

SPECIAL EDUCATION DUE PROCESS DECISION – Case 26.026H

I. Cover Page

Case Name: [] v. []

Docket or Case Number 26.026 H

Student Initials: []

Dates of the Hearing: November 19, 20, 21, 2025

Date of Decision: December 11, 2025

Hearing Officer’s Name and Title: Jacqueline Kelleher, MA, Ph.D.

Jurisdiction Maine Department of Education

This matter arises under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., and corresponding state regulations. The undersigned impartial hearing officer was duly appointed and has jurisdiction to hear this matter. **This document contains confidential information regarding a student and is protected under the Family Educational Rights and Privacy Act (FERPA) and the Individuals with Disabilities Education Act (IDEA). This information is intended only for use by authorized individuals for the purpose of educational planning and services. Unauthorized review, dissemination, distribution, or copying of this document or its contents is strictly prohibited. If you have received this document in error, please notify the sender immediately and delete or destroy the original.**

II. PROCEDURAL HISTORY

The hearing was held and this decision issued pursuant to Title 20-A M.R.S. §7202 et seq., Title 20 U.S.C. § 1415 et seq, and accompanying regulations. The dates of the hearing were November 19, November 20, and November 21, 2025, over Zoom from 9:00 am – 5:00 pm, with a release at 2:15 pm on the first day of hearing to accommodate the Parents. Present for the entire proceeding were: Parents of [] [] (“Student”/ “[]”), []/[] [] (“Parent/Parents”); Richard O’Meara, counsel for the Parents, [], Special Education Director for [] (“District”), Jordan Quenneville, Esq., co-counsel for the District, and Eric Herlan, Esq., co-counsel for the District. [], Assistant Director of Special Education, observed on the first day of hearing. Over the course of the proceedings, the following witnesses testified under oath:

The Parents

[], Ph.D., independent evaluator

[], Director of ABA Services, []

[], M.Ed. BCBA, Director K-12 Day Treatment at []

[], Case Manager, []

[], District School Psychologist

[], District Speech & Language Pathologist

[], Senior Director for [], []

[], Ph. D., District Special Education Director

The complaint, filed by the Parent’s Attorney on 09/18/2025, was seeking an order issuing [] an appropriate IEP, placement in a residential setting, and compensatory educational services “as may be required to remedy the educational harm resulting from his past lack of appropriate placement and services”. A Sufficiency Determination was made 09/23/2025, and the Date of Resolution meeting was scheduled for 10/1/2025, which the Parties requested an extension to 10/22/2025 and for the scheduled hearing. A preconference hearing was set for 10/28/2025 and, at the prehearing, there was a request for further delay to accommodate preparation and access to information. On 10/28/25, a prehearing videoconference was convened, and a Conference Order was issued identifying the issues for hearing and setting deadlines for prehearing submissions. The Parties settled on November 19-21, 2025, for hearing. The parties were unable to resolve the dispute in Mediation and decided not to continue. Prior to the hearing, the following Motions were made and responded to with objection and follow-up responses that went beyond the 24-48 hours the Hearing Officer typically grants:

- Motion to Compel/Dismiss moved by the District on 10/14/2025 that was ordered in favor of the District.

“While staff of the State Educational Agency generally must resolve a State complaint within a 60-calendar-day timeline, *unless the timeline is properly extended*, an impartial due process hearing officer must hear a due process hearing request (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45-calendar-days after the end of the resolution period, as described in this document under the heading Resolution Process, *unless the hearing officer grants a specific extension of the timeline at your request or the SAU's request* (emphases added). 05-071 Chapter 101, Maine Unified Special Education Regulation

Five school days prior to the hearing, District Exhibits were submitted [See Evidence Log at the End of Decision] and exceeded 5,000 pages of documentation. Parents did not submit additional exhibits. At the hearing there were objections by the Parents to the following records as admissible on relevance:

- S-1362 through 1382 – Sustained
- S-1382 through 1920 – Sustained

Following a break on the first day of hearing, the District returned to the exhibits that were moved and approved to be withdrawn from review and argued successfully for their inclusion into the record based on relevance. This motion was sustained, and records were included for the hearing.

At the close of testimony, the parties jointly agreed to allow the record to remain open for the submission of written closing briefs. Each party submitted a closing brief on or before the 12/05/25 deadline.

While the Hearing Officer was prepared to issue a determination on 12/05/25, she needed more time to review the information in the post-hearing briefs, review a post-hearing affidavit outlining missed services, and consider the legal standards presented in written argument. A Determination was issued on 12/11/25.

III. ISSUES PRESENTED

The Issues for the hearing as presented by the Parents:

The Parties had prepared prehearing memoranda with statements on the issues. The Parties confirmed and discussed the following issues to be addressed at the due process hearing:

The Parties confirmed and discussed the following issues to be addressed at the due process hearing:

1. Did the District fail to provide Student a FAPE during 2024-2025 due to []'s failure to implement the related services in Student's IEP? If so, what compensatory remedy is appropriate for Student?
2. Whether the Student's IEP and placement at [] from September 19, 2023, through the end of the 2023-2024 regular school year was reasonably calculated to provide the Student with an appropriate program in the least restrictive environment given the Student's needs?
3. Whether the Student's IEP and placement at [] for the 2024-2025 regular school year was reasonably calculated to provide the Student with an appropriate program in the least restrictive environment given the Student's needs?
4. Whether the Student's IEP and placement at [] for the current 2025-2026 regular school year is reasonably calculated to provide the Student with an appropriate program in the least restrictive environment given the Student's needs?
5. If the Parent seeks a placement at a residential placement as compensatory relief for any past FAPE violation, is the Student entitled to a remedy that includes an ABA residential placement?

Relief Requested

The Parent seeks the following remedies:

- Compensatory education services
- Revised IEP

- Order of a placement at a residential placement as compensatory relied for a past FAPE violation - 24/7 residential ABA placement

Under the Individuals with Disabilities Education Act (IDEA), there is a two-year statute of limitations for filing a due process complaint. This means that a parent or guardian must file a complaint within two years of the date they knew or should have known about the alleged violation of their child’s rights under IDEA.

Since the due process complaint was filed in September 2025, the timeline generally allows the hearing officer to consider claims going back no further than September 2023. This two-year lookback period ensures that claims are based on reasonably recent issues, allowing for a fair opportunity to investigate and resolve disputes while preserving relevant evidence and memories.

- "Knew or should have known" (KOSHK) date: The two-year clock typically starts when the parent becomes aware (or reasonably should have become aware) of the alleged violation—not necessarily when the violation occurred. This could be, for example, the date a parent received an IEP they believed was inadequate or when a service was not delivered as required.
- Exceptions: The timeline may be extended under certain circumstances, such as:
 - o The School District misrepresented that it had resolved the problem.
 - o The District withheld information that it was legally required to provide, such as procedural safeguards.

Unless an exception applies, the hearing officer will generally only consider events or violations that occurred on or after September 2023.

Timeline of Events

Month	Parent	Document Associated	District	Document Associated
Prior History	<p>[] has been diagnosed with autism, global development delay, hypotonia, ADHD, generalized anxiety disorder, and seizure disorder.</p> <p>He is IDEA-eligible for special education and related services under the category of Autism.</p> <p>[] has been diagnosed with level 3 autism spectrum disorder, the American Psychiatric Association has designated level 3 autism as “Requiring very substantial support,” as it is marked by severe communication deficits, limited initiation of social interactions and minimal</p>	Hearing Request	<p>[] is a []-year-old student who is in the [] grade from [], Maine. [] is the educational responsibility of [].</p> <p>[] is eligible for special education under the coding of Multiple Disabilities for Autism, Other Health Impairment, and Intellectual Disability.</p>	District Response

	response to social overtures from others, and multiple restricted repetitive behaviors, such as inflexibility of behavior and extreme difficulty coping change and transitions.			
2021-2022	When [] was [] years old and living in [], his Parents transferred him to the [] in [] from [] in [].	Hearing Request		
March 2023			[] enrolled in the District. At that time, [] had an active IEP and had been attending [] for approximately a year and a half and continued this out-of-district placement through [].	District Response
April 2023	[]'s family moved from [] to []. [] continued his placement at []. [] has helped [] to some degree, in that it provides a greater level of instruction and services than [] had been receiving at []. He receives about 30 hours of weekly instruction.	Hearing Request	Following []'s transfer into the District, his IEP team met to review his programming. The team determined that [] was making progress and benefitting from his placement at [] and continued to require placement in a special purpose private school. The Parents agreed that [] was doing well and expressed that they were happy with both his IEP and program.	District Response
2024-2025	[] is in [] grade. [] was unable to provide consistent speech-language therapy and occupational therapy, contrary to the requirements of []'s IEP. [] proved insufficient in appropriately addressing the full range of []'s complex and severe needs. [] lives at home with his Parents and two young adult siblings. While he consistently	Hearing Request		

	<p>attends school, his Parents remain particularly concerned about the lack of intensity in his instruction and his negative behaviors during unstructured times.</p> <p>Every day at home, Parents observe [] engaging in aggressive behaviors (hitting, biting, kicking, punching, pulling hair, head butting, and pinching.) primarily at his mother, but he will also aggress towards his father, siblings, other children, dogs, and community members.</p> <p>He requires a much higher level of IEP services to be able to bring these negative behaviors under control and learn the skills he will need to master and generalize for a successful transition into adulthood.</p> <p>Parents have continually voiced concerns to the District.</p>			
June 2024	<p>A triannual evaluation for [] was done by school psychologist []; []'s mother rated his adaptive living skills at a standard score of 36 on the Vineland scales (<1 percentile for Adaptive Behavior Composite). This means that [] is profoundly impaired in how he copes with everyday demands.</p> <p>[]'s evaluation report neglected to provide any specific recommendations for addressing []'s serious behavioral needs.</p>	Hearing Request		
Fall 2024	<p>At []'s IEP meeting, Parents specifically mentioned that they needed help reducing his exceptionally high level of aggression.</p> <p>[] failed to provide appropriate programming for [] to improve his level of behavioral functioning.</p>	Hearing Request		

<p>May 2025</p>	<p>A Developmental Neuropsychologist conducted a neuropsychological evaluation of [].</p> <p>[] conducted a battery of tests, observed [] in his program at [], interviewed his Parents and a special educator and BCBA at [].</p> <p>In his report, [] detailed []'s aggressive behaviors, as well as his wandering and bolting behaviors, noting that [] engages in “difficult to predict and unsafe behaviors when activities or desired items are unavailable.” [] cited a primary concern of keeping [] safe in the home and the community, as well as protecting the safety of the family and community members.</p> <p>[] explained that [] has a 1:1 educator at [], a program that is well structured and designed in accordance with the principles of ABA. While [] may be an appropriate placement for the hours [] spends there, it remains insufficient as [] needs much more.</p> <p>[] needs 1:1 assistance on a 24/7 basis. [] found []'s maladaptive behavior are the primary issue to be addressed. When he is not programming at [], his behavior crosses “into the clinically significant range and presents immediate threats to his safety and the safety of his family members.”</p> <p>Based on his findings, [] recommended that [] transition to a residential program offering 24/7 instruction governed by the principles and practice of ABA</p>	<p>Hearing Request</p>	<p>The Developmental Neuropsychologist found that “when [] is not in programming at [],” his behavior presents immediate threats to his safety and the safety of others. [] did not opine that [] requires placement in a residential treatment facility in order to access his education.</p>	<p>District Response</p>
------------------------	--	------------------------	--	--------------------------

	<p>across the day and across environments, under the ongoing supervision of BCBA. [] also recommended [] continue to receive 1:1 educator, along with programming that targets life skills, functional academics, social engagement, and behavior management.</p>			
May – June 2025	<p>The District’s assistant director of special education, responded to the concerns raised by Parents and [] by threatening to return [] to an undefined placement at [].</p> <p>In spite of []’s explicit recommendation for [] to be placed residentially, the District has inappropriately denied [] such a placement.</p>	Hearing Request		
September 2025	<p>[]’s Parents seek an order issuing him an appropriate IEP and placement in a residential program in accordance with []’s recommendations and awarding him such compensatory educational services as may be required to remedy the educational harm resulting from his past lack of appropriate placement and services.</p>	Hearing Request		
October 2025			<p>There is no dispute that [] is a student with a disability who requires a highly supportive educational placement in order to meaningfully benefit from his education. There also appears to be no dispute that [] is an appropriate education program for him.</p> <p>The Parents have refused to permit the District to communicate with the staff at [] where the District has placed the Student for full-day educational programming.</p> <p>In this case, the Parents’ refusal to sign a full release has significantly impeded the</p>	District Response

			<p>District’s ability to gather the information necessary to provide a more fulsome response to the Parents’ due process hearing request.</p> <p>[]’s current IEP provides 1,590 minutes of specially-designed instruction, 90 minutes of speech/language services, 60 minutes of occupational therapy, 60 minutes of physical therapy per week. Speech Language and behavior specialists provide monthly consultation services to his educators and service providers. He also receives specialized transportation to and from school. [] has continued to make progress at [] on both his academic and functional goals. With the agreement of the Parents, []’s IEP team has repeatedly determined to continue to implement his IEP at [].</p> <p>Based on their concerns, the Parents ask the Hearing Officer to issue a radical order directing [] to place [] in a residential treatment facility – the most restrictive educational setting possible. This request violates the IDEA.</p> <p>This distinction between []’s in-school behavior and his behavior outside of school cannot be underscored enough. Even if [] needs residential treatment, there is no evidence that the need is education-related.</p> <p>The District does not have a duty to place [] in residential treatment when his behavior outside of school does not impact his functioning at school. His home-based problems are truly distinct from his learning problems.</p>	
--	--	--	--	--

IV. FINDINGS OF FACT

A. Background

1. [] is 16-year-old student who resides in [], Maine with his Parents and brothers. He attends school at [] [“[]” or “[]”] and is the educational responsibility of []. He is eligible for special education and related services under the IDEA as a student with multiple disabilities, including Autism, level 3; Intellectual Disability; and ADHD (Other Health Impairment). According to testimony, [] currently is approved for 35 hours a week for in-home support but receives about 6-19 hours of in-home support per week through [].
2. [S-198 through S-214] Attendance records for [] demonstrate that the Student has a high rate of attendance over multiple years.
3. [S-Appendix D 5– D 14; D-14-D30] MaineCare Section 28, Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations Comprehensive Assessment: A Guide to Conversation was completed by a BCBA on 05/30/2023 describes presenting problems as inappropriate vocalizations, physical aggression, and communication skill deficits. The reason for referral was to increase functional communication, community safety, and decrease interfering behaviors. The section on Social Functioning [D-14] cites [] Area of Concerns: *Aggression and level of care needed*. The Student’s emotional reactions are high and strong [intensity]. While affectionate, he’s not cooperative or patient, with the comment *Frustration with schedule; cannot wait*. These assessments show moderate to high range of need across domains of social functioning, behavioral functioning, and activities of daily living and independent living. DF testified that these comp assessments are required by State, and the analytics are showing the more significant behaviors. socially significant behaviors that are one piece of a giant [[]] picture. Testimony of the Director of ABA Services.

