

**STATE OF MAINE  
SPECIAL EDUCATION DUE PROCESS HEARING**

[Parents]	)	
	)	
	)	
v.	)	Hearing # 25.073H
	)	
[School Administrative Unit (SAU)]	)	
	)	

**ORDER**

This decision is issued pursuant to Title 20-M.R.S.A. §7202 *et seq.*, Title 20 U.S.C. §1415 *et seq.* and accompanying regulations. A due process hearing was held on May 19, 20, 21, 22, 23, and June 17, 2025 via zoom. Those present for the entire proceeding were: [ ] and [ ], Parents; Richard O’Meara, Esq., attorney for Parents; [ ], Director of Special Services for [SAU]; Rachel Sears, Esq. and Abigail Silsby, Esq., attorneys for [SAU]; Melanie Frazek, Esq., Hearing Officer. Ryan Morse, summer associate at Murray Plumb & Murray, observed the hearing during the June 17 proceedings.

Witnesses testifying at the hearing were:

[ ]	Student’s Mother
[ ]	Student’s Father
[ ]	Assistant Director, [ ]
[ ]	Principal, [private school]
[ ], LCPC	Student’s private therapist
[ ]	Director of Special Services, [SAU]
[ ]	Former Director of Special Services, [SAU]
[ ], LCSW	Clinical School Social Worker, [SAU]
[ ]	Special Education Teacher/Case Manager, [SAU]
[ ], Ph.D.	Licensed Clinical Psychologist & Certified School Psychologist, [SAU]

All testimony was taken under oath.

**I. PROCEDURAL BACKGROUND**

On January 21, 2025 Parents filed a due process hearing request on behalf of their adopted

daughter, [ ] (hereinafter, “Student”). On February 4, 2025 the Hearing Officer conducted a scheduling conference via zoom with the parties’ counsel and [ ], Director of Special Services for [SAU], attending. The following dates were scheduled for case proceedings: Prehearing Conference on April 1, 2025; Hearing on April 14, 15, 16, 17 & 18, 2025. On February 27, 2025, a second zoom conference attended by the parties’ counsel and the Hearing Officer revisited the prehearing and hearing dates and agreed to the following schedule: Prehearing Conference on April 30, 2025; Hearing on May 19, 20, 21, 22, & 23, 2025.

Prior to the prehearing, [SAU] (hereinafter, “[SAU]”) filed a Supplemental Response to the due process hearing request on March 24, 2025.

On April 30, 2025 the prehearing conference was held via zoom videoconference - as were all proceedings - and reconvened on May 5 for continued discussion. Participating in the conferences were: Richard O’Meara, Esq., attorney for Parents; Rachel Sears, Esq., and Abigail Silsby, Esq., attorneys for [ ]; [ ], Director of Special Education for [SAU] (April 30 conference only); Parents (May 5 conference only); Melanie Frazek, Esq., Hearing Officer. Counsel for the parties distributed prehearing memoranda prior to the conference. It was established that although Student had recently turned 18 years of age, Parents have power of attorney to act on her behalf. Issues for hearing were reviewed and the scope of same discussed. Also at the April 30 conference, Counsel for [ ] emphasized a lack of records not received from multiple subpoenaed parties.

On May 1, Parents filed a *Motion to Vacate Fifth Subpoena*, followed by [ ]’s *Opposition to Motion to Vacate Fifth Subpoena* on May 2 and *Parents’ Reply Memorandum in Support of Their Motion to Vacate Fifth Subpoena* on May 5.

During the May 5 continuation of the prehearing conference, the Hearing Officer ruled on Parents’ *Motion to Vacate Fifth Subpoena* regarding the production of photographs of Student from July 1, 2023 through November 30, 2023. The Hearing Officer found the timeframe to be relatively

narrow and therefore not burdensome for compliance. Further, the Hearing Officer believed there to be probative value. As a result, Parents' motion was denied.

Also at the May 5 conference, the Hearing Officer ruled on [ ]'s *Motion in Limine to Exclude Issue for Hearing* filed on May 2, 2025, specifically targeting Parents' issue number five in their Prehearing Memorandum. Counsel for the parties argued their positions during the conference. The Hearing Officer granted the *Motion in Limine*, which excluded proposed issue number five in Parents' Prehearing Memorandum from hearing, finding that it was inconsistent with Parents' prayer for relief in their due process hearing request.

On May 6, 2025, [SAU] filed a *Motion to Dismiss* Parents' due process hearing request, followed by Parents' filing of *Parents' Memorandum in Opposition to [SAU]'s Motion to Dismiss* on May 9 and [ ]'s May 12 *Reply in Support of Its Motion to Dismiss*. [ ]'s motion averred protracted and multiple unsuccessful attempts to obtain discovery documents including subpoenaed records. A hearing on the motion was held May 13, 2025. The Hearing Officer granted [SAU]'s motion in part, excluding from testifying at hearing Parents' proposed witnesses who had not provided subpoenaed records and documents. The Hearing Officer did not grant dismissal of the entire due process hearing request.

On May 19, 2025, as a preliminary matter just prior to the scheduled hearing, *Parents' Objections to School District Exhibits* (filed on May 19) were addressed. Objections to exhibits listed within numbers 1 through 6 of the motion were sustained. Remaining objections in Parents' document were raised and ruled on as necessary if used by [SAU] during the hearing.

The hearing proceedings then commenced. At the end of the proceedings on May 23, 2025, an additional day of testimony was deemed necessary and was scheduled for June 17. In the interim, on May 27, [SAU] filed a *Motion in Limine to Exclude [ ]'s Testimony* followed by *Parents' Memorandum in Opposition to [SAU]'s Motion in Limine to Exclude [ ]'s*

*Testimony on June 3 and [SAU]'s Reply in Support of Its Motion to Exclude [ ]s Testimony on June 10.* In its *Reply*, [SAU] stated the parties' apparent differing recollections of this witness's testimony. As a result, [SAU] proposed waiting for the hearing transcript to reveal whether Ms. [ ] had psychotherapy/mental impression notes or not. The crux of the issue being, [SAU] had subpoenaed all records and notes, yet believed they had not been provided in discovery.

At the close of the hearing on June 17, the post-hearing briefs were scheduled as follows: post-hearing briefs due on July 21 and reply briefs due on July 23, 2025, the latter being the close of the record. The Hearing Officer's decision was to be issued August 8, 2025, but an extension was allowed without objection by the parties.

## **II. ISSUES**

1. Did [SAU]'s IEP (dated November 10, 2022 as a result of the October 21, 2022 annual review) and placement meet its obligations under the Individuals with Disabilities Education Act (IDEA) to provide Student a free, appropriate, public education from February, 2023 through August, 2023?

2. Did [SAU] meet its obligations under IDEA to offer Student an appropriate IEP and placement for the 2023-2024 school year?

3. Did [SAU] meet its obligations under IDEA to offer Student an appropriate IEP and placement for the 2024-2025 school year?

4. If the Hearing Officer finds violations of Student's IDEA rights since February, 2023, is Student entitled to any compensatory remedy?

5. Pursuant to IDEA, are Parents entitled to reimbursement of costs associated with their unilateral placement of Student at [private school] in [ ]?

## **III. FINDINGS OF FACT**

1. Student and her three younger siblings experienced significant trauma and abuse in early

childhood while living with their biological parents. The children experienced “extreme neglect and depravation and hunger and witnessed domestic violence and drug abuse.” [Tr. 19; Testimony of Mother]

2. The children were removed from the home by [ ] social services.

3. Student and her siblings lived in foster care with Parents for one year before being adopted by Parents. Student was age six at the time of the adoption.

4. Around age 7 or 8, as a result of escalating behavior at home, Student was diagnosed with post-traumatic stress disorder (PTSD) and anxiety; she was prescribed medication for same. Shortly thereafter, she was diagnosed with attention deficit hyperactive disorder (ADHD). [Tr. 21, 22; Testimony of Mother]

5. Student attended the local school in the [ ] School District ([ ]) for grades 1 through 5. In grade 5, Student had a psycho-educational assessment that recommended educational accommodations for inclusion in her existing 504 plan. [S-1 through S-24]

6. Student attended [ ] in the [ ] for 7<sup>th</sup> grade. [Tr. 976.]

7. Student was sent to [ ], a wilderness camp in [ ] where she was evaluated by its consulting psychologist, [ ] Ph.D., who diagnosed Student with generalized anxiety disorder, other specified depressive disorder, other specified disruptive behavior/impulse control behavior, and attention deficit/hyperactivity disorder, predominantly inattentive type, involving executive functioning deficits. [S-41]

8. Placements were predicated upon Parents’ reports of Student’s aggressiveness and self-injurious behaviors in the home. Parents stated Student had reactive attachment disorder – in short, a reaction to abandonment – which affected her ability to make lasting, good friendships. Parents stated Student did not maintain healthy boundaries in her relationships to the point she engaged in hypersexualization.

