff made significant efforts to navigate between the Parents to create amendments to the Student's IEP without holding a Team meeting since the Student's Father was opposed to scheduling another meeting. Because of those efforts, the Student's IEP was amended by agreement without a meeting to reinsert social work services at the Student's discretion because the Student's Mother felt she was not getting the information she needed from the Student's Father about his attendance at outside social work services and to modify some of the accommodations.

The IEP Team has declined to reinsert BCBA services to the Student's plan on the basis that no further BCBA consultation is necessary. As School District staff explained, once they got to know the Student and the BCBA had provided initial consultation after he had enrolled at , they felt very comfortable with the conclusion that the Student's behaviors resulted from his diagnosis of ADHD. School staff also felt very comfortable implementing an IEP with services and accommodations designed to address the Student's behaviors that stemmed from ADHD. The Student's Mother has not identified any other agreed-upon changes that the School District has not incorporated in the Student's amended IEP.

As such, the School District has properly developed, amended, and implemented the Student's IEP in a manner that was reasonably calculated to enable the Student to make progress in light of his circumstances and did not fail to include agreed upon changes. Thus, the School District did not violate MUSER IX.3.A. or MUSER VI.2.J.4.

CORRECTIVE ACTION TO BE COMPLETED BY THE RESPONDENT

Because no violations were found, no corrective action is required by .