B. 2023-2024 School Year

4. [S-D-50] Physical aggression chart shows from the Individualized Treatment Plan - ITP .71 per hour for 09/06/2023. [] notes that it's Physical aggression but varies in degree. ITP are reviewed every 90 days. Testimony of the Director of ABA Services.
5. [S-451] WN of 09/12/2023 IEP Team meeting on his annual review. []'s service times have not changed due to his current level of progress and needs. *The service of Parent Training was added as this has been happening and is needed for the family to carry over skills and accommodations in the home. Due to [] social / behavioral needs, he requires*

a special purpose program outside of the typical school. The team considered reducing speech / language direct therapy to 60 minutes per week since []'s communication is worked on all day through classroom staff. However, [] was unsure about this reduction so the team agreed to wait until next fall when we hold his three year review and have updated speech testing. [] shared that she is pleased with []'s progress and is in agreement with the goal areas and service time. This is very aligned with home supports and outside therapies. The Parents says they were pleased at the beginning of 8th grade and seeing skills come back post-COVID but has not seen a lot of progress since this period. Testimony of the Mother.

6. [S-B-935] [] [[] – []] Daily Progress Notes on 09/14/2023 indicate minimal behavioral disruptions and many successful engagements. The severity of the behavior is where [] has made progress – the data forms don't measure intensity. Ch. 33 restraint/seclusion => frequency has decreased over time => did not have to get hands on –now infrequent. The severity of behaviors have improved although data does not capture it – decrease in number of Ch. 33 reports – not at risk of harm to self or others. Testimony of the Director of []. There were a total of 8 Chapter 33 Restraint or Seclusion Reports during the 2023-2024 school year and Summer 2024. [2025-12-05 District Post-Hearing Memorandum].
7. By 11/15/2023, [IEP Goal] given structured opportunity will accurately respond to 5 simple randomized who what where when questions regarding the environment in 80% of opportunities across three consecutive sessions as measured by data collection.
8. Progress Narrative: 11/15/2023 [] is currently answering “who” questions, with pictures of staff members he knows and his AAC device, with over 80% accuracy. [] is working on answering “where do you find an item?” questions with his AAC device. i.e. “where do you keep clothes” [] answers “bedroom. [] has 75% accuracy with his Where program at the moment.

The Student is making measurable progress toward Objective 10, which targets simple randomized “who/what” tasks with a goal of 20 steps. While quarterly scores range from 1–2, indicating partial or unmet goals, narrative data and observations show consistent growth over time, with the Student performing up to 90% accuracy in some areas. Progress is evident across therapies: PT reports show increased motor skills through repetition and practice; OT notes improvement in self-care and daily routines, and strategies to slow pacing during meals support safe eating. Gestural communication progress has been slower, but overall, the Student demonstrates continued skill development, highlighting the need to consider qualitative narrative data alongside numerical IEP ratings. Goals may not always be fully met each month, as progress can be difficult to predict. Expectations are set to encourage achievement while avoiding overreach or stress. The Student is demonstrating increased independence with less prompting and is safer than previously observed. Goals are intentionally small to support steady, attainable progress, allowing the Student to do what they can. Progress scores are

based on daily data collected through progress notes and program binders within the ITP, ensuring that “met” goals reflect consistent, documented evidence of growth. Testimony of the Director of [].

9. [S-D-56 - 74] ITP 08/21/2023 with a review date of 11/21/2023 – reviews happen every 90 days. Trends in behavioral; incidences were fairly low during this review period in areas such as refusals, physical aggression, and property destruction. There was an increase in elopement.
10. [S-E-1364] Email message on 11/28/2023 from a BCBA providing in-home support stated *-We are only serving him 6 hours total and that even if we filled all his hours and had full time support on the weekends I have concerns that [] has demonstrated limited ability to generalize safety expectations across all your family members and that the level of services that would be required to appropriately make sure that happens would be well beyond what we could ever provide. []'s needs have intensified and that you do an amazing job with him, but his needs have reached a much higher level of need clinically and that I am worried that we are basically covering the hole in the dam with duct tape right now so to speak.* The Parent stated that she was in constant danger of []'s aggression and was getting hurt [by him]. Testimony of the Mother. [] stated that he was the BCBA at the time. [] was in 8th grade and his [[]'s] role was BCBA overseeing home support and discussing res placement – 6 hours and well below his need level. [] is hard to staff, and you need someone with significant skill because of behaviors and to keep him safe. Testimony of the Director of ABA. Regarding this email, [] stated We can't provide 24/7, [as [] is] constantly trying to get []'s attention in dangerous way,(Extinction burst). Scary to think about situations – dangerous behaviors...With generalizations, [] is really slow and even, if a lot of support, [and I] don't know if we can generalize skills to Mom. If I can keep him safe, that's great and we'll work on generalization, but we're really pushing the cart down the road until something else happens . Testimony of the Director of ABA.
11. [S-601 through S-603] WN for meeting 02/21/2024 indicates the Student will miss four days of school due to staff shortages. The meeting is for Chapter 33 and concerns three instances of physical restraint at school. Parent reports an uptick in behaviors at home. There is no change to IEP or PBSP. [] was accumulating comp services at this time (2023-2024, 2024-2025) according to Testimony of the Mother.
12. [S-524] Referral Decision for Children's Residential Treatment for [] is the Student cannot be placed here due to insufficient staff availability on 01/12/2024. [S-E-151-152] Letter from Maine Health and Human Services that [] is not accepted at [] due to insufficient staffing on 01/12/2024.
13. [S-601 through 603] WN for IEP Meeting 02/21/2024 to review Chapter 33 incidents:
1. The team met because [] has had more than 3 incidents of physical restraint this school year and the team had not met within the past 30 school days. 2. His program

remains appropriate and the team did not feel that changes to the IEP or PBSP were needed at this time. 4. The MDOE has requested that a statement be made regarding missed days due to staff shortages. If [] misses a total of 10 days, another meeting will need to be held. Ms. [] reported that she was really happy with []'s progress. The current target behaviors are less intense than in the past (example, tugging on people to get their attention vs. engaging in aggression toward them). The areas that precipitated the Chapter 33 Incidents were clear to staff. Diverted attention was one trigger for the behavior, and the other was a change in motor breaks (more difficult). Staff reduced the amount of physical tasks [] needed to perform during motor breaks, which resulted in a decrease of the behavior. The repetitions will slowly increase as [] builds skills. [] continues to work on understanding when people are available/unavailable. Ms [] shared data regarding []'s behavior. Intensity has decreased, and duration is rarely beyond 5 minutes. She reported that [] is doing well and getting work completed. The team was in agreement in all areas. His current services are delivered in the least restrictive and most appropriate setting at this time, and his IEP ensures that he is receiving FAPE. Ms. [] shared that she sees similar behaviors at home. She has seen an uptick of attention-seeking vocalizations, but overall sees his progress, noting that he seems happy. The Parent stated that up until May 2025 time period, she has said he's not growing or progressing but has mostly expressed satisfaction but expressed concerns over all of these skills functionally [and lack of generalization]. Testimony of the Mother.

14. [S-E-220] Letter from Maine Health and Human Services that [] is not accepted at [] on 03/01/2024 due to insufficient staffing. [] does not have the staffing availability to support admission for anticipated upstaffing. Please check back in six months if there continues to be a need for placement. Staff to child ratio can't be supported at this time – needing up staffing
15. [S-E-230] Letter from Maine Health and Human Services that [] is not accepted at [] on 03/15/2024 due [] not being a good fit for the program given his behaviors and the other youth in the treatment milieu. [S-E-230] Referral Decision for Children's Residential Treatment for [] is the Student cannot be placed here due to level of physical aggression on 03/15/2024. Member presents a higher level of physical and behavioral aggressions than our current population. Due to also supporting medically fragile individuals, we are unable to admit members with significant assaultive behaviors. The Parent stated this was rejection for []. Testimony of the Mother.
16. [S-E-243] Letter from Maine Health and Human Services on 03/25/2024 []/the family recently received approval of Children's Residential Care Facility Services. *The State of Maine's contracted providers have determined that your child/youth's treatment needs cannot be met appropriately or in a timely fashion. The Department is*

approving exploration of contracted out of state providers. We have recommended the following programs based on your child's mental health needs:

[], New Hampshire

[], Massachusetts

[], New Hampshire

*The approval is subject to review and reconsideration of the medical necessity of the service at any time. The Department is committed to keeping your child/youth as close to home as possible. In state options will continue to be assessed for return to Maine. Please contact us with any questions regarding this approval. You may proceed by providing the residential provider with a copy of this letter. The residential provider will also most likely request clinical documentation regarding your child. **This approval is for Residential Treatment only. You and your provider will need to work with your school district to plan for how your child's education needs will be covered.***

Did not tour/no referral to []; Looked at []; Apply every 6 months – Testimony of the Mother.

17. [S-616 – 617] April, 2024 Progress Report for IEP Goals. Nearly all objectives have a 1 for rating (does not meet). He got three 2's. {partially met}. [S-614 through S-638] April 2024 IEP Progress report on IEP Goals indicates the Student primarily made minimal progress (1s, 2s) over three quarters. Several objectives were not introduced (5).
18. [S-605 through S-614] Comprehensive Assessment Test was administered April 2024 because the Student has the potential to become aggressive and engage in self-injury when frustrated or denied access to preferred items. Rating scales on Vineland demonstrate many areas of deficiencies of functional skills.
19. [S- 672 through S-674] Behavioral incident report at [] indicates restraint was used on 04/30/2024 due to aggression toward staff and dangerous use of property.
20. [S-675 through S-680] In May 2024, the Student is assessed on the Essential for Living Tool and is shown having possible skill deficits across seven domains [See E-951 if summary needed]. [S-956] May 2024 Essentials for Living Assessments (EFL). This tool is a criterion-referenced, functional skills assessment and curriculum. The assessment identified a range of potential skill deficits for [] across several essential learning domains, including difficulty making and waiting after requests, accepting "no," tolerating item removal and transitions, and completing previously learned tasks. Additional concerns were noted in following health and safety directions, performing related daily living skills, and tolerating unpleasant but necessary situations. The learner also shows challenges in matching, imitation, broader daily living skills, and tolerating non-safety-related situations, as well as naming, describing, following directions, recognizing and retrieving items, and answering routine questions. Functional academic areas reflect possible deficits in expanded requesting, responding to questions, providing personal information, understanding safety directions and signs, and foundational math skills such as one-to-one correspondence and counting.

The Parent stated the Essentials for living assessments (May 2024-end of 8th) was good information. Testimony of the Mother.