9. Student was transported on three, if not four, occasions to boarding schools by strangers affiliated with adolescent transport services. These travels did not include family and were for long distances. [Tr. 511 through 513; Testimony of Mother]

10. Student attended [ ], a residential treatment school, in [ ] for 8<sup>th</sup> grade (2020-2021 school year). [Tr. 976]

11. Student attended [ ], a residential placement located in Utah, through a private agreement between Parents and [ ] for 9<sup>th</sup> grade (2021-2022 school year). [Tr. 976] Upon completion of 9<sup>th</sup> grade, Student's private placement was to be reviewed.

12. The family moved from [ ] to [SAU], Maine during the summer of 2022.

Subsequent statements of fact are integrated in the analysis below as this case is fact-intensive in relation to the issues presented *supra*.

#### **IV. LEGAL STANDARD AND ANALYSIS**

##### **A. Burden of Proof**

Although the IDEA is silent on the allocation of the burden of proof, the Supreme Court has held that in an administrative hearing challenging an IEP, the burden of persuasion, determining which party loses "if the evidence is closely balanced," lies with the party seeking relief. *Schaffer v. Weast*, 126 S.Ct. 528, 537 (2005). Therefore, Parents bear the burden of persuasion in this matter.

##### **B. Analysis**

**Issue 1: Did [SAU]'s IEP (dated November 10, 2022 as a result of the October 21, 2022 annual review) and placement meet its obligations under IDEA to provide Student a free, appropriate, public education from February, 2023 through August, 2023?**

The IEP (individualized educational program for special education) is "a written document detailing the student's current educational level, the short-term and long-term goals of the educational plan, the specific services to be offered (including transition services), and a set of objective criteria for

subsequent evaluation.” *Lenn v. Portland Sch. Comm.*, 998 F.2d 1083, 1086 (1993). Moreover, “the critical inquiry in a case of this genre is whether a proposed IEP is adequate and appropriate for a particular child at a given point in time.” *Lenn*, citing *Burlington v. Dep’t. of Educ.*, 736 F.2d 773,788 (1<sup>st</sup> Cir. 1984), *aff’d*, 471 U.S.359 (1985) (internal quotation marks omitted). The standard of IEP adequacy and appropriateness was established by the seminal Supreme Court case, *Rowley*, as being an “individual educational program developed through the Act’s procedures *reasonably calculated to enable the child to receive educational benefits.*” *Board of Educ. v. Rowley*, 458 U.S. 176, 207 (1982) (Emphasis added.) *Rowley* also made clear that a free, appropriate public education (FAPE) under IDEA does not require school districts to provide “the best possible education or even a potential-maximizing one.” *Leggett v. District of Columbia*, 793 F.3d 59, 70 (2015) (citing *Rowley* at 197 n.21). While *Rowley* remains the standard, it has been slightly tweaked by the *Endrew F.* Court which held: “[T]he services offered in an IEP amount to a FAPE if they are ‘reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.’” *C.D. v. Natick*, 924 F.3d 621, 624-625 (2019) (citing *Endrew F. v. Douglas Cty. City Sch. Dist. RE-1*, 137 S.Ct. 988 (2017)).

Thus, the threshold question is whether the November 10, 2022 IEP created by the [SAU] High School ([SAU]) IEP Team on October 21, 2022 was reasonably calculated for Student to benefit educationally by making progress appropriate to her particular circumstances. Note that parents are part of the IEP Team. 20 U.S.C. §§ 1414(e), 1415(b)(1); 34 CFR §300.501; [S-135]

As stated *supra*, the family moved to [SAU], Maine from [ ] during the summer of 2022. Parent informed [SAU]'s then Director of Special Services, [ ] that Student was attending [ ] in Utah, a residential placement, at public expense pursuant to an agreement with their former school district, the [ ] ([ ]). [Tr. 58-60; S-122 through 128] The agreement was necessary because [ ] was not an approved school by [ ] standards. [Tr. 1174] [ ] and Parents had several conversations in

anticipation of Student's enrollment at [SAU]. [Testimony of [ ].] As a result of these discussions, on August 23, 2022 a new agreement between [SAU] and Parents was executed allowing Student to remain at [ ] at [SAU]'s expense until Student departed [ ]. [Tr. 60; Agreement: P-238, 240-242] Therefore, Student started grade 10 by continuing at [ ].

Notwithstanding, the [SAU] IEP Team timely met on October 21, 2022 for Student's required annual review conference. Both Parents attended as did the following school personnel: [ ], school counselor; D. [ ]; [ ], special education teacher and case manager; [ ], social worker; [ ], regular education history teacher. The objective of the meeting was for the school to learn more about Student, for Parents to learn more about [SAU], and to review the current IEP in effect from [ ]. [S-152, 153; Testimony of [ ], [ ], [ ].] Because Student was not presently attending [SAU], there was no [SAU] data to support revamping the IEP in its entirety. [S-152] Current goals were modified, accommodations noted, and transition services anticipated upon Student's entry at [SAU]. [S-152, 153] The Written Notice of this annual review is replete with comments indicating that IEP goals could be revisited and fine-tuned once Student attends [SAU]. [S-152, 153, 154] At that time staff would actually know the Student. Hence, the resulting IEP sent to Parents on November 10, 2022 was a plan for future implementation whenever Student came to [SAU] following her stay at [ ]. Until then, Student's placement remained at [ ]. The effective date of said IEP was October 20, 2022 to October 19, 2023. [S-155]

To arrive at the appropriateness of the IEP and placement between February, 2023 and August, 2023, a series of events must be acknowledged. At the time of the October 20, 2022 IEP Team meeting, Student was temporarily in a short-term program, [ ] (also in Utah) for approximately three weeks. [Tr. 63; Testimony of Mother.] Emails between Parents and [ ] staff reflect Student was actually at [ ] for at least six weeks. [S-D-1 through 207] Student had been referred to [ ] by [ ] for "stabilization" as a result of Student demonstrating self-harm. [Tr. 62,



63; Testimony of Mother.] Upon discharge, [ ], LCSW ([ ] therapist) recommended individual and family therapy, specifically stating, “*Family therapy should also be a major component* in her continued treatment. *Improving her communication skills with her family* is a focus.” [S-D-296] (Emphasis added.) Student then returned to [ ].

Again, in late January, 2023 Parents placed Student at [ ] a second time for another 90 days in response to [ ]’s reporting of Student’s self-harm. [Tr. 70; Testimony of Mother] It was also premised upon Student’s level of mental health distress causing her inability to live in the home. [S-D-419] Circumstances also determined that Student would not be allowed to return to [ ]. [Tr. 70; Testimony of Mother] On February 20, 2023, Mother emailed their educational consultant, [ ] ([ ]) as well as [ ] remarking that Student had only half-attended school at [ ] and [ ], continued to misuse technology, and participated in her therapy inconsistently. Therefore, Parents decided to look for a more restrictive, “tight-ship” environment, preferably placement at an all-girls therapeutic boarding school/residential school due to Student’s obsession and over-sexualization with boys. [S-D-431] Parents placed Student at [ ] in [ ], Maine with the assistance of consultant [ ]. [Tr. 60; Testimony of Mother] [ ] was a coed, licensed residential therapy school where Student ultimately remained through the summer of 2023.

Parents assert that pursuant to paragraph two of the Agreement with [SAU], an IEP meeting was required to determine IEP placement once Student was no longer enrolled at [ ]. [P-240]

“Should the Student stop attending [ ] prior to receiving a regular high school diploma or turning 22, [SAU] shall schedule and hold an IEP team meeting to establish the Student’s IEP and placement from the point of her departure from [ ].”

*Id.*

The first placement by Parents to and from [ ] was considered temporary until Student resumed her placement at [ ]. [Tr. 62; Testimony of Mother] Student did not permanently depart [ ]. Thus, the Hearing Officer finds no IEP Team meeting was required at that time.

Following the second placement by Parents at [ ], Parents contacted [ ] and requested a meeting to discuss placement. [P-064] They met informally mid-February. Although [ ] learned at that time that Student would not be returning to [ ], his firm perception from Parents was that Student required a higher level of care due to a non-academic mental health crisis. [Tr. 1188; Testimony of [ ].] Moreover, because previously Parents had expressed Student was not ready to transition to [SAU], the current mental health circumstances they shared with [ ] did not comport with a belief Student was ready to transition at that point, either. “Her (Student’s) clinical needs were overriding everything else and that that (sic) was -- that was the primary objective with regard to the temporary placement she was in.” [Tr. 1190; Testimony of [ ].] Having not been provided discharge reports from [ ] or [ ], and based upon the mental health crisis information Parents shared, [ ] informed Parents of Maine approved day treatment programs and temporary residential treatment programs that could handle Student’s personal therapeutic needs. [Tr. 1189]

Additionally, [ ] testified that Parents did not discuss placement at [ ] with him; he was apprised about it after the decision had already been made. [Tr. 1191] He also learned that a consultant was assisting Parents with making placement decisions. *Id.*

Parents’ argument that [SAU] did not convene an IEP Team meeting after Student finally left [ ] is hard to justify considering Student has unfortunately never remained in one place for very long. This includes the quick transfer from her second [ ] experience to her enrollment at [ ] which would be the specific time period at issue here. In fact, Student had been unilaterally placed by Parents in seven different residential facilities in the last five years, five of these placements having occurred since arriving at the [SAU] in 2022. Parents’ argument implies that if [SAU] had conducted an IEP Team meeting upon permanent discharge from [ ], the Team would have created an IEP recommending private placement for Student’s emotional, mental health issues. However, as [ ] testified, Parents’ biggest concerns discussed at the February meeting were

those surrounding Student's self-harm and sexualized behavior. [Tr. 1190] The Hearing Officer finds that Student's clearly personal crisis concerns reported by Parents did not require convening an IEP Team meeting.