21. [S-F-28-29] 05/07/2024 email from [] (HHS) connecting the Parents to [] stating they [Maine] had recently approved a youth for a referral to out of state program. She said the Parent had interest in talking about programs and options. The Parent does not recall a conversation with [] on []/no referral made with []. Testimony of the Mother.
22. [S-D-183] ITP 05/17/2024 shows decrease in physical aggression.
23. [S-605 through S-614] Comprehensive Assessment Test was administered April 2024 because the Student has the potential to become aggressive and engage in self-injury when frustrated or denied access to preferred items. Rating scales on Vineland demonstrate many areas of deficiencies of functional skills.
24. [S-883] Psychological Evaluation Report 8/31/24 – Evaluation Done 6/20/24 by [], the School Psychologist. [] acclimated to the environment by observing at [] and familiarizing self with [] as part of 3 year re-eval. To do eval, she does a file review/developmental history, which leads to selection of appropriate tools: Comprehensive Test of Nonverbal Intelligence-Second Edition
Vineland Adaptive Behavior Rating Scale-Third Edition
Autism Spectrum Rating Scales
Social Responsiveness Scales-Third Edition
Gilliam Autism Rating Scales-Third Edition
Structured Developmental History
Structured Observation System
Clinical Observation
Classroom Teacher Consultation
Program Director Interview
Testimony of the School Psychologist.
25. [S-884] Section of Psychological test addressing previous evaluation by Dr. []. [] completed a psychological evaluation by [], Ph.D., when he was 2 and a half years old due to concerns with communication delays and limited social interaction. He was administered the ADOS which indicated behaviors consistent with Autism in the areas of language, communication, reciprocal social interactions, joint attention, play, and unusual sensory experiences. On the BASC-II, [] presented with clinically significant attention problems and deficits with social skills, activities of daily living, and developmental social disorders. On the ABAS-II, [] received the respective scores (mean=100, standard deviation=15): Conceptual-55, Social Composite-50, Practical Composite-52, and General Adaptive Composite-49. [] was diagnosed with Autistic Disorder, Mixed Receptive/Expressive Language Disorder and Hypotonia. [] had Parents complete multiple scales and got developmental history. At [] (“amazing program”), in her observation, [] noted that [] seemed to be thriving there – structure,

routine, predictability, PBSP + AAC. He was cooperative with testing and did not need BHP for testing. Testimony of the School Psychologist.

26. [S-883-888] The CTONI-2 is a battery of six subtests that measure different nonverbal intellectual ability in students. His Nonverbal IQ is below the 1st percentile, Instruments used CTONI2 is nonverbal measure with no language involved – measures nonverbal abilities 3 different types of reasoning, [] stated. No Stanford Binet because verbally loaded measure – even nonverbal the directions are given verbally. Unfair to measure comm skill. Vineland best prediction of functional performance, including functional communication. Rating scales are more subjective, but are completed by mother + teacher. Big takeaway – significant disabilities impacting his performance and we can expect it to continue. Testimony of the School Psychologist.

[]'s needs are extremely substantial, and, based on all available data, he is likely to require intensive support throughout his life. His functional limitations—particularly in communication—are profound, and results from the BASC, which incorporated family consultation and the PSSP, reflect limited sustained attention and the need for frequent breaks; even though these scores likely underestimate the extent of impairment, they remain consistent with overall clinical impressions. His diagnostic profile includes significant Intellectual Disability, Autism Spectrum Disorder, and ADHD, and it is reasonable to expect that the level of functioning we observe now will remain generally stable over time, with progress occurring very slowly and in small increments. Despite these limitations, [] is benefitting from the structured programming at the [], where staff use appropriate assessment tools and data-based practices, and he is showing relative and expected progress within the context of his cognitive and adaptive functioning levels. He is currently supported effectively in his school environment and doing well there, raising concerns about the potential impact of removing him from this setting. [] is an appropriate match given his needs.

Testimony of the School Psychologist.

27. [S-899] [] 2024 Report: *Adaptively, [] is not performing commensurate with his ability suggesting room for improvement with his functional skills. At home, [] has relative adaptive strength with his ability to function in social situations. This includes interpersonal relationships, play and leisure activities and coping. [] struggles more with his functional communication at home and his ability to express himself verbally. []'s greatest adaptive weakness at home is with his Daily Living Skills including dressing, hygiene, and community living skills. []'s scores at school were significantly lower when compared to the home environment. At school, []'s adaptive skills are fairly evenly developed with significant weakness with socialization and daily living skills.* This is likely related to the functional adaptive demands at school. Parent ratings were higher when she did it – Vineland is subjective. Testimony of School Psychologist.
28. Testimony of [], credentialed School Psychologist. Dr. [] recommended a 24/7 ABA residential placement for [] but [] expressed surprise that this level of placement was

being considered. At the time of the evaluation at [], [] was demonstrating progress, which raised several concerns about a full-time residential setting, including the lack of a true continuum of services, absence of a least restrictive environment, and the risk of removing him from a school where he is doing well with staff who know him and support his needs effectively. [] also worried that placing him in 24/7 residential care would take him away from everything familiar—his home, his community, and the routines that currently help him function. During her observation at the [], [] saw [] successfully complete several daily living skills with prompting, following his schedule, eating with a fork, drinking from a cup, taking a bathroom break, and washing his hands and face, demonstrating observable skills he was able to perform during the structured school day. []'s adaptive functioning does not align with his cognitive abilities, and although he struggles with communication at home, [] observed that he was able to generalize certain skills after rapport was established. Aside from the Vineland, generalization was not formally assessed at the time, yet she noted that he was doing very well at [] and demonstrated skills during her observation that he had generalized previously.

29. [S-802] SPEECH AND LANGUAGE TRIENNIAL EVALUATION [], M.A.
CCC-SLP/ATP, July 25, 2024.

Peabody Picture Vocabulary Test (PPVT-5)

Test of Auditory Comprehension of Language (TACL-4)

Functional Communication Profile

Through observation and the assessment, [] stated the program is solid and students are progressing at their individualized levels, and during her observation—intended to build rapport with [] as a novel person, reduce anxiety, and ensure testing and interview findings aligned—[] was engaged, took short breaks, and maintained attention well enough to provide a clear picture without causing him distress. Testing focused on identifying []'s patterns of understanding, the complexity of language he can manage, and how effectively he communicates functionally, all of which inform his goals, objectives, strategies, and intervention planning. Nonverbal measures were used to reduce barriers, and results fell below the first percentile; he could identify familiar words but struggled with complex sentences, verbs, and prepositions, showed poor social boundaries and limited safety awareness, and could attend to activities for about ten minutes depending on motivation. Findings were integrated with informal observations to ensure consistency and accuracy. Does well with AAC for basic wants and needs, Relies on familiar people to help with communication. Primarily interacts with adults – has his favorite adults. Testimony of the SLP.

30. Testimony of the SLP. Dyspraxia affects []'s whole-body motor planning, resulting in clumsy fine motor skills, awkward gross motor movements, and overall difficulty coordinating actions, though diagnosing it is challenging in a nonverbal individual without enough speech for formal apraxia testing. These motor and communication

limitations significantly impact his ability to perform daily living skills—an area more suited to OT/PT intervention—and his results, aligning with []’s evaluation, fell below the first percentile, indicating that his communication needs profoundly affect his functioning and reliance on support. Given the complexity of his profile, including safety and advocacy concerns, any progress he makes will be highly individualized, small, and slow, though he did show some gains or maintenance between evaluations.

31. [S-804-805] [SLP Report excerpt] [] *is a delightful student with continued potential for gaining skills in receptive, expressive and social pragmatic language areas. He currently expresses himself using some vocalizations, modified signs, and a speech generating device. His ability to navigate his device effectively and efficiently for highly motivating and known, concrete receptive vocabulary, and his ability to learn the location of new words with fading visual supports are all relative strengths of []’s. He is capable of using his device to communicate about what motivates him most but remains limited in the variety of communicative functions and mean length of utterances that he utilizes without this support and prompting. Therefore, continued intervention in language areas is warranted to continue to build []’s communicative competence to the best of his ability.*
- *The IEP team should consider this evaluation when programming and determining services for [] in the area of speech and language.*
 - *Consider working on expanding []’s word utterance using his speech generating device to elicit sentences and phrases of 3-5 words for a variety of language functions beyond requesting [e.g., commenting, describing, answering, and asking questions, socially engaging]. Look to increase meaningful grammatical markers such as plurals, verbs with /ing/, possessives and the use of adjectives, etc.*
 - *Consider goals that target []’s comprehension of a variety of basic linguistic concepts.*
 - *Continue to build []’s receptive vocabulary.*
 - *Utilize modeling without expectation, using “think aloud” strategy to narrate what you are doing with the device*
 - *Continue to utilize visual supports and backward chaining strategies for assisting [] in locating where vocabulary is stored and then having him practice using it in naturally occurring and meaningful contexts*

C. 2024-2025 School Year

32. [S-950] WN 09/10/2024 for annual review, eval/re-eval, and Chapter 33. There are results from evaluations. The team does not have the time to discuss the behavioral incidences of Chapter 33. The Parent testified that the results that were shared, which was all except the School Psychologist report, contained observations of activities [[] does at school] that she does not see at home. Testimony of the Mother.

33. [S-990-992] WN on 09/16/2024 for annual review, eval/re-eval, post-secondary goals, and Chapter 33 incident review from 09/10/2024, *The team discussed whether or not to keep social work services on his IEP. The school has been unable to hire a social worker and the behavior analyst feels she and her team can absorb his Social Work Goals, so social work was removed from his IEP. They would like to see if the school can work on his vocalizations. They feel he is doing it purposefully for either attention or to bother others. It can be disruptive at home, particularly for his brother. They also asked if a goal to use a pointer or the remote control could be implemented as well as learning time concepts such as: later, soon, before, etc. The team ran out of time to review everything at this meeting, such as the behavioral incidents leading to restraints, and another one will be scheduled.* The Parent stated she asked for help to reduce []'s screaming [vocalizations] at this meeting. Testimony of the Mother.
- [S-1018-1019] In a WN for the 10/01/2024 meeting, the Parents have seen an increase in his eloping at home and recently found him at a neighbor's house. They have a beacon to locate him.
2. *The MDOE has requested that a statement be made regarding missed days due to staff, shortages. If [] misses a total of 10 days, another meeting will need to be held. [] has missed some school days this year due to a staff shortage. [] has missed some school days this year due to a staff shortage.*
3. *[] was involved in incidents that required physical intervention or seclusion to ensure his safety and the safety of others. The team discussed antecedents that led to those events. [] has had 3 incidents that have required physical intervention or seclusion to ensure his safety. The team also discussed the Chapter 33 restraints. All three episodes resulted from being told something or someone was unavailable.*
2. *[]'s behavior support plan continues to be appropriate and does not require changes at this time.*
34. The Parent stated that they had to get a beeper watch saver in addition to a beacon locator for [] to ensure their child's safety. [] missed school days due to staff shortage. Staff shortages – not enough support for each child so rolling times when each staff is out – sent home a letter of what dates he could not be at school – could not hire staff – issue with Rel. Services as well. Gaps in time of services that he wasn't getting in his therapies. Testimony of the Mother.
35. [S-D-240-243] [] Crisis Plan for [] on 09/24/2024. *[] struggles to use his AAC device with accuracy and fluency and has inconsistent access to the device. He often mands for activities/ people he knows is unavailable. [] only receives two days of support totaling approximately 9 hours per month. We are working on switching some staff scheduling around to offer [] an additional 10-15 hours of support based on his high need and continued inability to access residential program that he has been approved for. Two days a week at 9 hours a week. Staffing will potentially be increasing to 4/5 days a week for a total of 20-25 hours based on his high need for support pending*

the discharge of another client and staffing transitioning to [] [] stated Treatment Plan w/ family was 9 hours over 2 days per week – which is understaffed. Incident in home – [] working with [] (BHP). Physically targets Mom and knocked her down, and [] had to be redirected to couch, and it was noted [] would have hurt Mom if he had not been there. [] shifts are 5 hours shifts, longer shifts in the community. Increase hours to 20 but on waitlist for partially serviced. Looking for staff. [] meets with family, sees [] on Thursdays with [], [] will meet with him – go over progress. From last November [2024] to now, making progress slowly – slow rate because hard to generalize skills across settings. Aggression picks up (physical) with nonpreferred activities with [] Need to systematically plan for generalization. [] and [] have brief interactions for OT on Thursday, not working on skills together, try to consult, but its separate school, separate home/community. Some overlap and do our best to implement strategies the same way/ foundations are the same. But no seamless communication between school ([]) and home ([]) services. Testimony of the Director of ABA Services.

36. [S-D-233 through 240] [] 09/25/2024 Individualized Treatment Plan. Case Manager testified: Aug 2024 [] was not doing well at all based on record review and parent report and treatment notes. Individual Treatment Plan (Sept 2024), Physical aggression – 1x in BHP community setting, Elopement – no instincts, But needs more data to say he wasn't doing well. Testimony of the Case Manager. Scores – ex. Progress 1-3: a 4 means a rating on the SMART goal the family ranks from 0-10 over 90 day period.
37. [S-997] On []'s IEP for 9th grade 09/27/2024: *Parents mentioned that []'s loud vocalizations have become more of an issue at home as they are upsetting []'s older brother, and impeding [] and his brothers relationship. []'s parents want [] to continue working on daily living skills such as toileting, brushing teeth, etc. to help bolster []'s independence. []'s parents would like help reducing []'s problem behaviors such as Aggression and Elopement, so that he could be safe in the community. Under gaps in functional performance within his IEP it states: [] needs help with many daily living skills such as but not limited to, eating, brushing teeth, and toileting. [] exhibits problem behavior such as aggression or elopement when he is denied access to something he wants. Usually, these behaviors arise when he doesn't understand that something he wants to happen or do, has been canceled without notice, or is happening later on in that day. [] continues to need to work on his bi-lateral coordination and trunk/abdomen strength to assist him in completing other daily living skills as well as continue to work on skills such as handwriting. [] struggles with maintaining focus. He is easily distracted mid lesson or program when someone comes in through the door, or if he hears a peer being loud. [] struggles to keep his body safe and out of harm in school and out in the community. When a peer at school is being aggressive [] will often emit loud vocalizations and or run towards the peer. In the community, [] shows a lack of*

awareness of basic self-preservation skills. If without staff [] could walk out into a busy street, or something of that nature.

38. [S-1001] IEP Goal 09/27/2024: *By 09/26/2025, given structured learning opportunities, [] will be able to read and understand 10 common safety signs in 2 different locations (community and desk) with 100% accuracy across 3 consecutive sessions as measured by data collection. MLR.ELA.S6.K.*
39. [S-B-2551- 2552] [] Daily Progress Notes on 11/01/2024 indicate minimal behavioral disruptions and many successful engagements in a 3 hour window. He progressed on self-care routines at 100% accuracy.
40. [S-B-461 – 475] Behavior and Medication Values graphs. In appropriate verbalizations are consistent and higher in frequency, but the elopement and property destruction behaviors are lower in frequency and duration (days). [S-B-471 through 475]. Aggression Frequency charts over two years shows a lot of variation in the amount of aggressions, which is on average, a frequent occurrence.
41. The K-12 Director testifies to [S-B-462] and points out High Frequency – [] is making loud noises and staff is ignoring, but this could be with a staff member not used to working with him so there is some variability. His behavior rating is a 5. Elopement is low and typically involves getting distracted and walking away from staff rather than running off. Property destruction is minor—he doesn’t throw objects but may swipe items off his desk. Current aggression consists of grabbing an arm, pushing away, or squeezing a hand, and he can be persistent. Aggression occurs at different times of day and with different staff. He may refuse work but generally does not have meltdowns. Overall, he is doing well, as staff can redirect him and get him back on track. Minor disruptions in 15-minute intervals.
Testimony of the K-12 Director.
42. [S-B-2591-2592] BHH Case Management Treatment Plan from 11/18/2024. The Case Manager testified about the progress rating for the treatment plan objectives, which were both a “4”. The Rating on average – Parent answer for treatment plan, Scores – ex. Progress 1-3: a 4 means a rating on the SMART goal the family ranks from 0-10 over 90-day period. Data on [] is any information collected from work with the family as a family case worker. Not collecting observation data. Not collecting formal data but takes data to help with client support. She has observed [] formally at []/x. Technical role as a CM with families is helping them find resources and services and help them find services they think child needs. Does some advocating. Coordinating and linking. [] needs more. Testimony of the Case Manager.
43. [S-B-2589 through 2591] Daily Progress Note data on 11/27/2024 from a BHP during a three-hour window. There was one instance of elopement, four instances of aggression, and no issues of emotional dysregulation, property destruction, or inappropriate vocalizations that were documented. Data are collected on 14 goals or skills and [] was able to make progress toward those that were presented to them during the session. This was testified on by [], the Case Manager, who says the plan is treatment plan for [] with

family to review every 90 days. Student input when possible but [] not able to do this so carried over with the Parents. Focus on the goals to work on. Testimony of the Case Manager. The Case Manager, who has over 21 years of experience and has worked with [] for more than a year, oversees his services, treatment plan, and family support. She reports significant concerns including aggression, elopement, and high family distress; although [] was approved for out-of-state placement, the accepting program is currently frozen and not accepting clients. After observing him at home and during recess, she notes the family is candid and open, expressing a clear need for help. Testimony of the Case Manager.

44. [S-B-2592-2593] Case manager treatment notes state that [] continues to have behaviors that impact his ability to stay safe at home on 11/27/2024. [] has been approved for CRCF process and the family is seeking options, including a meeting with [], but has been denied by another provider. His behaviors have increased significantly, and he can also be unsafe when riding in vehicles. Steps to address these issues include examining what is occurring in the home and school settings, strengthening home supports such as Section 28 respite, and exploring all available external resources and services. Testimony of the Case Manager.
45. [S-1074] Behavioral Health Safety Plan by [] {Case Manager} on 12/10/2024 describes behavioral triggers and targets. Mom reports that transitions or denied access can be triggers & difficult for []. He may start screaming, throwing stuff, exhibit SIB, bolt, pinch, push, bite, hit or charge at people. He also has started slapping himself. Additionally, [] typically targets mom so she will often call Dad to come in and help her. Parents have locks on all doors, report that [] has shown an increase in behaviors while riding in the vehicle so they have a specialized safety restraint and will put [] in the 3rd row; no longer driving by themselves. It takes two drivers to transport [] for the safety of the other driver, the Mother testified. The Parent also stated that these behaviors have not changed. Frustrating with services not being provided but has a good working relationship with them so not unhappy with them [[]/School]. Testimony of the Mother. [S-1074] Behavioral Health and Safety Plan by Case Manager on 12/04/2024 indicates that the one thing that is most important to me [[]] is Family. The Case Manager testified to this document and stated while navigating his January 2025 acceptance-but-waitlist status, they were pursuing out-of-state approval through DHS and the CBCS liaison, and repeatedly engaging in the grueling six-month reauthorization process, yet despite elevating concerns to the administrative chair, no viable options for supporting the family were approved. Testimony of the Case Manager.
46. [S-1071] On 12/10/2024, there was a referral decision that [] can be accepted at S[] and that he will be placed on []'s waitlist. They did not have a timeline to admit, but anticipate Spring/Summer 2025. Verified by Testimony of the Mother. The Case Manager testified a few weeks after the November meeting, the DHS

CRCF decision letter indicated that [] was accepted but waitlisted for [] ([]), meaning that although he met criteria there were several individuals ahead of him, which significantly impacted the family given []'s complex needs and prompted efforts to coordinate with the State for additional support, explore out-of-state options, and secure help during the wait period. [] is approved placement in ME and she is familiar with it. Disagrees the state knows [] and his needs. Other families have been placed there and it depends on the family if they are satisfied. She's seen kids different from [] do well there. Testimony of the Case Manager.

47. [S-B-3598-3599] [] to [] email describes how well [] is doing per conversation with parent on 01/21/2025. They think increase in after school hours and medication have helped. The Parent recalls that [] has a honeymoon period of doing quite well with a person and then it goes downhill quickly. Testimony of the Mother.
48. [S-B-3154] 01/21/2025 - Telemedicine in MaineHealth Behavioral Health Community Services Autism and Developmental Disorders: CRCF conversations/updates, Edu programming, behaviors, SIB's, and current functioning. · CRCF discussion: *it still upsets the family that they cannot look out of state b/c [] has officially accepted [] CM heard from DHHS/CBHS that b/c [] has officially accepted client, that prohibits Parents/team from looking out of State; DHHS won't give authorization. CRCF- [] has accepted but doesn't have openings now and not anticipated until Spring/Summer 2025. "DHHS is making the choices for us, when the Parents are the one's going thru the stressors each day, getting assaulted, etc. while our son needs the care/ services. Where's the parent choice?" It's a struggle at home and Parents can't run the home like a residential tx, structured setting, clinician, BCBA, etc. Parents would like a tour of [] to even see if they agree with placement option. RCS28: 12hours a week of services now (increase) and this helps his regulation, keeps him busy, active, and aggressions have improved slightly. "These services are vital now, we are getting older and harder to manage []." When [] is active he burns energy, sleeps better, and mood/ regulation is often better. Meds: he's come off some medications and his mood seems to have improved some, he's safer and aggressions are lower. New medication (Naltrexone) appears to be helping and he seems happier as well. Aggressions seem to be more grabbing and pinching now, and less punching, throwing her around, and headbutting. Aggressions are lower/less frequent. The Parent testified that at the time this was correct, but this is also what happens when there is a change in medication. Med changes and time of year influence behavior. Testimony of the Mother. Less frequent aggression is consistent with what was being seen at school. Testimony of the Director of []. The Director also testified about her concerns the transition to a residential or unfamiliar setting may be challenging for [], as strong relationships with family and staff are important and difficulty adjusting could result in skill regression over time. At [], related services were missed due to vacant SLP and OT positions.*

MaineCare-billable services documented in medical records can be reviewed to calculate the number of missed services and compare them with IEP requirements. Testimony of the Director of [].

49. [S-1317] IEP Speech Goals - **1/2025**: [] *is using one-to-two-word utterances to communicate his wants and needs. He is primarily focusing on lunch and home. [] is eliciting attention from staff with a shoulder tap. He will say 'hi (name)' when prompted by staff. He has four quarterly ratings: 1, 1, 1, 2. Classroom teachers and staff are implementing the goals daily, but []'s progress remains at a rating of 1 ("Does not meet"). They cannot determine whether he would progress more with direct SLP or OT services, and instruction is being delivered through ABA methods. OT/SLP could not say if impacted without those providers because they continue working on all goals. The goal that is rated a 2, but the narrative is needed to fully understand progress in relation to the annual goal. Problem behaviors occur at home, but the residential school cannot address them directly because they do not have access to the mother [home environment].* Testimony of the Director of [].

50. [S-E-613-622] Vineland results from 01/30/25 show lower levels of functional performance and the rater writes [] needs constant adult supervisor to be kept busy at all times or he may often retaliate with aggressions or property destruction.

51. [S-B-2962-2963] 04/02/2025 - Telemedicine in MaineHealth Behavioral Health Community Services Autism and Developmental Disorders: · Mom called to discuss recent meet-n-greet with [] and review the tour/meeting. Meeting with Case Manager and [] [] Tour – the Case Manager testified This home is not for []. Testimony of the Case Manager.

- [] and parent discussed non-negotiable's and what can be flexible with or possibly work out and what cannot. Mom shares some pro's & con's:

- Pros: loves communication between them & [], liked the medication mgt. provider ([]) and house manager ([]). The kitchen and food staff seem sweet and attentive.

- Cons: facility itself seems sterile/bare and there's no real 'fun' place for them to hang out, it was dirty & dingy (old- ratty furniture), bathrooms looked & smelled gross, and I don't love the thought of girls and boys using the same bathrooms and could be mixed on the same wings. The common areas seem to be open for whatever client wants to do, there's really no designated area for eating meals and seems like people eat wherever. Mom shares “ these people making these decisions probably wouldn't even put their child there, it's gross and the State should be ashamed.”

- Mom shares and asks how would they even work with [] on making progress in life-skills areas, communication, etc. when there's no set up for that, there seems like there's no opportunities for him to work on skill-building there.

- [] talked to mom about seeking clarity from [] in some of these areas and perhaps they can explain more, for example on where clients eat dinner, or how [] could have the opportunity to work on independent living and ADL skills with staff. Mom is not interested in this and talked to [] about outreach to DHHS/CBHS provider regarding out of state approval and that this home is not for [].

- Mom asked [] to outreach DHHS/CBHS to inquire about and/or to schedule a meeting to discuss other programs & options (out of state), discuss parent/guardian choice for what's best for their child, etc.

- Mom states she's researched and spoke to [] in New Hampshire. They shared w/ Parents they have no waitlist and Parents are interested and would like to tour & see the program; "we don't care what the State wants, he's our son and we know what's best for him and the type of program and placement he needs."

52. [S-D-646-647] [] Team meeting notes from 04/17/2025.

-mom likes what they are doing, [] says he is doing well—change in schedule is really hard—looks like aggression in the car. just had review- dairy queen is closed in the winter—chart on the fall with things that are available-doing pretty well otherwise-push him more with getting dressed and putting things away. This summer exploring new opportunities-wants to increase hours—we can - bump to 35 hours-data from school-[]-Escalates from denial-

[] states that his notes from talking with [] before session with [] and [] that there were before spikes of physical aggression – were in a decent place – opportunity window, but Spikes set them back. 35-hour increase was noted – needed for a while –Team determines the number of what he needs to be safe – 5 hours a day.

53. [S-A-916 – 928] May 2025: A spreadsheet shows dozens of missed services. He in general can be very unsafe and unaware of his surroundings. [] missed services during School Year 2024-2025 beginning 07/15/2024 through 06/27/2025. Mom has spreadsheets – at the May IEP meeting “we discussed comp ed and got spreadsheet from [] with all the services due to him but told not covered at IEP meeting and the IEP team sent a different spreadsheet.” There was agreement there were missed services. Testimony of the Mother. Listed out correct date but this is the first time Mom is seeing the quantity of missed sessions which is more than double what she thought as of May 2025 - He is accumulating more comp services. Testimony of the Mother.

54. [S-A-1495] An email chain among [] staff indicate there are discrepancies in how many hours and/or services were missed, and the extent to which [] intended to provide them to [].

Mr. and Mrs. [] requested this meeting to discuss compensatory services for missed time due to a lack of staffing. They are requesting 79.25 hours of speech services, 40 hours of Physical Therapy, and 26.2 hours of Occupational Therapy at a minimum. They feel he is losing his skills and have begun OT services on their own, and are currently looking for speech services as well. They do not want these services to interfere

with his instruction time at school and are hoping for services after school on Mondays and/or Wednesdays. Teletherapy is not an option.

Hi [],

I sent all notes to Drummond, but the data is as follows:

PT- 4/9/2024-9/28/25: 80, 1 hour sessions

SLP- 4/4/2023-10/17/2025: 184 sessions (combination of 30 min and 60 min sessions)

OT - 4/2023-12/2023: 48 sessions and 10/2024-10/2025: 83 sessions

This is from the meeting that followed:

At the 05/14/2025 IEP meeting, [] staff stated that there were inaccuracies in the service time logs that had been shared with Parents. Therapy notes had more accurate information regarding services, and more services were provided than previously thought. After a lengthy discussion and review of []'s progress, the team concluded that [] had received meaningful benefit from his program when service providers were not on staff. This progress was due to consistent support and effective carryover of OT, PT, and Speech/Language goals that had been developed by credentialed service providers and implemented by skilled staff members.