Lastly, paragraph two of the Agreement between [SAU] and Parents states:

"If there is a due process dispute about the IEP and placement proposed by [SAU] upon the Student's departure from [ ], the IEP and placement proposed by [SAU] shall be the Student's stay put placement during the pendency of that dispute, rather than [ ] or any IEP or placement proposed by the Parents."

[P-240]

The spirit and express intent of this statement tells the Hearing Officer that any subsequent challenges to an IEP or its process would require Student to be placed at [SAU] and receive the services as outlined in the IEP prepared for her in October, 2022. That IEP was an appropriate plan developed with parental input using Student's [ ] IEP (that was in effect) as a basis. Its provisions allowed for revision once Student transitioned to [SAU] and became personally known to staff.

For all the reasons stated above, the Hearing Officer finds that [SAU] met its obligations under IDEA to provide Student a free, appropriate, public education from February, 2023 through August, 2023.

**Issue 2: Did [SAU] meet its obligations under IDEA to offer Student an appropriate IEP and placement for the 2023-2024 school year?**

The IEP is "a written document detailing the student's current educational level, the short-term and long-term goals of the educational plan, the specific services to be offered (including transition services), and a set of objective criteria for subsequent evaluation. *Lenn v. Portland Sch. Comm.*, 998 F.2d 1083, 1086 (1993). Moreover, "the critical inquiry in a case of this genre is whether a proposed IEP is adequate and appropriate for a particular child at a given point in time." *Lenn*, citing *Burlington v. Dep't. of Educ.*, 736 F.2d 773,788 (1<sup>st</sup> Cir. 1984), *aff'd*, 471 U.S.359 (1985) (internal quotation marks omitted). The standard of IEP adequacy and appropriateness was established by the

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On May 23, 2023, Parents emailed [ ] stating that Student expected to finish 10<sup>th</sup> grade at [ ] mid-August, and they intended for Student to attend [SAU] in the fall for grade 11 (the 2023-2024 school year). [P-070] An IEP Team meeting was held on June 12. In attendance were: Parents, [ ], special education teacher and case manager; [ ]; [ ], school social worker; [ ], regular education science teacher; [ ], school counselor; [ ], Assistant Principal. [S-239] By way of introducing staff to Student in anticipation of Student’s arrival at [SAU], Parents stated, “She has emotional disturbance, but she’s *not a behavioral challenge in school*. She doesn’t have learning issues and *can do academics with support*. (Student) has issues with attachment and hypersexualization. She had extreme trauma as a child in terms of sexual and physical abuse.” [S-237] (Emphasis added.)

The Written Notice memorializing the June 12 IEP Team meeting is very detailed. [S-236 through 239] Staff and Parents discussed how to meet Student’s need for supervision during unstructured times, access adult support to complete work and extra time to do so, preliminary selection of appropriate classes, and provision of social work services. *Id.* Parents suggested Art as an

elective being that was a favorite interest of Student's. *Id.* Parents also liked the idea of Student having to work toward the free periods that are offered to juniors who achieve the criteria set by [SAU] and who have parental permission. *Id.* The Team then modified the IEP from the previous fall. Student would have a 1:1 ed tech with her throughout the day to monitor unstructured times and transitions between classes, with the ed tech attempting to remain as unobtrusive as possible. *Id.* Student would have access to the Learning Center. [S-238] Student remained eligible for special education services under the category of emotional disturbance. [S-222] The IEP reflected direct instruction for math, executive functioning, and social work goals. [S-229 through 233] Classroom (regular and special educational) accommodations were listed as was access to adult support provided throughout the school day. [S-230, 231] A tour of [SAU] was planned for June while Student was on a home visit from [ ] for her to become familiar with the school and to introduce her to [ ], [ ], and [ ]. [S-238] Parents were pleased with the meeting and the efforts of [SAU], and agreed with the IEP. [S-238] Lastly, [ ] testified there was no agreement for [SAU] to reimburse Parents for any private placements beyond [ ]. [Tr. 1203; Testimony of [ ]; P-240]

At hearing, however, Parents retroactively questioned the reduction in social work service minutes from 75 minutes per week (mpw) to 60 mpw in the June IEP to which they agreed. Parents' assertion was premised upon Student's transition from a therapeutic residential school, suggesting more mpw of social work services were warranted to address Student's needs to self-regulate, be safe, and to establish and maintain healthy boundaries in relationships. As [ ] stated at the June 12 IEP Team meeting, school social work services are available to all students with or without an IEP and regardless of the number of minutes on an IEP. [S-238] [ ] also testified that the 60 mpw on the IEP was a minimum amount of service, not the maximum that she would see Student. [Tr. 903] "Students can see me more often than that depending on need or want and so my door was always open to (Student) to come in as she wanted and she would come in..." *Id.* [Testimony of [ ]] Prescribing mpw on

the IEP was a “nuanced decision” considering the Student’s other adult support systems within the school and not wanting to take too much time away from Student’s academic classes. [Tr. 902; Testimony of [ ]] Indirect social work services also included [ ]’s consultations with school staff (*e.g.*, regarding various coping skills students use to regulate their emotions and behaviors). [Tr. 887; Testimony of [ ]] Further, the sending therapeutic residential school, [ ], recommended Student participate in an *intensive outpatient* therapy program (IOP) for her specific mental health needs upon discharge. [Tr. 84-85; Testimony of Mother; P-243 through 246] The point being, Student would receive school social work services appropriate to her individual circumstances, but intensive outside therapy was likewise necessary for successful transitions to public school and at home.

At hearing, Parents also questioned [ ]’s communications with her counterparts at the other schools where Student had been placed prior to [ ]. [Tr. 976, 977] [ ] stated she reviewed the previous schools’ records that were released to [SAU]. [Tr. 977; Testimony of [ ]] In anticipation of Student’s transition to [SAU] from [ ], [ ] had a zoom videoconference with the [ ] therapist and Student. [Tr. 895 through 900] The conference with Student was approximately 20 minutes in length. [ ] and the [ ] therapist then conferred privately about the therapy model being used with Student at [ ], past cutting behaviors, history of fixation on fast-developing relationships, triggers to dysregulation, and strategies for self-regulation. *Id.*

For all of the above reasons, the Hearing Officer finds the June 12, 2023 IEP developed by the Team and placement at [SAU] was reasonably calculated to enable Student to receive educational benefit and make appropriate progress in light of Student’s circumstances during the 2023-2024 school year. In fact, having listened to the testimony of [SAU] witnesses, the Hearing Officer was impressed with the level of planning, support, and implementation the professionals described. The Hearing Officer believes Student was offered better than a minimum plan for the 2023-2024 school year.

Student entered [SAU] that September, 2023. [ ] ensured that the supports designated in the IEP were in place. [Tr. 756] Student had three very experienced ed techs rotating with her throughout the day. [Tr. 757] Although initially unhappy with an ed tech accompanying her, Student accepted the safety measure and in actuality developed a good relationship with one of the ed techs, [ ], who was the first to meet her each morning. [Tr. 912; Testimony of [ ]] [ ] was specifically assigned for Student because she had prior experience at a residential girls' group home where she worked with girls presenting with similar social-emotional issues. [Tr. 1029; Testimony of [ ]] Student also developed a strong connection with [ ] and enjoyed interacting with other students in the Learning Center. *Id.* Initially Student ate lunch with [ ] in the social worker's office, but then transitioned to having lunch with a senior girl "lunch buddy" arranged by [ ]. [Tr. 910, 911; Testimony of [ ]] Student joined Jewelry Club. [Tr. 98, 766, 914; Testimonies of Mother, [ ], [ ]] Additionally, [ ] saw Student for her individual therapy sessions in school. [Tr. 909; Testimony of [ ]] Parents requested informal monthly "check-ins", so [ ], [ ], and Student met with them to discuss status, progress, or concerns. [Tr. 772, 925; Testimonies of [ ], [ ]] Overall, Student was transitioning well. Student was observed forming new friendships; she initiated communication and engaged in group work; she participated in class and did the academic work as reported by her teachers. [Tr. 768, 769; Testimony of [ ]]

Student's annual review IEP meeting, due in October, 2023, was timely held on October 18. Student continued to remain eligible for services under the category of emotional disturbance. [S-265] Those attending were: Parents, [ ], [ ], [ ] (regular education history teacher), B. Staples (regular education algebra teacher), [ ] (regular education English teacher), [ ] (Asst. Principal). [S-264] Teacher reports were positive, both academically and socially. The proposed goals for executive functioning were discussed; the Team agreed to 150 mpw direct instruction for same. [S-259 through 277] [ ] stated Student's goal for social work services was to

identify when she is experiencing a trauma response and then to rationally work through it. [ ] also shared that there were no behavioral or sexualized incidents at school to report, nor were there any incidents of self-harm. [Tr. 945; Testimony of [ ]] [ ] testified likewise (albeit not at the meeting).[Tr. 803; Testimony of [ ]] The Team agreed to 45 mpw for social work services. Accommodations and a post-high school transition plan were addressed. [S-260 through 263]

At this annual review meeting, Parents stated [SAU] had provided “great supports” and found the IEP goals appropriate. They were in total agreement with the proposed IEP. [S-262, P-122] The duration of this IEP and placement was October 19, 2023 through October 18, 2024. [S-265] Conclusively, [SAU] again offered Student a free, appropriate, public education (FAPE) for the 2023-2024 school year by tailoring an IEP to her needs meeting, if not exceeding, the standards set in *Rowley* and *Endrew F.*

Notwithstanding, a series of events and private placements by Parents followed throughout that 2023-2024 school year. Student had become interested in a particular boy at school, and consistent with her reactive attachment disorder, she was somewhat fixated on his interest in her, or lack thereof. [Tr. 927; Testimony of [ ]] Notably, however, Student used her therapy time with [ ] positively to discuss the situation. [Tr. 928; Testimony of [ ] testified that Student was not overly distressed, and certainly not any more so than any other teenager experiencing the same “romantic” feelings. Student was able to focus on the rest of her school demands. *Id.*

On the other hand, Parents were concerned that this would resurrect previous sexual indiscriminate behaviors. [Tr. 929, 931, 689, 690; Testimonies of [ ], Father] At the same time, Mother reported other issues occurring at home such as Student’s reactions to limitations on screen/phone time, her attitude and tone, and fighting. [Tr. 930; Testimony of [ ]] Reportedly Student was not fully participating in the IOP Art of Awareness program (the intensive outpatient therapy). [ ] affirmed with Parents the importance of the outpatient treatment program and



recommended case management and individual therapies. *Id.* In a conversation at a later date, Mother informed [ ] that Student had slapped her sister, punched a hole in the wall at home, and attempted to pick fights with the family. [Tr. 938, 939; Testimony of [ ]] In her testimony, [ ] indicated several potential reasons for Student to behave this way, namely, testing the family dynamics, testing the limits of one's power within the family, *etc.* [Tr. 939] Unfortunately, at this point Student was no longer participating in the IOP therapeutic program. [Tr. 940; Testimony of [ ]] again emphasized the need for Student to have outpatient support. [Tr. 941; Testimony of [ ]] Mother reported having a [ ] case manager and was looking for a therapist. *Id.* [Tr. 561; Testimony of Mother; Tr. S-K-21] Mother also acknowledged that [ ] recommended home-based services and family therapy. [Tr. 562; Testimony of Mother; Tr. S-K 17, 19] Student began individual therapy with [ ], a licensed professional counselor, on October 10, 2023. [Tr. 256; Testimony of [ ]]

Late in October, the school body was devastated by the mass shooting in [ ]. For some students, especially those with anxiety disorders, the incident triggered fears of school shootings. [Tr. 953; Testimony of [ ]] Within a few days after that, Student's closest friend died by suicide. Unfortunately, Student and her friend recently had a falling out, and it was unknown if they had reconciled before the suicide. [Tr. 954; Testimony of [ ]] School staff were in full emergency crisis mode planning and then into supporting students through the crisis. [ ] contacted Parents and arranged for Father and Student to meet with her and [ ] at which time Student would be told supportively of her friend's death. [Tr. 956; Testimony of [ ]] To Student's credit, as she processed the loss, she took the initiative to create a memory book about her friend. [Tr. 957; Testimony of [ ]]

[ ], [ ], Student, and Parents met on November 6 for the monthly check-in meeting, Parents were concerned Student was skipping or leaving some classes. [P-131; Tr. 363; Testimony of

Mother] [ ] testified that Student attended school regularly, but sometimes would get her class work and take it to either the Learning Center or the ed techs' room to work. In her experience, that was not unusual for students with emotional disabilities. [Tr. 800 through 803, 860 through 862; Testimony of [ ] coordinated with the classroom teachers, ensuring Student was in class for priority work. She moved toward engaging Student back to class for the entire period. [P-131; Tr. 800 through 803; Testimony of [ ]] [ ]'s perspective was that Student was using the accommodations and adult support appropriately to maintain her emotional regulation, especially in light of her closest friend's recent death and the [ ] shooting. [Tr. 959, 960; Testimony of [ ]] She confirmed the practice stated by [ ] whereby students "go to an alternative space to get their work done. That's why that accommodation exists." *Id.* In Student's case, she was accountable to all adults, asked permission, got her work, went to an approved alternative space, turned her work in, and went about the rest of her school day. *Id.* Student was not cutting classes *per se*. Notably, at this same November 6 check-in meeting, Student expressed being unhappy at school. [P-131; Tr. 365, 788; Testimonies of Mother, [ ]] Notwithstanding, Student was coping and functioning in school with the supports and accommodations she was receiving. [Tr. 545 through 547, 768; Testimonies of Mother, [ ]]

At home, Student's behaviors were not so ideal. After the first day of school in September, Student was very upset about the ed tech being in her presence during the school day. [Tr. 325 through 328; Testimony of Mother] She smashed a thick glass on the ground. Despite Mother's attempt at de-escalation, and unbeknownst to Mother, Student took a piece of glass, removed herself from the room, and at some point cut herself superficially. *Id.* Later that evening, Mother discovered Student had cut herself when she found Student putting band-aids on her cuts. *Id.*

On October 9, Student and her siblings were argumentative with each other. Student yelled, used foul language, and gave her brother the finger. [Tr. 343; Testimony of Mother] Parents imposed

consequences of loss of phone privileges for two days. *Id.* [P-116] Student proceeded to break glasses, continued yelling, threatened to kill herself, and wanted to call the police.[Tr. 343, 344; Testimony of Mother] Student was taken to the hospital, treated, and released. *Id.* The Emergency Room doctors and hospital social worker believed Student was not suicidal or homicidal, but was reacting to her phone being taken away. [Tr.584; S-B-42] Parents concurred. [P-116] Student went to school the next day without incident. [Tr. 344; Testimony of Mother] Student accepted the consequence. [P-116] Notably, Student was not receiving any outpatient private therapy at the time. She was not attending the IOP therapy program and had not yet started seeing [ ] although she was scheduled for a session the next day. [Tr. 344; Testimony of Mother]

Late October, 2023, there was a situation where Student’s younger brother was removed from his school for certain behavior he displayed. [Tr. 353 through 356; Testimony of Mother] Somehow, because brother has a diagnosis of PTSD (as does Student), the brother’s behavior was attributed to Student and the stress she brought into the home. *Id.* [S-H-216] Notably, the family was not engaged in family therapy – all six family members as a unit – nor have they been at any time within the last five years but for three times at [ ]. [Tr.450, 451; Testimony of Mother] Nor have Parents been in therapy with Student at any time since she arrived home from [ ]. [Tr. 581, 582; Testimony of Mother]

Yet, on October 24, Parents emailed [ ] and consultant [ ] that they were interested in finding a different placement for Student. [S-H-216] Oddly, that same date, Parents emailed the Director of Special Services, [ ], complimenting [SAU] on providing Student and her sister “...an incredibly supportive environment in which they are feeling successful,...” [S-A-663] Then, on November 8, Mother also asked the [ ] case manager about a different placement option. [ ] recommended a meeting to discuss Student’s needs. [S-K-27] That meeting apparently never occurred. [Tr. 570, 571; Testimony of Mother] Moreover, to that date, no home-

based behavioral services with trained behavioral health professionals occurred as previously recommended by [ ]. [Tr. 561 through 565; Testimony of Mother]

Over the November 11 – 12 weekend, Student became upset when neighborhood kids called her fat. Without informing her Parents, she took a walk to a neighbor's home which was outside the boundaries set by Parents. Parents called her home; she was able to regulate herself in her chosen de-escalation space and later that evening enjoyed pizza and a movie with the family. [Testimony of Mother] Student again walked outside the boundaries to the neighbor's home the next day. This led to another phone restriction consequence. *Id.* Student erupted emotionally and requested she be taken to the hospital at which time Student indicated she had been skipping some of her medications. [P-135]

Student attended school on November 14 and informed [ ] her parents were talking about sending her to a wilderness camp. [Tr. 963; Testimony of [ ] contacted Father, primarily to set up a re-entry meeting following Student's overnight hospitalization. She also asked him to verify Student's statements about going to a wilderness camp. [Tr. 963 through 964; Testimony of [ ]] Father stated Parents were looking into it. *Id.* Later that same day, Parents emailed [ ] informing her it was, in fact, Student's last day at [SAU]; she was starting at a wilderness program the next day. *Id.*

On November 15, Student was unilaterally placed by Parents at [ ] therapeutic wilderness ( ) in Georgia. Despite having "therapeutic" in its business name, all testimony presented by both parties describing [ ]'s therapeutic components sounded remarkably on par with "boot camp", *e.g.*, carrying heavy backpacks in the wilderness, sleeping outside under tarps during the winter months. Nonetheless, Student remained at [ ] through mid-February, 2024 after a mere two months experience at [SAU]. Likewise, it should be noted those approximately two months during the fall of 2023 were Student's first time back living in the family home since June, 2020 (the time she was first unilaterally placed at [ ] wilderness in Utah at the age of 13). [Tr. 45 through

48; Testimony of Mother]

While Student was at [ ], her absence from [SAU] was understood to be a medical leave pursuant to an email from Parents; Student was expected to return. [S-A- 768; Tr. 373, 1226; Testimonies of Mother, [ ]] Thus, the [SAU] IEP for 2023-2024 remained appropriate for Student's educational needs despite this move to [ ], the result of conflicts in the family home.