Emails between [] and [] discuss missed compensatory services and identify the number of services affected. They are working to resolve inaccuracies between service logs and billing (medical) notes, noting that the logs shared with the family do not reflect the full picture. Medical records were reviewed to calculate actual services provided compared to the hours required in the IEP. Even when positions were vacant, work on goals continued. Although the SLP was not providing direct services, staff carried over strategies, resulting in some missed direct SLP sessions. The BCBA consulted with the SLP and continued offering guidance, with some overlap between BCBA and OT services. Overall, goals were still addressed during this period. Testimony of the Director of [].

55. [S-1209-1210] A WN for 05/06/2025 describes a meeting at the Parent's request to discuss missed services. 1) [] has missed services due to staffing issues at [] and Parents are requesting compensatory services. 3) [] needs time to explore options for contracted service providers and transportation before the team reconvenes to discuss options for providing services and to discuss how, when and where services will be provided given the complexity of the situation ([]'s availability, transportation, location of services). The Parents were asking for 79.25 hours of Speech, 40 hours of PT, and 26.2 hours of OT at a minimum and teletherapy is not an option, and that missed time was due to lack of staffing. The Parent stated it was time to explore options before reconvening, and she was requesting hours

that were calculated from the first breakdown of services [] sent. Testimony of the Mother. [S-1209] The BCBA working with [] reported significant progress in skills in the school setting in the 05/06/2025 WN.[S-1208] WN for 05/06/2025 [] *has missed services due to staffing issues at [] [] ([]) and Parents are requesting compensatory services. Mr. and Mrs. [] requested this meeting to discuss compensatory services for missed time due to a lack of staffing. They are requesting 79.25 hours of speech services, 40 hours of Physical Therapy, and 26.2 hours of Occupational Therapy at a minimum. They feel he is losing his skills and have begun OT services on their own, and are currently looking for speech services as well.* The Case Manager testified that she attended IEP meetings. In IEP discussions, she consistently highlighted that [] was not making progress—with the same one or two goals persisting for years, inadequate services, staff turnover, and a need for more specialized care—and used her data and observations to advocate for appropriate supports while actively assisting the family. [] was not making growth. She was not seeing growth or progress over the year she worked with him. The skill is not being maintained.

Testimony of the Case Manager.

56. [S-1208-1209] Written Notice 05/06/2025.

The Case Manager attended this meeting. CRCF with DHHS, Parents were at meeting – family, her and DHS staff. [] not to level with what they think [] needs, She’s been placing clients for 21 years. She agrees they provide the services but the program does not meet [] needs. It looks different and depends where clients are at. They did not enroll [] at []. Testimony of the Case Manager.

1) The team convened at parents' request to discuss concerns around missed related service times.

2) []'s IEP will be amended to accurately reflect the services he currently receives.

3) The team will reconvene to continue the discussion around missed service times and how they will be provided.

[] has missed services due to staffing issues at [] [] ([]) and parents are requesting compensatory services. [] needs time to explore options for contracted service providers and transportation before the team reconvenes to discuss options for providing services and to discuss how, when and where services will be provided given the complexity of the situation ([]'s availability, transportation, location of services). [], BCBA, shared that [] has made significant gains in skills and independence. She emphasized that [] is the only school in the state fully grounded in ABA principles, making its approach unique and not easily replicated. Ms. []

spoke to specific ABA methods that have been used successfully with [] and stressed that he had made significant gains in skills and building independence.

The Director of Special Education did not attend the 5/6 meeting, but the Assistant Director made her aware. The service log contained incorrect information, and there was a need to determine what [] missed and the impact of missed services. The Assistant Director and Case Manager were tasked with assessing the extent and impact. After the meeting, staff conducted observations and follow-up. It is unclear whether the Parents were aware, but the district acknowledges responsibility for the placement. Testimony of the Director of Special Education.

[S-B-2876] 05/06/2025 - Telemedicine in MaineHealth Behavioral Health Community Services Autism and Developmental Disorders.

· Parents shared that [] is not the best appropriate learning environment, behavioral mgt.environment, therapeutic environment for [] no direct ABA approach daily, which is what [] requires each minute for learning, for his behaviors and safety per [] programming. “[] needs ABA trained staff with him.” They describe [] as capable and making these gains when he's accessing the appropriate care and services.

· [] shared that they took the tour/meeting at [] and heavily discussed the ABA approach and the level of BCBA that [] requires and that although they have BCBA on staff, they aren't working with [] each day and that he'd be assigned a social worker. DHHS/Cassie: “[] serves this population like [] they work on FLS, communication, self-care, maladaptive behaviors, aggression, restraints, etc. so perhaps go back and talk to them again about their behavioral team.”

· Parents express concerns for []'s lengthy wait for admission (aside from their priority concerns expressed above) and that it's not right or client-focused that they won't grant them permission to seek out-of-state options; that [] could potentially have been admitted somewhere already oos. Parent cited an approximate 2yr. wait.

DHHS/[]: the department meets with [] regularly and states they do not have 2yr waitlist for admission, they are working to discharge older clients out and get new youth in; suggested a follow-up to [] again.

[] inquired about the out-of-state options, referenced new contracts w/ providers that Parents may desire as [] has seen with other clients in the past. Mainecare Regs is the barrier per [] for out of State options is the last resort when there are no in State options that accept clients. She states that there's no options for this or “way around.” DHHS/[]: [] was previously approved for OOS because no Maine providers accepted [] Once they re-applied for [] and they accepted, this made OOS no longer approved/an option.

[] and [] are the current contracts; developing new can take a long time to develop, it's a lot for a provider to become Maine Care providers, etc. Should the

family identify a provider with whom they feel is appropriate for [] please share this information with them and they can explore; but again, would require the Mainecare approval process for in-state residential vs. oos residential

· DHHS/[] & []: reports there are a variety of Maine Care enrolled residential programs across the U.S. and Parents asked about the 120 wait list for youth. Parents expressed concern for this. DHHS shares that they aren't sure this information/data is accurate, that it could be factoring in other information, etc.

· [] inquiry by Parents: DHHS – they have helped in the past with children's services youth but no longer able and felt it wasn't working for them as a provider.

· Grievance process: constituent complaints can be filed but it will just trickle back down to []/CBHS, [] states there's Maine Care customer service where parents can call for complaints. [] will look into this further and get back to Parents and [].

Dr. []/Residential needs – he's going to [] to observe [] on 5/28 and will do some testing/ Neuropsych eval on []; then can make a better assessment and recommendation for programming.

Per []: compensatory services are much higher than what presented/discussed in the earlier IEP meeting, she states over 4,000mins of Speech missed/ 2,400mins. missing for PT/ and 1,430min OT missed as of 2/24/25. They remain frustrated however do understand the challenges of maintaining providers; frustrated that MaineHealth can't pay their staff more/what they deserve to stay and work with these challenging students.”

57. [S-1216-1217] Observations at [] in Physical Therapy and Speech Services on May 9, 2025. It stated that in general, physical therapy seemed to be appropriate and serve the student's needs. He negotiates the physical location with independence. Communication shows 1-2 word utterances. Demonstrates challenges with attention. Does not respond to social questions. It was mentioned by the direct services SLP to the observer that [] had been without a direct SLP for a period of time, but the other staff worked on carryover services. [] stated [] was presenting similarly—if not identically—from 2024 to 2025, continuing to show prompt dependency, attention difficulties, limited utterances (though his device was working), and only a few incremental progress steps, with gains remaining slow due to his significant global complexities. Testimony of the SLP.
58. [S-1241 through 1245] In the WN for the 05/14/2025 meeting called for post-secondary goals, IEP amendments and parent request, it was determined [] would not be receiving compensatory services at this time. At the 05/14/2025 IEP meeting, [] staff stated that there were inaccuracies in the service time logs that had been shared with Parents. Therapy notes had more accurate information regarding services, and more services were provided than previously thought. After a lengthy discussion and review of []'s progress, the team concluded that [] had received meaningful benefit from his program when service providers were not on staff. This progress was due to consistent support and effective carryover of OT, PT, and Speech/Language goals that had been developed by

credentialed service providers and implemented by skilled staff members. Ms. [] wanted to move forward with compensatory services, but this idea was rejected because [] has continued to make progress due to the structure of his current program. Ms. [] did not agree with this decision. [], Parent Advocate, felt that [] was owed compensatory time for his related services, and he may actually require a more restrictive setting than [] can offer. Mr. and Mrs. [] stressed their concern with the lack of services they feel [] has experienced, and expressed concern over the documentation not reflecting the service times accurately. They asked that the IEP better reflect the level of service [] has actually been getting. They acknowledged that there is a lot of carryover from the other staff members, but wondered if [] may need more services than on his IEP and perhaps a more restrictive placement. They felt that skills were not being generalized from school to home. The Parent stated concern over why did he not get any comp services? BCBA said he was getting all the services in the classroom even though no therapists on site.

Testimony of the Mother.

59. [S-1243] 05/14/25 WN: [] continues to be an appropriate placement for [] and he has shown progress there. [] provides a comprehensive program that is based on the principles of Applied Behavior Analysis, and goals in all areas are embedded into []'s daily routine. This model allows for more practice and generalization of skills. [S-1243] 05/14/25 WN: Having [] attend school at [] was discussed, but the team felt that his current program continues to be appropriate, given the progress that he has made at []. The Parent stated the Team discussed getting services at [] if they are not happy with [], but her view is that [] could not go to a high school –it's just not safe. She found the recommendation offensive - If you don't like it [[]], bring back to public school –insulting, [] is significantly disabled, and this is not an appropriate recommendation. Testimony of the Mother. The Parent stated [] may need more services – need more help with home to school; Skills at school not generalizing to home and think he needs a residential placement as skills are stagnant, but the Team says that's [residential] not available. Testimony of the Mother.

60. [S-1243] Written Notice 05/14/2025

[] will not be receiving compensatory services at this time. [] and [] will be sending documents regarding observations and progress to Mr. and Mrs. []. At the 05/14/2025 IEP meeting, [] staff stated that there were inaccuracies in the service time logs that had been shared with parents. Therapy notes had more accurate information regarding services, and more services were provided than previously thought. After a lengthy discussion and review of []'s progress, the team concluded that [] had received meaningful benefit from his program when service providers were not on staff. This progress was due to consistent support and effective carryover of OT, PT, and Speech/ Language goals that had been developed by credentialed service providers and implemented by skilled staff members. Ms. [] wanted to move forward with compensatory services, but this idea was rejected because [] has continued to make

progress due to the structure of his current program. Ms. [] did not agree with this decision.

Ms. [] asked that consultation with home service providers be put into the service section of the IEP, but it was instead put in the accommodations section of the IEP, since school is not the provider of the home services. [], Parent Advocate, felt that [] was owed compensatory time for his related services, and he may actually require a more restrictive setting than [] can offer. Mr. and Mrs. [] stressed their concern with the lack of services they feel [] has experienced, and expressed concern over the documentation not reflecting the service times accurately. They asked that the IEP better reflect the level of service [] has actually been getting. They acknowledged that there is a lot of carryover from the other staff members, but wondered if [] may need more services than on his IEP and perhaps a more restrictive placement. They felt that skills were not being generalized from school to home.

At the meeting which included parents/advocate: [], []

61. [S-E-805] Grievance form [not dated – possibly May 2025 – Case Manager Testimony] that the Parents filed to DHHS on behalf of []. Parent believe [] { [] } is inappropriate for []. Parent request to look out of state was denied because they were told he was considered placed with the [] placement. Parents had believed they had final say in his placement, and it seems as though [] was losing his placement opportunity out of state since [] had accepted him. Parents requested the right to apply out of state for an appropriate therapeutic placement. They said [] is an example of an appropriate placement.
62. [S-D-606] June 16, 2025 - [] who provide out-of-school hour support—Unmet needs document described the reality of Mom hiding in room [from [] on waitlist due to significance of behaviors (res treatment). No surprises in report, His recs meet [] needs for services. Testimony of the Mother. [S-D-606] [] Crisis Plan from 06/16/2025: [] struggles to use his AAC device with accuracy and fluency and has inconsistent access to the device. He often mands for activities/ people he knows is unavailable. [] currently receives 4 days of support totaling 19 hours of support. [] is still unable to access residential program that he has been approved for, and the team believes [] still continues to need high levels of support ot maintain physical safety and continue to work on ability to safely access community. [] would benefit from up to 35 hours of support the team believes--he has made some progress with safety at home when staff is present, but Parents report that he continues to engage in physical aggression when denied access to outings, or when asking for items that are not available. The team discussed more intensive programming if possible this summer, and that he would particularly benefit from more support on weekends to maintain safety in the home at this time, as he is

currently more able to be safe with staff support. []'s Physical Aggression has started to increase in frequency with staff and continues to be high in intensity. It often requires either physical intervention from dad, or mom to hide in a room until [] has calmed. When home, [] requests attention from Parents approximately every 45 seconds, and often will become physically aggressive after requesting items he knows is not available. [] continues to need a high level of support-at school [] has 1:1 support and sometimes 2:1 support throughout his day to keep him and providers safe. Currently [] is getting up to 19 hours of support a week but the team believes he would benefit from up to 35 hours a week of support given the intensity of his behaviors without staff support in the home continues to make him eligible for a residential placement. The family has been looking into residential placements but currently there have been no appropriate settings available in state and the team has started looking into out of state options.