Parents emailed [ ] about six weeks later on January 2, 2024 informing him Student was nearing the end of the [ ] wilderness program. [S-A-796; Testimony of [ ]] In anticipation of Student's return to [SAU], [ ] believed [SAU] should conduct its own evaluation of Student because [SAU] had not had the opportunity to do so previously and because Student was returning from a private placement. [S-A-798; Tr. 1234; Testimony of [ ]] [ ]'s intent was to obtain as much clinical information as possible for consideration by the IEP Team in making future placement decisions for Student. *Id.* [ ] offered to fly [ ] Ph.D. (Dr. [ ]), [SAU]'s licensed clinical psychologist and certified school psychologist, from Maine to Georgia to conduct the evaluation on site at [ ] at no cost to Parents. Parents gave consent for the evaluation. *Id.*

Prior to evaluating Student, Dr. [ ] communicated with Parents and staff at [ ]. [Tr. 1052, 1053; Testimony of Dr. [ ]] She reviewed the records [SAU] had in Student's file, including the prior 2017 psycho-educational evaluation from [ ] and the 2020 psychological evaluation by [ ], Ph.D. which was completed for [ ] wilderness. [Tr. 1051, 1054; Testimony of [ ]; Evaluations: S-1through 24; S-25 through 42]

Dr. [ ] evaluated Student at [ ] on January 29, 2024. [Tr. 1050; Testimony of Dr. [ ]; S-311] Student presented as cooperative and engaged; she demonstrated good stamina and attention. [Tr. 1056; Testimony of Dr. [ ]] Student was not confident in her abilities; she had low self-esteem. [Tr. 1083; Testimony of Dr. [ ]] As part of Student's interview, Student shared she wanted to go home. [Tr. 1062; Testimony of Dr. [ ]] Student worried why she was at [ ]

longer than the typical stay and why she had not been discharged like the other students. *Id.*

To complete the evaluation, Dr. [ ] asked for [ ] staff to fill out two rating scales integral to her assessment, the BRIEF and the BASC. [Tr. 1057; Testimony of Dr. [SAU]] The BRIEF rates executive functioning skills; the BASC rates the social/emotional domain. *Id.* Dr. [ ] was told it was against school policy for staff to complete the BRIEF ratings. [Tr. 1057, 1058; Testimony of Dr. [ ]] Reportedly the only person who may have been allowed to complete these assessments was [ ], [ ]’s social worker, but she was on vacation. *Id.* However, in Dr. [ ]’s interview with her, [ ] told Dr. [ ] Student “had a good ability to adjust her behavior depending on the setting *but because of that history of seizing control of her family...*” [S-315; Tr. 1103; Testimony of Dr. [ ]] (Emphasis added.) [ ] also stated that if Student attended the local Georgia school district, she would not appear atypical to her peer group. [Tr. 1103; Testimony of Dr. [ ]]

[SAU] conducted an IEP Team meeting on February 9, 2024 to discuss Dr. [ ]’s evaluation and placement upon Student’s return from [ ]. [S-333, 334; Testimony of [ ]] IEP Team members in attendance were: Parents, [ ], [ ], [ ], [ ] (regular ed teacher), Dr. [ ], [ ] (assistant principal). In addition, [ ] (Parents’ educational consultant) attended. [S-340] Student was still at [ ].

Dr. [ ]’s evaluation revealed consistently average cognitive abilities across all areas which comports with previous evaluations. [S-311 through 332; Tr. 1063 ; Testimony of Dr. [ ]] Math was a relative challenge for Student; however, testing did not indicate it rose to the level of a learning disability. [Tr. 1063; Testimony of Dr. [ ]] Dr. [ ]’s evaluation details her interviews with [ ] (Student’s former therapist) and [ ] (the [ ] social worker/therapist). [S -314, 315] [ ]’s work focused on Student’s interpersonal struggles at home, mentioning Student felt targeted by family members. [S-314] [ ] reported no aggressive or risky behaviors, much less

suicidal ideation, occurred while Student was at [ ]. [S-315] Dr. [ ] confirmed same during her clinical interview with Student. [S-319] Dr. [ ]'s evaluation cites the following diagnoses: generalized anxiety disorder and persistent depressive disorder. It lists diagnoses previously reported: other specified trauma and stress-related disorder, reactive attachment disorder, ADHD predominantly inattentive type. [S-326] Dr. [ ] testified her evaluation showed the following three main diagnoses: generalized anxiety disorder, persistent depressive disorder, and other specified trauma. [Tr. 1126]

The Written Notice of the February 9, 2024 IEP Team meeting reflects Team members' discussion of Student's performance at [SAU] the prior fall term before being sent to [ ] in November. [S-333 through 340] Consultant [ ]'s comments at the meeting were memorialized as follows:

"[H]e's never heard of a school flying someone down to test so that was great. The struggle Student had wasn't in school. She had great services, and the school did all they said they would do. The trouble would be when Student went home and exploded. He feels the school is doing great. It's Student's home response."

[S-338]

At the meeting, Parents stated their belief that "Student can make progress in school. The difficulty is how she lives at home." *Id.* The IEP Team continued Student's eligibility for special education under the category of emotional disturbance. [S-333 through 340] Further, they determined [SAU] could again support Student in accessing her education at [SAU] once she left [ ]. *Id.* The IEP Team was confident it could provide Student an appropriate education in the least restrictive environment (*i.e.*, at [SAU]). *Id.* [Tr. 971, 1237; Testimonies of [ ], [ ]]

Despite Father stating at the meeting he had no disagreement with the recommendation, Parents asked if they should request mediation. [S-339] The Written Notice documents there was uncertainty if Student would, in fact, return to [SAU] because Parents stated their concern about safety in their home. *Id.* [ ] testified Parents disagreed with the Team plan only to the extent Father expressed interest in finding a group home nearby in which Student could reside but still attend [SAU]. *Id.* [Tr.

1238, 1239; Testimony of [ ] Dr. [ ] likewise testified Father was interested in placement outside the home but where Student could still attend [SAU]. [S-338; Tr. 1123; Testimony of Dr. [ ] [ ] provided Parents with the Procedural Safeguards. [S-339; Tr. 1238, 1239; Testimony of [ ]]

Within 10 days, February 19, 2024, Student was unilaterally placed by Parents at [ ] in Connecticut. [S-A-903] It was on March 12, 2024, a month after the IEP Team meeting and approximately three weeks after Student was already at [ ], that [SAU]'s [ ] received an email from Parents informing him of Parent's placement. *Id.* [Tr. 1240; Testimony of [ ]] Placement at [ ], or any private residential school, had not been discussed with [SAU], nor had Parents inquired as to whether [ ] was Maine-approved to provide special education. *Id.*

It was not until four months later, on June 13, that Parents submitted an addendum they requested to be added to the February 9 meeting's Written Notice. [S-341] The addendum asserts Parents were not aware of parents' responsibilities in pursuing their rights as written in the Procedural Safeguards they received. *Id.* They assert it was [ ]'s responsibility to provide a detailed explanation of their procedural responsibilities. *Id.* The Hearing Officer is not so persuaded. Parents are both well-educated and well-spoken. They are not strangers to the world of special education regarding their children. Moreover, instead of reading the Procedural Safeguards (written *for* parents), Parents started working with their educational consultant immediately after the February 9 IEP meeting, submitted all the necessary paperwork to [ ], and were notified of Student's acceptance by February 14. *Id.* The Hearing Officer finds Parents' argument that [ ] was obligated to fully explain their responsibilities in the Procedural Safeguards unmeritorious.

The addendum also emphasized Parents' belief that Student's behavior at home was the direct result of her attachment challenges and a result of her anxiety and peer relationships at school. *Id.*



Hence, Parents asserted Student's social-emotional needs were greater than that for which [SAU] could provide. *Id.* They asserted Student's behavior at home was a spillover from school and it precluded her from living at home. Parents concluded she required a residential placement. *Id.* At hearing, Father stated, "[Y]ou can't separate school and home. A person is a person." [Tr.712; Testimony of Father] The implication being, Student required a residential school placement to address her social-emotional issues. In consideration thereof...

"Section 1401(16)... and Section 1401(18)... require that all of a child's special needs must be addressed in the educational plan. The objective of the federal floor, then, is the achievement of effective results -- demonstrable improvement in the educational and personal skills identified as special needs -- as a consequence of implementing the proposed IEP."

*Burlington v. Department of Educ.*, 736 F.2d 773, 788 (1<sup>st</sup> Cir. 1984), *aff'd*, 471 U.S.359 (1985); 20 U.S.C. §§ 1401(16), 1401 (18).

Further, a student's special needs can be academic, physical, emotional, or social; academic progress is not the sole criterion for measuring educational benefit. *See Roland M. v. Concord Sch. Comm.*, 910 F.2d 983, 987 (1<sup>st</sup> Cir. 1990) (as referenced in *Lenn* at 1089). *Accord, Mr. I. v. Me. Sch. Admin. Dist. No. 55*, 480 F.3d 1, 12 (1<sup>st</sup> Dist. 2007). "The relevant question, however, is whether (student) had to attend a residential facility because of his educational needs – because, for example, (student) would have been incapable of learning in a less structured environment – or rather, if (student) required residential placement to treat medical or mental health needs segregable from (student's) educational needs." *Munir v. Pottsville Area Sch. Dist.*, 723 F.3d 423, 433 (3d Cir. 2013) (citing *Mary T. v. Sch. Dist. of Phila.*, 575 F.3d 235, 243 (3d Cir. 2009). "Analysis must focus...on whether full-time placement may be considered necessary for educational purposes, or whether the residential placement is a response to medical, social or emotional problems that are segregable from the learning process." *Kruelle v. New Castle Cty. Sch. Dist.*, 642 F.2d 687, 693 (3d Cir. 1981). Therefore, Parents' challenge to [SAU]'s placement decision at the February 9, 2024 IEP meeting must prove Student's educational and social-emotional needs are not segregable. They must prove Student was incapable of learning in a

less restrictive environment due to her social-emotional issues thereby requiring residential placement.

As described *supra*, Student functioned well at [SAU] with the adult supports and the class accommodations provided her. [Tr. 818, 1015; Testimonies of [ ], [ ]] She interacted with other students in class; she enjoyed lunch with a lunch buddy and others in the Learning Center. *Id.* She joined Jewelry Club. She danced with friends at the Homecoming dance. *Id.* Teacher reports were good, and grades were average or better. Student did not demonstrate risky, hypersexualized, self-harming, or violent behaviors at [SAU] during the two months she attended. [Tr. 803; Testimony of [ ]] She was developing friendships and becoming more cognizant of appropriate boundaries. Her social-emotional needs at school were addressed and implemented pursuant to her IEP. Student was making meaningful, effective progress appropriate to her circumstances while being educated in the least restrictive environment (LRE).

In assessing whether the IEP(s) developed by [SAU] were appropriate, it should also be noted that [SAU]'s witnesses were very credible in their knowledge of Student. Perhaps more importantly, their professional expertise revealed itself through each witness's testimony, adding credibility to each one's ability to understand and serve the needs of Student. Briefly, [ ], Student's special education teacher and case manager, holds the following credentials - a bachelor's degree in special education with a specialty in emotional disturbance and a master's in literacy education. [ ] has 26 years experience at [SAU]. [Tr. 746,747]

[ ] is a licensed clinical school social worker with advanced training in trauma informed cognitive behavior therapy and training in treatment for students with anxiety and OCD ("space training"). [ Tr. 885 through 888] [ ] has 7 years experience working as a hospital-based social worker at Maine Medical Partners Pediatric Specialty Care [Tr. 1004, 1023] and 8 years experience as the school social worker at [SAU]. [Tr. 886]

[SAU] is fortunate to have Dr. [ ] on staff. She has exemplary professional training and

credentials obtained from top-notch institutions, including a post-doctoral fellowship. [Tr. 1046 through 1048] Dr. [ ]’s training and expertise does not limit her practice to psycho-educational testing typical of most school psychologists. Her clinical license, and knowledge for same, allows her to practice clinical psychology in any employment setting. *Id.* Relevant to Student in the instant case, Dr. [ ] is experienced in mental and behavioral health as well as social-emotional disabilities including anxiety, depression, *etc.* *Id.* She has worked in the [SAU] system since 2006. *Id.* [ ]’s professional background includes a master’s degree in educational leadership with a concentration in special education and Maine certifications for Director of Special Education and Superintendent of Schools. [Tr. 1210] Initially he worked as a school behavior specialist and court liaison between the school and juveniles in the justice system. [Tr. 1211] [ ] then became a Director of Special Education; he has moved to different districts over the years to advance his goals. [Tr. 1211, 1212] In sum, he has been in education for 21 years with the last 18 as a Director of Special Education, the last two at [SAU]. [Tr. 1212]

As the (former) Director of Special Services, [ ] maintained attentive communications with parents as they sought Student’s transition to [SAU]. His comment to Parents rang with sincerity and believability when he said, “[N]o students slip through the cracks at [SAU] because it’s a pretty tight structure.” [Tr. 1181; Testimony of [ ]]

Parents have not proven by a preponderance of the evidence that Student’s behaviors at home were primarily caused by her anxiety over in-school experiences. Nor has her discord with the family been proven to be attributable to a lack of sustained friendships at school (as a result of her reactive attachment disorder). Neither her childhood trauma nor Student’s other social-emotional issues prevented her from learning and developing socially at [SAU].

Further, Parents have not proven that Student’s diagnosed social-emotional issues, as manifested within the family unit, have ever been addressed as recommended by professionals over the years. The

psychological evaluation by [ ], Ph.D. in 2020 recommended family therapy for Student, her parents, and younger siblings. [S-41] “This family will benefit by continuing to work toward improving communication skills involving active listening, problem solving, and conflict resolution techniques.” [S-41, 42] The family did not engage in family therapy. [Tr. 446 through 451; Testimony of Mother]

In May, 2021, upon discharge from [ ], a residential treatment school, the recommendations included weekly individual therapy for Student and family therapy for Student’s transition home. [S-B-21, 22] Student did not go home; she was placed at [ ]. The family did not engage in family therapy while Student was at [ ] or [ ]. [Tr. 449; Testimony of Mother]

[ ] LCSW ([ ] therapist) had recommended individual and family therapy, specifically stating, “Family therapy should also be a major component in her continued treatment. Improving her communication skills with her family is a focus.” [S-D-296]

While Student attended [ ] after [ ] in 2023, the family participated in family therapy three times. These were the only family therapy sessions within the previous five years. [Tr. 451; Testimony of Mother]

When Parents engaged [ ] case management services back on September 25, 2023, [ ] presented home-based multisystemic therapy and family therapy to Mother. [S-K-17] Home-based family therapy was recommended again by [ ] on September 28 and again on October 2, 2023. [S-K-19, 21] Rather than pursue that recommendation, Mother decided Student should have individual therapy. [S-K-21; Tr. 561 through 565; Testimony of Mother]

That is when Parents found [ ] to provide individual therapy, whose therapeutic approach was to see Student individually until Student was ready for family therapy. [Tr. 303; Testimony of [ ]] [ ] met with Student ten times. [S-J-3, 4, 8, 9, 10, 11, 13, 14, 16, 17] However, [ ]’s understanding of Student’s needs in therapy was based upon parent information only; no

prior therapeutic records, clinical evaluations, or diagnostic assessments had been provided by Parents. [Tr. 287, 296; Testimony of [ ]] For Student transitioning back into her home after three years of private placements, this approach was apparently too little, too late. Family therapy had already been recommended to Parents multiple times. Moreover, [ ]’s approach apparently did not work; Student was abruptly sent to [ ] wilderness by Parents. Lastly, there was a direct contrast in professional opinions regarding Student’s readiness to participate in family therapy. [ ] opined differently.

When Student attended [SAU], she shared with [ ] that “[I]t was really hard at home getting along with her family and she often felt singled out or isolated.” [Tr. 933; Testimony of [ ]] Student shared she felt like the scapegoat for things that went wrong at home. [Tr. 1031; Testimony of [ ]] [ ]’s professional opinion was Student understood the therapeutic process and therapeutic jargon due to her participation in numerous programs, and as a result, was able to handle family therapy. [Tr. 969; Testimony of [ ]]

Continuing chronologically, there was no family therapy while Student was a [ ] wilderness, although Mother testified that program did not accommodate family therapy. [Tr. 447; Testimony of Mother] However, it was the [ ] social worker/therapist, [ ], who reported to Dr. [ ] that Student “had a good ability to adjust her behavior depending on the setting but because of that history of seizing control of her family...” [S-315; Tr. 1103; Testimony of Dr. [ ]] Another indicator that family therapy, as recommended several times, would positively affect Student’s adjustment into the family home where she had only lived for approximately two and a half months within the previous three years (now five to date).