[S-D-606] [] Crisis Plan 06/16/2025 concerning the work they do afterschool and on weekends with []. Currently [] is getting up to 19 hours of support a week but the team believes he would benefit from up to 35 hours a week of support given the intensity of his behaviors without staff support in the home continues to make him eligible for a residential placement. The Case Manager stated that its the responsibility of provider to send [document] to family and then to case manager, and agrees they up to 19 hours of support but he requires 35. She pushed Parents because he needs more of this service. Did not observe [] services - Observed [] 2-3x after school hours. Testimony of the Case Manager. [] says not meeting unmet needs – what is getting in the way of progress: [] physical aggression with staff

Spike in summertime with physical aggression. [] in constant desire to get attention from adults – used to stop with timer to calculate frequencies of seeking Mom. Testimony of Director of ABA Services.

63. [S-D-616] Email from [] to [] and parents describing elevated incidence levels. [] has seen an increase in some instances of aggression from [] Some of these days had BIG numbers—this graph is per hour, so like on July 11th, [] had 93 aggressions in the almost 5 hours he did with [] . I have attached a few notes that included some instances where [] had some longer/ bigger aggressions. For example on the 7/19 mark noted he was continuously trying to engage in aggression (scratching/digging at his wrists) for nearly 20 mins. His current rate of Physical Aggression is .9 instances per hour in the past 3 months (so approximately 5 a shift), and we actually saw some property destruction (8 total instances) which hadn't occurred since May 13th of last year. We have also seen an increase in refusal to .76 per hour in the last 3 months as well. So generally, []'s behaviors with staff are starting to escalate a little bit, so while before the presence of staff helped to reduce some physical aggression to near zero levels during shift times, [] is starting to engage in some more interfering behaviors—generally he does not engage in behaviors on any given day, but when he does, they can be prolonged and intense, and essentially any sort of physical contact or redirection is escalating the

behaviors so [] really just has to try to stay safe and wait them out when they are occurring. [] stated that there were 93 aggressions and described 20 min to deescalate significant escalation, which led to [] and [] meeting on new approach continually. The current plan is school-based, yet [] continues to display unsafe behaviors, lacks sufficient staffing and remains at only 19 hours, struggles with generalization, and has achieved just 15 goals in four years—a rate of only three per year—leading [] to conclude that a residential placement offering consistent, whole-life, ABA-informed care is necessary for [] to safely and meaningfully progress. Testimony of the Director of ABA Services.

Some of these days had big numbers but some days he does not engage in physical aggression. Concern is [] not being safe and everyone is safe. Definition of Physical Aggression

- Scratching
- Biting
- Striking another person

Testimony of the Director of ABA Services.

64. [S-1216] Observations of [] by the District’s PT, SLP, and OT and all found he was performing skills and making progress. The observers were impressed with []. Regarding compensatory education, there was difficulty determining missed services. SLP and OT sessions were missed, while PT was initially thought to be missed due to unlogged sessions. This issue was raised in May, and service logs need review to determine if [] lost progress. The district sent PT, SLP, and team members to observe [] after reports of “carryover” services and to assess potential compensatory education. The team decided no compensatory education was needed, using the standard that RS was added to the IEP to provide benefit. Since [] continued to benefit from his IEP due to staff carrying over services, compensatory education was deemed unnecessary. Testimony of the Director of Special Education.

D. Summer/Fall 2025

65. [S-B-2817] **07/09/2025** - Telemedicine in MaineHealth Behavioral Health Community Services Autism and Developmental Disorders: [] meeting with parent regarding CRCF, Edu needs and services, as well as []'s behaviors and daily functioning. The purpose was Service Coordination and Scanning for gaps in member's care. Parent reports that [] is doing well overall, no major outbursts or issues in awhile. RCS28/BHP hours were increased to 35hrs. now. RCS28 coordinator reports they have another BHP that may be able to come on M/Wed to help support and work with []; however it's a female so they will need to see how safety and behaviors will work out. Parent reports that she and Dad saw [] yesterday in Mass, and it's very similar to [] programming. They feel it would be a good placement for [] and they aren't sure which route to take. They are pleased that [] provides 24-7 programming, is very structured and they could see [] being successful and safe there. Toured [] and Parents

were happy with Residential services, 6 children in each house (Ranch style with kitchen, living, den, and space for dysregulated children). They do not offer ABA programming, but use more PBSP-type. They had a pool; possibly undergoing renovations with garden area, vocational, and other programs seemed a bit unorganized. Working on Grievance against DHHS regarding the CRCF process and the right of choice (need to follow-up with legal/[]'s office). Parents are going after their right & []'s right, for choice in accessing the most appropriate treatment program, which out-of-state options should be considered/allowed. Parent cites the DHHS allowance for only in-state ([] or nothing as [] declined) is wrong in many ways. Parents will keep this [] updated. Parent did share with this [] that they continue to hold firm that [] “is disgusting and unclean, that the physical lay-out and program is not healthy or good for [], and that there's no nursing or BCBA on site,” amongst having other concerns. Dr. [] – waiting on the report but shares he did say that he was fairly pleased with [] programming when he went to observe [] He recommended that if they could offer/provide, that [] requires extended programming and should have until 7pm at night, or even 24-7, as [] is severe. Functions at about a toddler level (2-3yrs.). The Parent stated that at the time of this meeting, Parent discussed there were no new issues with []

– he's always had aggression – that had not stopped. She disagreed with how this was captured in the document. Disagrees with this coverage, Testimony of the Mother. The Case Manager testified about this Case meeting with Parent – [] is doing well over all which is what the Parent reported, but “A while” does not meet a long period of time and would have to look at notes for context. In her opinion, ABA all day every day – needs continuance of what he gets at []. Data should be different than a one [on IEP goals/objectives] – goes against progress monitoring of an IEP, which is her opinion.

Testimony of the Case Manager

66. [S-C-118 through XXX] Dr. []'s Neuropsychological Consultation was conducted 05/28/2025 at the request of the Parents in Spring 2025, and his report was issued **07/21/2025**. His Parents requested consultation in order to review his developmental and diagnostic profile and to discuss clinical and educational recommendations as they look ahead toward adult transition. Dr. [] is a credible witness and has all the licensure and certifications for his field, although he does not have training in ABA. He testified on 11/19/2025 that During the visit to the [] [to conduct evaluations], he met with staff, observed [] in the program, and conducted 1:1 assessment using nonverbal neuropsychological measures appropriate for his limited communication abilities. [] presented as nonverbal with very restricted expressive language and required high levels of prompting and structure. Nonverbal subtests from the Stanford-Binet, selected Wechsler tasks, and the Beery VMI were administered. Across all measures, [] demonstrated substantial intellectual disability, with functioning resembling that of a young toddler. His reasoning, problem-solving, visual integration, and spatial skills were profoundly impaired. Informant-report data from the Vineland

Adaptive Behavior Scales showed extreme deficits across communication, daily living skills, socialization, and overall adaptive functioning, with scores approximately four standard deviations below the mean (1st percentile). This profile indicates extremely low independence and the need for intensive support across all areas of functioning. Given the severity of his developmental disabilities, [] requires highly structured intervention, including Applied Behavior Analysis with Discrete Trial Training and explicit strategies for skill generalization, along with consistent, ongoing support in all environments. Profile like this = low level independence and needs high level of support and require explicit support in skill generalization.

Dr. [] continued to testify on the credibility of the report and its findings: [S-C-120] Behaviorally, [] “pushed” Ms. [] several times as she supported the testing, but he was redirected and the testing did not need to be discontinued. She indicated that he has occasionally had intense episodes when he requires further restraint. [S-C-121] In terms of assessment results, cognitive assessment was consistent with that provided through []’s School District last year. The Nonverbal scale from the Stanford Binet, Fifth Edition yielded a Nonverbal IQ of 42 (below the 0.1st percentile). []’s performance across the component subtests—fluid reasoning, knowledge, quantitative reasoning, visual-spatial skills, and working memory capacity—all fell below the 1st percentile. Further assessment of visual-motor skills with the Beery VMI yielded a standard score below 45, with poor motor coordination. Vineland scales were completed by Ms. [] and by []’s Parents. The inventory completed by Ms. [] yielded an Adaptive Behavior Composite score of 20, with profound impairment across functional domains, including communication, daily living skills, and socialization. Age equivalences across domains generally clustered below 3.0, consistent with the results of formal assessment, above. Concerns were also noted with regard to maladaptive behavior, again consistent with history. Ratings of maladaptive behavior were elevated. The parental Vineland yielded an ABC of 20, with deficits across functional domains consistent with teacher report and with maladaptive behavior scores in the clinically significant range (higher than per school). Upon cross examination of Dr. [], it was established that [S-294] Vineland scores are a rating scale completed by rater and [] has a lot of 0’s which indicates he does not do these behaviors or activities. This exhibit had 32 items. He had a 2 or “often” on understanding three or more advanced gestures and saying both the month and date of his birthday. [S-C-54] [S-C-63-67] Vineland scores showing significant behavior. However, these scores are ratings and not frequency counts. 0,1,2 = when you get an elevated scored, it tells you they see something often. But ABA data collection is looking for something more exact and this is a consideration in making placement determinations without ABA level data. Testimony of the Child Neuropsychologist.

67. [S-C-122-123]: Dr. [] summary in his July 2025 report - [] is a [] year-old adolescent who presents with Autism Spectrum Disorder Level 3, with Intellectual

Disability and co-occurring ADHD. Developmentally, he is functioning at a level generally consistent with a toddler; although in accordance with his developmental syndrome, his deficits in language and socialization are even further impaired. Cognitively, it is very difficult for him to move beyond basic matching (i. e., into more complex skills such as sequencing and he is profoundly impaired in terms of activities of daily living, including eating and toileting. Moreover, he is demonstrating significant maladaptive behaviors, which outside of the highly-structured, controlled, 1:1 school environment cross into the clinically significant range and present immediate threats to his safety and the safety of his family members. Dr. [] further testified that Communication further impaired by the ASD; it's ASD with ID (intellectual disability). [] exhibits significant maladaptive behaviors that pose immediate safety risks to himself and his family members, including daily aggression such as hitting, kicking, pushing, and self-injurious actions. He becomes particularly dysregulated around cooking activities, sharp or hot objects, and when near vehicles, further heightening safety concerns. While the [] appears to be an appropriate and well-staffed setting for his day-placement needs during school hours, it does not address his full spectrum of behavioral, socialization, and safety requirements across all environments; therefore, a residential placement is indicated. [] requires intensive support for basic safety, fundamental ADLs, and protection from his own self-injurious behaviors, alongside educational programming that spans a broad range of foundational functional skills. As detailed in the full report, he needs specially designed instruction delivered through rigorous ABA methods implemented consistently across situations, settings, and staff members. The current IEP is not appropriate for [], as it does not provide the necessary intensity, duration, or range of settings required for meaningful progress; he needs programming that extends beyond the school day and incorporates comprehensive generalization across environments to promote true mastery. While state services offer some safety-based support, they are not sufficient to deliver the continuous, skill-focused intervention [] requires. For [] the least restrictive environment is a residential placement, given his longstanding participation in day programs and the clear need for a more intensive, round-the-clock structure. ABA is the appropriate instructional methodology for [] due to his nonverbal/limited verbal communication and significantly reduced ability to learn beyond concrete concepts; ABA supports learning through sequencing, patterning, and structured skill-building that aligns with his developmental profile. As [] approaches age [], there is limited time before he ages out of services at 22, and he currently has more neuroplasticity than he will in adulthood, making it critical to implement intensive, evidence-based intervention now to optimize meaningful growth. [There will be] “slow and incremental progress and there will be a limit [on the progress]”. Testimony of the Child Neuropsychologist.

68. [S-C-123] Dr. [] provided long term recommendations based on his assessment of [] in excerpt from July 2025 report: *I strongly recommend that [] transition to a*

residential program offering 24/7 instruction governed by the principles and practice of ABA across the day and across environments, under the ongoing supervision of Board-Certified Behavior Analysts, and with adjunctive consultation by appropriate ancillary therapists, including speech and language and occupational therapy. [] will continue to require 1:1 support, with ongoing programming targeting life skills; functional academics; social engagement; and behavior management. In addition, he will require ongoing AAC support for communication. Programming needs to be provided on a year-round basis. It is important to note that Dr. [] did not observe [] at home/did not see data at home about behavior frequencies => family report only and not from data sheets. There were no interviews with respite providers. Testimony of the Child Neuropsychologist.

69. [S-B-3935-36] [] Positive Behavior Support Plan 07/30/25 written by []. The patient/student presents with autism spectrum disorder and engages in behavior that is disruptive including eloping, property destruction, aggression. These interfering behaviors affect his ability to access his education. The intention of this plan is to increase his adaptive skills and decrease challenging behavior. There are antecedents, replacement behaviors, and reinforcement procedures, with prescriptive staff responses per targeted behavior. One of the antecedent strategies is Personal Protective Equipment: Staff should wear jean jacket with [] at all times. Gloves, helmets, skull cap should be accessible to staff. The Director of [] testified Positive behavior support plan done by BCBA in collab with Team after the FBA -> builds program around it and Teach replacement behavior/reinforcement plan. Testimony of the Director of []. []'s current behavior plan addresses multiple behaviors, including screaming (excited squeals), arm pulling, squeezing, and poking, often as expressions of excitement or greeting. Progress in functional skills is slow but steady, and his communication has improved. The Transition Plan, which she helped develop, supports forming important bonds and giving [] choices, but new staff can trigger increased interfering behaviors. In the absence of SLP/OT, staff provide repeated ABA practice to continue goal work. Reinforcement is provided throughout the day to support learning. Testimony of the K-12 Director.

70. [S-B-2743] 08/11/2025 - Patient Outreach in MaineHealth Behavioral Health Community Services Autism and Developmental Disorders [] from [] offered admission to [] “as early as next week”. Parents had visited before and asked for time to think about before making decision. Testimony of the Mother. Because accepted at [], they could not look out of state – this was considered placement so by August 2025 – has res placement but did not accept it. Turned down [] because do not have ABA program just ABA consult, “which is what we were told”. Approved for 35 hours at home but getting 18.5 -never received the full amount of services ever and this is the most he ever got –staff shortage. Testimony of the Mother. “Not surprised by decline [] can’t meet his needs such as ABA

she [Case Manager] fully supported the decline of [], Testimony of the Case Manager.

71. [S-E-825] Letter from [], Child and Adolescent Psychiatrist at [] writes on 08/19/2025 that [] has had years of intervention in a day treatment program and, despite these interventions, he “continues to present with aggression and safety risks in the home and community and requires residential treatment to attempt to extinguish these behaviors so he can function safely in the community and in his home.” [] was last seen in Dr. []’ office on 08/19/2025. The Parent stated that she agreed with these recommendations. It was a goal for [] coming into [] grade and they wanted to send referral to res programs at IEP meeting ([]/the Team). Testimony of the Mother. Dr. [] agrees with the conclusion in the [] letter, but also notes the recommendation is not limited to safety concerns. How do we facilitate progress? Residential ABA. Testimony of the Child Neuropsychologist. This was the first time the Director of K-12 Services had seen this letter. She explained that she meets with Dr. [] monthly and shares data they are seeing at [], but does not know who consulted with him on this letter – he did not talk to educational providers. Testimony of the K-12 Director.
72. [S-D-632-633] Occupational Therapy Progress Report 09/01/2025. [] has demonstrated some inconsistency with gains during this reporting period, but overall continues to put forth strong effort toward fine motor strengthening tasks to support functional hand skills. He continues to be reliant on adult support for pacing during mealtimes, bolus management with liquid/spoon foods, and participation in basic ADL routines such as toothbrushing and face washing. However, he continues to show consistent progress with community safety skills and expansion/generalization of some gains into alternative locations. [] stated that he tries to incorporate these goals into treatment plan, Progressing 85% of the time, and Incremental steps include hand over hand support. Testimony of the Director of ABA Services.
73. [S-D-635] Occupational Therapy Progress Report 09/01/2025. [] was making progress or met target on this goal: Given visuals, systematic instruction, and prompt fading, [] will increase independence in instrumental activities of daily living by walking alongside an adult or group, referencing group behaviors, and stopping spontaneously at crosswalks or within parking lots with 0 adult prompts, demonstrating 80% accuracy across 3 consecutive sessions. DF says [] has very slow progress but making progress. He may be doing the skill in a predictable way with a predictable person but does not mean generalizable. Testimony of the Director of ABA Services.
74. [S-1278 through 1280] WN for IEP meeting 09/16/2025 for annual review: *The team wants to ensure that [] is receiving his 1:1 support. []'s placement at a special-purpose private school continues to be appropriate. While the District could provide programming within [], he is familiar with his current placement, Parents have*

been pleased with the providers and his services, and he is in [] school. Since transitions are challenging for [] and he is benefiting from this placement, it is the least restrictive environment for him at this time. He will attend school year-round, as he qualifies for extended school year services. Placing [] in a residential facility was considered and rejected, as [] is making progress in his current educational placement. The topic of programming for [] between the ages of 20-22 was raised. The team asked if a referral had been made to adult services, a Person Centered Plan had been started, or if the family had ideas about what post-high school would look like for [] in terms of living, day services, etc. The family has not yet begun these discussions. [] shared that she is beginning to work with the family on a referral to OADS. Once things become clearer about his post-secondary goals, the IEP team will be better positioned to have this discussion. The Parent stated this was the IEP meeting where they advocated for 24/7 education in a residential facility. They made request for ABA residential and the response was no – the desire is [] placement in a location like [], but with a residential component, like Melmark or New England Center for Children. They understand that [] is the entity that needs to provide the referral. Testimony of the Mother. The high schools have programs for students with significant needs, including profiles similar to []'s. [] was making progress at [], and the team has an obligation to provide the Least Restrictive Environment (LRE). The September IEP meeting suggested public high school programming as an alternative, not to be offensive, but [] ultimately continues at []. Testimony of the Director of Special Education.

75. [S-B-3988] [] Daily Progress Notes on 09/03/2025 indicate minimal behavioral disruptions and many successful engagements in a 30 minute window.
76. [S-B-2689-2691] 09/16/2025 - Telemedicine in MaineHealth Behavioral Health Community Services Autism and Developmental Disorders – the Case Manager testifies that Sept 16, 2025 IEP Meeting Notes => her notes from the IEP meeting. Family thinks he needs more – same program as [] but all the way through the day until his head hits the pillow. Placement is for educational purposes. Questions progress – []'s Not available goal – in her observation, she had observed 10+ requests [from []] for staff to have lunch who were not available. Testimony of the Case Manager.
[]/[] report: [] just transitioned to new [] school classroom, a few new staff and peers, he takes time to form bonds. Goal is 5 staff in that classroom with 5 students as the goal. [] confirms they are currently short staffed.
- Parent inquired about BCBA and staffing, they currently have a trainee and [] is currently covering both these roles (lead teacher, BCBA).
- Advocate/[] reports staffing shortages is a concern and guardians express concerns about BCBA, his 1:1 supports for safety, as well as receiving his OT/SPL/PT services [] agrees that []'s skills and Math goals have been challenging for her to develop. Parent shares this was the same goal last year and they modified this year as he wasn't making gains, it's hard to think of [] adding and if he doesn't understand less-n-more.

Behavioral goals: [] has really struggled with the 'not available' goal and program, no progress. They suggest changing to what he needs to do protocols before he can then engage in preferred topic/request.

- Parents report a significant amount of crying at home, especially when denied access. Lots of pushing, grabbing at home especially around eating and food.

- Parent shares his profile at home, frustrations, anger, requests, etc. and [] staff reports they see the same emotional responses but that he's improved his length in time of unhappiness, being stuck, etc.

- Safety directions and making some gains with "STOP" and w/ new staff it does awhile to engage and show progress; he has done well with familiar staff. They want to expand goal so that they don't have to hold his hand.

- Behavior reduction goal to be added: 5.5 aggressions per day – 9 inappropriate verbalizations, .33 p/day property destructions, and 8 elopements

*Parents reports out on their concerns at home/overall profile of []: He continues to cry and be more emotional, someone has to be with him 24-7, SIB's and self-harm continues, aggression remain but mom is not getting thrown to the wall as often. He now qualifies for 30hrs. a week of in-home services but they are only getting about 15hrs. They feel he needs a full comprehensive 24-hr ABA program and stress specific concerns about his progress and feel he's not making progress there, very concerned. **Parents & advocate request residential placement for educational purposes.***

- [] feels he's making adequate progress and empathizes for the family and their struggles at home but denies residential placement for educational purposes. Parents express they disagree and do not feel like [] is making adequate progress. [] feels that outside providers such as this [] is responsible to help support family with outside services, placements, etc. and that []'s profile will likely always require many services and providers on his team (extensive services outside of the educational day), they feel that []'s needs are being met with current program @ []. Furthermore, they could program for [] there at public school, but recognize the relationship, bond, and all the hard work [] is doing with []; and will continue to support his program there. [] disagrees and will send procedural safeguards. Parents disagree and feel that although [] has tried really hard and Parents appreciate the efforts of staff, and that he needs 24-7 program to work on these skills that end in afternoon like at [], he requires more-a continuum of ABA care.

77. [S-1279] Written Notice 09/16/2025. []'s placement at a special-purpose private school continues to be appropriate. While the district could provide programming within [], he is familiar with his current placement; parents have been pleased with the providers and his services, and he is in high school. Since transitions are challenging for [] and he is benefiting from this placement, it is the least restrictive environment for him at this time. He will attend school year-round, as he qualifies for extended school year services. The District opines the high schools have programs for students with significant needs,

including profiles similar to []'s. [] was making progress at [], and the team has an obligation to provide the Least Restrictive Environment (LRE). The September IEP meeting suggested public high school programming as an alternative, not to be offensive, but [] ultimately continues at []. Testimony of the Director of Special Education

78. [S-1273 through 1277] [] had support to create a transition plan which highlights his family in September 2025. He utilized his ACC device with the support of staff. Housing after graduation is with family and hopes to contribute financially. His Leisure goals focus on family time. The Parent said it was a Transition Plan that “he did”, emphasizing she was skeptical [] had the capability of producing this work on the transition plan. Testimony of the Mother. This transition plan is described as being based on []'s input, yet he does not have the capability to write or communicate in the manner reported, nor did he produce this independently on his device, where his speech is recorded. Testimony of the Father [S-1273-1277] []' S Transition plan. There are picture categories for my strengths and my goals. Picture categories for After graduation and leisure time. Boxes are marked with a hand drawn check mark. Under School in the My Goals section there was a handwritten note that [] said cooking group using the AAC device.
79. [S-1290] Current IEP – date sent to parents 10/01/2025
Specially Designed Instruction 1 X 1590 min, Consultation - Speech & Language Pathologist 1 X 60 min Monthly, Consultation – OT 1 X 15 min Monthly, Speech/Language Services 1 X 90 min Weekly, Occupational Therapy 1 X 60 min Weekly, Physical Therapy Service 1 X 60 min Weekly, Consultation – Behavior 6 X 60 min Monthly. Parent Input on the IEP: *Mr. and Mrs. [] expressed their concern with ensuring [] is receiving 1:1 service throughout his whole day. Due to regression at home, they feel he needs 24/7 care and education that they can no longer provide at home.*
[] shows documented delays in cognitive, language, adaptive, social emotional, fine and gross motor, and behavior. Due to the severity of []'s disability, his least restrictive environment at this time is in a special purpose private school with 1:1. An example of a goal [] is working on [S-1298] By 09/26/2026, given structured practice sessions and natural opportunities, in preparation for post secondary transition, [] will respond additional safety directions (ex. "walk with me," "come here", "wait", "look at me" etc.) within 5 seconds of the direction given in 100% of opportunities across 3 consecutive sessions as measured by daily data collection. The Director of Developmental Disabilities Services testified to the IEP and described how Teams develop goals and objectives through the team process, look at data, assessments, current progress areas of challenges => leads goals for the course of a school year. The IEP is adequate, good services which he needs – it's individualized to his needs. Testimony of the Director of Developmental Disabilities Services.
80. [S-1301] []'s present levels of performance state - [] currently does not participate in community outings in the school environment; however, parents and caregivers report

difficulty in area. There are measurable goals, but it is unclear the extent to which [] will be presenting the learning opportunities within the community outside of the school setting. Goal: By 09/26/2026, given systematic instruction, visual supports, and structured opportunities to practice, [] will improve instrumental activities of daily living (IADL) independence by navigating the grocery store, gathering and transporting the items, scanning and bagging items, and completing the transaction with at least 80% independence and no interfering behaviors across 3 consecutive sessions as measured by staff observation and data collection. The goals are numerous [through S-1307] but do not capture []'s full scope of need as described in assessments, data, and testimonies.

81. [S-1305] Statement of supplementary aids, modifications, accommodations, services, and/or supports for SAU personnel in the IEP. Supports for 6-hour daily needs includes Visual timer, Frequent motor breaks, Visual supports, Name stamp, 1:1 Ed Tech, and behavior supports. Consultation is as needed. Accommodations list – visual timer things he needs on a daily basis, critical so he can accept the interventions. Consultation -> time to sit down as a multidisciplinary team. Communication daily from school to home.

Testimony of the Director of Developmental Disabilities.

82. [S-1308] 09/27/2025 IEP Section F. Transition Services and Activities: (MUSER IX.3(A)(1)(h)(ii)) Describe the activities provided by the adults in the school and in the community that will enable and promote the child's progress toward meeting annual and postsecondary goals. Include special education, general education, related services, services from other agencies, and services provided by families, as appropriate for the child's needs. Transition services must be specific and individualized. *[]'s team including parents, and outside case management will instruct [] on taking skills learned in a school setting and generalizing them in a community setting. []'s team including parents, and outside case management will guide [] in participating in community outings, such as but not limited to, grocery shopping, eating, and ordering at a restaurant, and or other recreational activities. []'s team including parents, and outside case management will guide [] to practice safety skills in the community. Following such safety directions as, "Stop, wait, come here, walk with me, stand up, or sit down." []'s team including parents, and outside case management will Help [] with ongoing speech and language services to develop his communication and receptive language related to community involvement.*

83. [S-1310] SEPTEMBER 2025 PROGRESS REPORT (of IEP goals) – on this page, there is only one section with ratings. Progress Narrative 1/2025: [] currently has over 80% accuracy when independently putting in one, 6-digit pin pad code into his iPad.

1/15/25 – 1 {does not meet}

4/15/25- 1 {does not meet}

6/15/25-2 (partially meets)

9/27/25-2 (partially meets)

The central indicators are #s. Ex. Child has met the goals “there is a challenge when it does not meet and partially meet – Not sure what you’re putting down.” Testimony of the Director of [].