Similarly, at the February 9, 2024 IEP meeting, Dr. [ ] recommended assertive community treatment (ACT), an evidence-based treatment model that provides intensive, integrated, wraparound services of individual and family support, psychiatric care, vocational services, *etc.* [Tr. 1123 through

1127; Testimony of Dr. [ ]; S-339] This program would allow Student to attend [SAU]; the obstacle for Parents was Student would live at home. *Id.* Dr. [ ] testified family therapy was warranted “given the concerns at home and the home environment and with the family functioning, that family therapy, either functional family therapy or another form of family therapy, would be indicated...” [Tr. 1127, 1161] She also made the distinction between goals for social work therapy in school versus therapy for what happens outside of school.

“So within the school it’s really to support a student to access their education to be able to learn, not to address the full clinical picture of her trauma and attachment-based disorder, but really to help her deal with those within the school context so she could learn, attend, set aside negative attributions or anxious thoughts and be able to form relationships, enjoy friendships, socialize, and learn successfully.”

[Tr. 1128; Testimony of Dr. [ ]]

[ ] likewise described the scope of the school social worker’s practice. [Tr. 904, 905] The social worker’s role “is to help kids use those – identify their emotions, feelings, and when they need to regulate and then strategies that work for them in the environment that they’re in so that they can access their education.” *Id.* [ ] testified there were several potential reasons for Student to behave differently at home than at school, namely, testing the family dynamics or testing the limits of one’s power within the family. [Tr. 939] Mother’s testimony comports with [ ]’s statement: “Almost like she was testing what we would do and that we needed to stay the course...but she was sort of like testing to see what would happen.” [Tr. 335; Testimony of Mother]

At hearing, Mother was asked if the family was currently in therapy while Student attended [ ]. [Tr. 450] She stated, “We haven’t started that yet.” *Id.* [Testimony of Mother] Mother stated numerous times throughout her testimony, “That was the plan,” and “It was on our radar,” but the plans for family therapy never came to fruition. Student was merely sent to another private placement.

At hearing, Parents presented as sincere and heartfelt in their experiences with Student and their intentions to help her. The Hearing Officer sympathizes with the trials and turmoil their entire family

has experienced. Nonetheless, it must be difficult for Student to realize she is the only child of four not living at home. Mother testified that the Student's siblings all have PTSD, as does Student. [Tr. 339; Testimony of Mother] Two of the other children receive therapy, as does Student. [Testimony of Mother] Granted, individual differences and needs are acknowledged. However, it seems incongruous that a child with reactive attachment disorder would fare better in out-of-state placements rather than at home with consistent, intensive, family therapy. Would not Student's reactive attachment disorder become exacerbated with feelings of abandonment each and every time she is sent to another school away from home? Student realized she stayed at [ ] longer than others which created additional worry and stress. [Tr. 1062] How does such a realization assuage feelings of abandonment, much less foster the development of better self-esteem?

The clear majority of professionals who have worked with Student recognized the need for family therapy and recommended same to ensure Student's healthy transition living back home within the family unit and, to Parents' point, a safe environment for all family members. This did not occur, and family conflicts continued. However, that does not prove Student required residential placements in order to receive educational benefits in tandem with her social-emotional issues.

To the contrary, the above discussion supports a finding that Student's social-emotional needs were segregable from her learning process consistent with the court holdings in *Munir* and *Kruelle*, *supra*. As such, Student did not require private residential placement to make meaningful educational progress as defined by *Rowley* and *Endrew F.* Therefore, the Hearing Officer finds the IEPs created for Student on June 12 and October 18, 2023 and February 9, 2024 met [ ]'s obligations under IDEA to provide Student a free, appropriate, public education tailored to her individual academic and social-emotional needs for the 2023-2024 school year.

**Issue 3: Did [SAU] meet its obligations under IDEA to offer Student an appropriate IEP and placement for the 2024-2025 school year?**

The Hearing Officer restates and incorporates by reference the statutory and case citations regarding the requirements of an IEP to provide a FAPE to a special education student which are stated immediately after the Issue 1 and Issue 2 questions *supra*.

To recap, Parents unilaterally placed Student at [ ] in Connecticut in February, 2024; Student likewise began her senior year at [ ] the following fall. [SAU] conducted Student's annual and triennial review for continued eligibility of special education and placement on October 15, 2024. [S-360; Tr. 1240, 1241; Testimony of [ ]] In preparation for this conference, Dr. [ ] traveled to [ ] on October 1, 2024 to observe Student during her lunch period, jewelry-making class, and physics. [S-364, 375; Tr. 1131 through 1133; Testimony of Dr. [ ]] She observed Student transitioning between classes. [Tr. 1133; Testimony of Dr. [ ]; Report: S-446 through 450] Additionally, [ ], another [SAU] special education teacher, traveled to [ ] on October 10 to conduct academic testing; he prepared a report for the triennial review. [S-345 through 358; 364; 451 through 461]

Attending the October 15, 2024 IEP meeting were: Parents, [ ], Dr. [ ], [ ], [ ] (regular education English teacher), [ ] (Administrative Assistant for [SAU] Department of Special Education), [ ] ([ ] student advisor and academic case manager), D. Johnson ([ ] APRN), [ ], LCSW ([ ] social worker), E. Herlan (counsel for [ ]), [ ] (advocate from Parents' counsel's office). [S-362, 363] Student's performance and conduct at [ ] was presented. Graduation in August, 2025 was anticipated. Student encountered difficulty making friends at first. [ ] staff recommended continuing Student's placement at their school. [S-360 through 369] [SAU]'s updated academic testing and Dr. [ ]'s on site observations were shared. *Id.* Upon completion of the adverse effect protocol, the IEP Team agreed that Student remained eligible for special education under the category of Emotional Disability. [S-362, 375]



Academically, Student continued to perform better than average except for average grades in math and physics. [S-449] Differences of opinion arose between Parents and [SAU] around placement. [S-360 through 369] Parents wanted Student to continue at [ ], maintaining a residential placement. *Id.* Moreover, Parents stated they would be seeking reimbursement from [SAU] for expenses incurred as a result of their private placement of Student at [ ]. *Id.* As before, [SAU]'s position was Student could be educated to her benefit at [SAU]. *Id.* This meeting's proposed IEP included 150 mpw to address executive functioning goals, the addition of a math goal offering 75 mpw of service, social work services twice a week for 45 minute sessions each, and an additional social work consultation goal to ensure coordination of service efforts among staff, all to be provided at [SAU]. *Id.* The school also noted this IEP plan fulfilled IDEA's requirement to educate Student in the least restrictive environment possible. *Id.* Parents rejected the IEP and continued Student's unilateral placement at [ ]. *Id.* Mother stated [ ] was substantially different from public school. [S-367] At hearing, Mother testified regarding the differences:

“ [F]or example, she has an advisor that checks in with her daily and is aware of everything that's happening during her school day...[D]uring the school day there is a dedicated office that students can go to at any time, there's always staff available, that you can go to and they are trained to help kind of help you cope and employ coping skills to get you back to class, and (Student) definitely accessed that. She has access to the health office. She has a therapist that is on campus that she works with once a week at minimum...”

[Tr.1133; Testimony of Mother]

Regarding Parents' positive impression of Student's access to a team of adults providing support at [ ], the same access to supports were offered by [SAU] in their development of the very first IEP for Student. [ ]'s testimony *supra* stated Student had open access to her services and was not restricted to the minutes on the IEP. Moreover, Student *did* access [ ]'s support, both as scheduled and spontaneously. And, per the October 15, 2024 proposed IEP, [ ] was scheduled to see Student two times per week, not just once a week like the [ ] therapist. (Note the previous [SAU] IEPs for [ ]'s social work/therapy services also equaled or surpassed the once a week session provided by

[ ].) [ ]’s credentials cited earlier clearly show she, too, is trained to help Student cope and employ skills to get Student back to class. Notably, Parents appear to have a double standard for [SAU] and [ ]. Parents found it concerning when Student was occasionally not in class at [SAU] even though she was accessing her IEP supports. [P-131; Tr. 363; Testimony of Mother] However, apparently Parents were not concerned when Student missed class at [ ] as long as staff helped her cope and get back to class. [Tr. 1133; Testimony of Mother] [SAU] implemented the same strategy of assisting Student cope, and then get back to class. [P-131; Tr. 800 through 803; Testimony of [ ]]

Likewise, [ ] is cited *supra* stating Student had the opportunity to access her support in the Learning Center, which Student did. As case manager, [ ]’s role paralleled that of [ ]’s advisor. Further, as [ ] and [ ] testified above, they coordinated with staff to promote and implement a successful experience for Student within the total [SAU] environment.

Like [ ]’s health office, Student had access to the [SAU] Nurse’s Office which she visited on occasion. [Tr. 922, 936, 961; Testimony of [ ]]

Dr. [ ]’s report of her observations of Student at [ ] included a section of background information reported to her by [ ], [ ]’s student advisor and academic case manager. [S-449] ([ ] was not a witness called to testify at hearing by Parents.) [ ] works from a “service plan with accommodations”. *Id.* Interestingly, Student’s service plan came from her public school IEP. *Id.* It is not clear which public school IEP [ ] used. Nonetheless, logically, [SAU] was the public school integral to the development of Student’s most recent IEPs. Therefore, if [ ] was using an IEP as a basis for Student’s education, then [SAU] was capable of doing same.

On the sensitive subject of self-harm, Student engaged in two incidents of superficial self-harm while at [ ] in 2024. [S-450] [ ] stated same at the IEP meeting. [S-363] Stitches were not needed, and the positive outcome was Student reported her action shortly thereafter. [S-450] Without making light of Student’s behavior, these two incidents are not different from her superficial self-

cutting while at home in the fall of 2023 which required only band-aids to remedy the physical harm. Residential placement at [ ] does not appear to be required when the frequency and type of Student's self-harming behavior at [ ] is similar to when Student lives at home.

[ ] also reported Student's initial difficulty developing friendships at [ ]. [S-363] This was no different than Student's initial experience at [SAU]. [Testimony of [ ], [ ] *supra*] Similarly, like at [ ], Student was observed to develop friendships at [SAU]. *Id.*

Lastly, [ ] reported to Dr. [ ], and as documented in Dr. [ ]'s report, that even at [ ] Student had used social media inappropriately as it related to Student's tendency to send inappropriate pictures and "self-harm language". [S-450; Tr. 1137; Testimony of Dr. [ ]] Interestingly, *Parents* monitored that type of behavior by using an app on Student's Bark phone and then alerted [ ]. *Id.* Yet at hearing, Parents questioned [SAU]'s lack of monitoring Student's school email account. [Tr. 836, 837; Testimony of [ ]] Here again, [ ] was no more a foolproof environment ensuring Parent's concerns for Student's safety than [SAU].

These comparisons show that what [ ] was offering Student was not exceptionally different than what [SAU] offered Student but for residential housing. Additionally, because the Hearing Officer found Student's mental health at home segregable from her educational and social-emotional needs at school, residential placement was not warranted to enable Student to receive educational benefit.

Anecdotally, it is remarkable that Student has spent more time in each private placement than she has spent living at home. Meaning, Student has not been given the same amount of time to adjust to the home environment. Nor has she been afforded an equal amount of time living at home to develop, and use, strategies to control her anxiety and dysregulation in family conflicts.

In determining the appropriate placement for Student at the October 15, 2024 triennial and annual review IEP meeting, the Team determined [SAU] provided a FAPE for Student in the least restrictive environment. [S-362] The least restrictive environment (LRE) is required by IDEA. 20

U.S.C. § 1412(a)(5)(A).

“To the maximum extent appropriate, children with disabilities...are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

20 U.S.C. § 1412(a)(5)(A)

“IDEA requires that a child be educated in the least restrictive environment possible – that is, the one that provides ‘some educational benefit’ and ‘most closely approximates’ the education a disabled child would receive if she had no disability.” *Leggett v. District of Columbia*, 793 F.3d 59, 74 (D.C. Cir. 2015) (citing *Kerkam v. Superintendent, District of Columbia Public Schools*, 931 F.2d 84, 86 (D.C. Cir. 1991). “Translated into practical application, this preference signifies that a Student ‘who would make educational progress in a day program’ is not entitled to a residential placement even if the latter ‘would more nearly enable the child to reach his or her full potential.’ *Lenn* at 1086 (citing *Abrahamson v. Hershmann*, 701 F. 2d 223, 227 (1<sup>st</sup> Cir. 1983).

Dr. [ ] testified that the IEP developed by the Team for the 2024-2025 school year appropriately addressed Student’s profile and needs in the LRE of [SAU]. [Tr. 1139; Testimony of Dr. [ ] She elaborated:

“[I]t was in her best interest in order to have that last year before adulthood to repair and further kind of strengthen her relationship not only with her parents but with her siblings, and to have an opportunity to have some normal socialization and perhaps some normal developmental milestones of adolescence before heading off to adulthood, which is kind of what she expressed to me, too, when I met with her. So not only did I believe it was an appropriate way for her to access her education and that it was going to be beneficial for her, but it would serve her kind of clinically as well to be able to be out of a residential setting and to be in a regular high school setting.”

*Id.*

Interestingly, Parents are looking forward to Student attending [ ] College this upcoming fall semester, 2025. [Tr. 403 through 405; Testimony of Mother] That begs the question how Student will be ready to live independently and interact socially appropriately right off

the bat after graduating and leaving [ ] with all its supports Parents believed Student needed for her education both day and night. Granted, Mother testified that [ ] College has a TRIO program to support students with disabilities. *Id.* “It’s like a hub that they have a really nice space and they have like four or five – they have different staff and they help coordinate kids – they help kids get services....[T]hey do workshops; they do career planning.” *Id.* Mother’s description of what TRIO offers sounds like generalized assistance and acclimation to the college scene. Although beneficial, the TRIO program falls short of the supports offered by either [ ] or [SAU]. *Id.*

[SAU] asserts that under any circumstances, Parents did not give [SAU] the required notice prior to placing Student unilaterally at [ ], thereby eliminating the possibility of reimbursement of [ ] expenses which they seek. IDEA requires parents to notify the school district ten days before placing a child unilaterally in a private placement in order to remedy an IDEA violation. *Leggett* at 69; 20 U.S.C. §1412(a)(10)(C)(iii)(I). Because the Hearing Officer has found no IDEA violations, no further analysis is needed on this point.

For all of the reasons addressed above, the Hearing Officer finds that [SAU] met its obligations under IDEA to offer Student an appropriate IEP and placement for the 2024-2025 school year.

**Issue 4: If the Hearing Officer finds violations of Student’s IDEA rights since February, 2023, is Student entitled to any compensatory remedy?**

Because the Hearing Officer found no violations of Student’s IDEA rights, Student is not entitled to any compensatory remedy.

**Issue 5: Pursuant to IDEA, are Parents entitled to reimbursement of costs associated with their unilateral placement of Student at [ ] in Connecticut?**

*Burlington* denied reimbursement “if the school system proposed and had the capacity to implement an appropriate IEP. *Burlington*, at 799. In consideration of all testimony at hearing, the IEPs developed for Student and placement determinations made by the IEP Team, the applicable case

law cited herein, and the Hearing Officer's findings that [SAU] offered Student IEPs and placement reasonably calculated to enable student to make appropriate progress in light of her individual circumstances, Parents are not entitled to reimbursement of costs associated with their unilateral placement of Student at [ ].

## **V. ORDER**

1. Parents have not met their burden of proving violations of Student's procedural or substantive rights under IDEA. Student is not entitled to any compensatory remedy.

2. [SAU] offered Student individual educational programs (IEPs) and placement reasonably calculated to enable student to make appropriate progress in light of her individual circumstances. Therefore, Parents are not entitled to reimbursement of costs associated with their unilateral placement of Student at [ ].

Dated: August 26, 2025

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Melanie Frazek, Esq.  
Hearing Officer

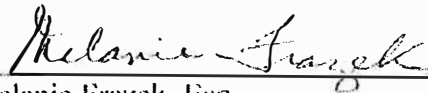
law cited herein, and the Hearing Officer's findings that [ ] offered Student IEPs and placement reasonably calculated to enable student to make appropriate progress in light of her individual circumstances, Parents are not entitled to reimbursement of costs associated with their unilateral placement of Student at [ ].

#### **V. ORDER**

1. Parents have not met their burden of proving violations of Student's procedural or substantive rights under IDEA. Student is not entitled to any compensatory remedy.

2. [ ] offered Student individual educational programs (IEPs) and placement reasonably calculated to enable student to make appropriate progress in light of her individual circumstances. Therefore, Parents are not entitled to reimbursement of costs associated with their unilateral placement of Student at [ ].

Dated: August 26, 2025

  
\_\_\_\_\_  
Melanie Frazek, Esq.  
Hearing Officer

Memorandum

To: Rachel Sears, Esq.  
Abigail Silsby, Esq.  
Richard O'Meara, Esq.

From: Melanie Frazek, Esq.  
Hearing Officer

Date: August 26, 2025

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Attached is the decision in the Special Education Due Process Case No. 25.073H, [ ] v. [ ]. Either party may appeal this decision by filing a Petition for Review in Maine Superior Court or Federal District Court within 90 days from receipt of the decision. The Petition for Review in Maine Superior Court may be filed either in the county in which the student resides or the county in which the school administrative unit is located.

Parties to this hearing should note that Section 504 of the Rehabilitation Act at 34 CFR §104.11 and the Americans with Disabilities Act at 28 CFR §35.134 prohibits harassment, retaliation or intimidation against individuals who file a due process hearing request or participate in a due process hearing. Parties may file a complaint alleging retaliation, harassment or intimidation with the Office for Office Rights, McCormack POCH, Room 222, Boston, MA 02109.

Any questions regarding this decision, or about the record of this hearing, should be directed to Leigh Lardieri, Ph.D. at:

SPECIAL EDUCATION DISPUTE RESOLUTION COORDINATOR  
OFFICE OF SPECIAL SERVICES  
DEPARTMENT OF EDUCATION  
STATE HOUSE STATION 23  
AUGUSTA, MAINE 04333  
207/624-6849