84. [S-1306] Behavior Supports Positive Behavior Support Plan in the IEP Special Education 6 hours daily 09/27/2025 09/26/2026
85. [S-B-2672] 10/02/2025 [] notes Offsite Visit in MaineHealth Behavioral Health Community Services Autism and Developmental Disorders: [] *observed [] in his Day treatment program today working with his Ed tech staff, using his device and visuals. He was a bit obsessed and continued to request “lunch with []” like 10+ times. [] was reminded that his lunch with [] is tomorrow. Then he would request “I want [].” The Case Manager stated during the year she worked with him, there was not marked skill progress in a lot of areas despite the supports. Minimal to no change.* The [] does not have a background in ASD nor is a BCBA, but was a BHP for seven years. Testimony of the Case Manager.
86. [S-A-1498] 10/20/25 email from [] to [] and []. *Last spring when we had the IEP meeting to discuss the comp ed request, the family had been provided inaccurate information and therapists had more accurate data from their MaineCare billing. Can you please send me the correct number of sessions missed?* They are unable to calculate the exact missed services because medical billing records do not include time details, so they cannot answer []’ question. Filling the SLP position took a long time, and the OT position had to be reposted. During these vacancies, staff provided “carryover,” meaning they directly worked on SLP and OT goals even without the specialists present. Testimony of the Director of [].
87. [S-1343] [] Employment advertisement posted 11/05/2025 for autism behavior technician. No experience required, High School diploma. \$22-25 an hour. [S-1345] Residential counselor position job announcement at []. \$20-22.50 per hour. 21+ years old. High school diploma or equivalent, plus ONE of the following: Any college degree+ 12 or more college credits in Human Services, Education, Psychology, or related field, OR 2 years (3000 hours) of experience working with children or working with adults with disabilities in a residential group home setting, OR Parenting experience (child age 7+), OR Combo of education + experience totaling 2 years [S-1351] [] position announcement for Overnight Lead ABA Counselor \$19.50 per hour and high school diploma requirement. The Director of Special Education testified that Staff working directly with students in residential placements are typically entry-level and hold only a CPR certification [residential support]. BCBA’s consult and develop behavior plans. Behavior technician positions, including evening shifts at the []n, require no prior experience and only a high school diploma or equivalent to support ADLs using ABA. Testimony of the Director of Special Education.

88. The Parent testified on 11/19/2025 that she has done some parent training through the school/State. [] has done some courses on behaviors, RUBY training, and picture schedules [dates unknown].
89. 11/20/2025 [] Testimony summarized he has not reviewed [] data only attends IEP if invited – has requested observations at [] – has not been able and it's a struggle to have community of services. [] is not working on educational programming – ADLs likely overlap. [] ([]) will know what he needs for education + best people on how he has progressed at []. []'s note of progress is individualized – one of the most complex kids. Slow progress. Testimony of the Director of ABA Services.
90. 11/20/2025 Testimony of the Father. [] communicates primarily through single words, occasional two-word combinations, tapping or nudging others, adding words to his device, and producing short phrases with support. In daily living tasks, he requires extensive assistance, including hand-over-hand guidance, picture schedules, and close supervision to prevent behaviors such as stuffing food; he still uses pull-ups, possibly due to his scoliosis brace, and needs medication mixed in applesauce to avoid gagging. His safety awareness is extremely limited—he must be physically held in parking lots, frequently bolts or elopes, and engages in behaviors that require constant readiness to intervene, including the need to call out “safe body” due to how he treats []. These safety challenges, combined with ongoing difficulties taking him into public spaces and the strain on family relationships, underscore the severity of his needs. The family reports that although BHPs observe some improvements, many skills do not generalize, and his other sibling often isolates to avoid conflict. Because of escalating behaviors and the risk of someone getting hurt, they believe an ABA-based residential placement is necessary for both []'s safety and theirs. They explored options such as [] but found significant concerns including lack of a BCBA, safety issues, insufficient 1:1 staffing, and ratios as high as 5:1 despite [] requiring far more support. They have asked questions, sent documentation including []'s recommendations, and emphasized that they are not simply seeking a home but a therapeutic placement where [] can grow, learn, and generalize skills—something they feel is not happening in the current setting and for which they now seek a referral.
91. Testimony of SLP. She was highly impressed with the [], noting their skill in interpreting []'s gestures, providing functional activities, using visual learning supports and PT tasks, and creating a supportive, highly motivating environment that demonstrated a strong understanding of []'s needs. Residential program => clinical community is motivating, and he could have anxiety over learning in the residential environment. Did the observation to see if significant loss of skill since he had missed some interventions at [] – he had maintained skills from her observation. In May 2025, it was discovered that [] had missed a significant number of services—estimated in the double digits—discussed with [] and [], reflecting the ongoing need for consistent, across-the-board intervention identified in 2024. The IEP team accepted

recommendations, and over the following year, [] made only small gains, requiring substantial staff support, while she was asked to assess his skills during a lull in services, was not involved in the compensatory education meeting in May, and noted an increase in staff providing group support. Testimony of the SLP.

92. Testimony of the Director of []. At the [], [] has made meaningful and steady progress, with high-level behaviors decreasing and many new skills learned, including walking with staff and following some safety directions, though he continues to require lifelong support to meet basic daily needs. His progress, assessed through ABA-based PBSPs, IEP/ITP reports, and report cards, reflects the expected slow but steady gains given the multiple symptoms and barriers that make learning new skills challenging and effortful, and he is thriving within the program's people, routines, and spaces without safety interruptions, demonstrating reasonable and appropriate advancement.
93. 11/21/2025 Testimony of Director of []. ABA repetition is essential for [], requiring intensive services, including 26.5 hours of ABA SDI and additional ABA support outside of school. There was no consultation with []. After 2:00 p.m., there is no documented programming, though the team is open to collaboration. Data were collected during the 8–2 school day, and [] often needed hand-over-hand support, with gradual fading, though sometimes more intrusive prompting was required. Generalization is important and there is no data showing skills generalizing to other settings outside []. Parent support was provided. Frequent staff changes occurred, including turnover among RBTs, SLPs, OTs, and the 1:1 staff [] rotated among, with some classroom switches and multiple transitions. PT was the most consistent service. Goals in the IEP were created by [] based on estimated annual progress and intended to be met within []'s 30-hour model. Dr. [] offers clinic-based services for students who require separate support.
94. 11/21/2025 Testimony of Director K-12 Day Treatment at []. The provider has known [] for many years and describes him as an amazing, very social young adult who uses AAC, has communication rigidity, apraxia, motor difficulties, and needs routine. He is easily distracted, often shows slow progress, and can lose motivation, making participation challenging. She oversees the K–12 program, functioning as the special education teacher while supervising the BCBA, supporting goal development, progress monitoring, and instructional adjustments. ABA is described as the appropriate, systematic approach for [], using prompting, visuals, data collection, and repeated practice. [] has made significant gains: major reductions in self-injury and aggression, improved communication, and far better engagement compared to early years. His aggression at school is now rare and minor, and he responds well to [] staff. She believes [] will continue to make progress at [] and that his current progress is meaningful given his limitations. Data collection does not capture the severity [of

behaviors]. The exact duration without SLP and OT is unknown, though it lasted months. PT service logs were inaccurate, and no scores were given if the logs were incorrect. It is unclear whether his skills would have improved consistently with therapy. He receives services at [] from 8 a.m. to 2 p.m. She has not worked with [] but the team is open to collaboration, though no communication has occurred.

95. 11/21/2025 Testimony of the Director of Special Education. [] was only met in the context of his transition plan. His records show ASD/ID with scaled scores in the 40s. He has made steady educational progress, and staff familiar with similar students expect slow, steady progress even with increased services. The [] placement continues because it meets his educational needs and provides continuity; he is benefiting meaningfully. The IEP team declined residential placement. Some generalization of skills is occurring at school, with additional work at home. [] has become more physically challenging to manage, but [] addresses his educational needs. No data supports the need for residential placement, and educational providers did not see the [] or [] reports, which were intended for DHHS. [] staff emphasize that under IDEA, the duty is to provide the Least Restrictive Environment (LRE). Out-of-state residential placement is not considered LRE and would disrupt his established community connections, particularly given his difficulties with transitions and the prospect of further moves after age. 22. She is in agreement with the IEP Team decisions. [S-1241] May 6th –May 14th = asked [] staff to come back with information. The advocate initially requested a different educational placement and later asked about residential placement. The discussion focused on potential changes in placement. All IEP goals were designed to be measured and met at the []. Differences in []'s skills at school versus home are not considered an educational problem. The school's role is to teach skills, while generalization and practice at home or with outside providers support skill use.
96. 11/19/2025 Testimony of the Mother. [] uses an assistive device for one-word requests, some personal signs, pointing, PECs, and AAC, and has received these services for years. He is very social and loves people but can be aggressive when seeking attention, repeatedly requesting items or people, and reacting strongly when denied. Daily living skills are highly dependent on his mother, who must prompt and assist with waking, toileting, hygiene, eating, and safety. [] experiences frequent accidents, choking risks, and requires hand-over-hand assistance due to limited dexterity. Weekends and community outings require constant supervision; aggression can escalate quickly, including grabbing, pushing, hair-pulling, biting, kicking, tearing clothes, and bolting. Safety is a persistent concern, and typical strategies like ignoring behavior are ineffective. Efforts to teach coping, redirect escalation, and use schedules are ongoing but limited. Community outings require multiple caregivers, and his behaviors pose significant safety risks to himself and others. Aggression often follows denial of requests, manifesting as

screaming, crying, or bolting. []'s early services included [] and [], followed by preschool with typical peers (which was unsuccessful), then [] for kindergarten. He later attended []/[], arriving in 2023 in 8th grade when the family moved to []. [] provides wraparound services, including on-site doctor and dentist, and was expected to support him into adulthood. He was happy with the transition and made progress academically and socially. Currently, aggression and challenging behaviors have increased. He struggles with ADLs and generalizing skills between home and school. Family support is insufficient for safe, effective management, highlighting a need for residential placement with ABA support. [] provides 6–18.5 hours of in-home ABA support (he qualifies for 35), supervised by a BCBA. Staffing issues limit consistent support, making safety management challenging. BHP staff see aggression increase as they become familiar with him. Respite services are separate from the IEP and not fully coordinated with school ABA. School and home ABA programs differ, preventing effective generalization of skills.

97. [], Senior Director of Developmental Disorders Services at [], calculated 42 weeks of missed services. Specifically missing 3,780 minutes (63 hours) of missed direct services, 600 minutes (10 hours) of missed speech consultation to staff, 2,460 minutes (41 hours) in missed occupational therapy services as called for by []'s IEP. This was provided after the hearing as a sworn affidavit, but while the hearing record was still open.

V. CONCLUSIONS OF LAW

1. Did the District fail to provide Student a FAPE during 2024-2025 due to []'s failure to implement the related services in Student's IEP? If so, what compensatory remedy is appropriate for Student?

Yes. The record demonstrates that [] missed multiple school days and related services as a direct result of staff shortages. Documentation and testimony confirm that, in both the 2023-2024 and 2024-2025 school years, the District was unable to provide sufficient staffing, resulting in rolling absences, gaps in therapy services, and the inability to hire or retain qualified personnel for required related services, including Speech-Language Pathology (SLP) and Occupational Therapy (OT). The Maine Department of Education (MDOE) specifically requested a statement regarding missed days due to staff shortages. The District acknowledged that if absences reached ten days, an additional meeting would be required. [], Senior Director of Developmental Disorders Services at [], calculated 42 weeks of missed services. Specifically missing 3,780 minutes (63 hours) of missed direct services, 600 minutes (10 hours) of missed speech consultation to staff, 2,460 minutes (41 hours) in missed occupational therapy services as called for by []'s IEP in School Year 2024-2025.

The evidence establishes that []'s Parents repeatedly requested compensatory services for missed instruction and therapies. The Parents provided spreadsheets and calculations indicating significant missed sessions: at least 79.25 hours of speech, 40 hours of physical therapy, and 26.2 hours of occupational therapy. The District's own records and testimony corroborate that dozens of sessions were missed, and there were discrepancies between service logs, medical billing records, and the information provided to the family. The District acknowledged these discrepancies and the need to reconcile logs to determine the actual extent of missed services.

Despite the missed services, the District contends that [] continued to make meaningful progress due to the implementation of goals by credentialed staff and the use of "carryover" strategies when specialists were unavailable. However, the District's own testimony and a combination of meeting notes reflect ongoing concerns about the adequacy of services, the accuracy of records, and the impact of missed sessions. The District's refusal to provide compensatory services at the May 2025 IEP meeting was based on its belief that progress was sufficient, but this decision was not agreed to by all team members, and the Parents' concerns remain unresolved. The data with respect to progress on IEP goals never exceeded "not met" or "partially met".

Under the IDEA, a district must provide FAPE by ensuring that all services outlined in a student's IEP are delivered as written. When services are missed due to factors within the district's control, such as staff shortages, compensatory education is an appropriate remedy to place the student in the position they would have been in had FAPE been provided. The determination of compensatory services involves reviewing the frequency and duration of missed instruction, the student's current performance, previous progress, and any updated evaluations.

I generally favor a qualitative approach, focusing on the educational harm done rather than simply counting missed hours. Compensatory education can take various forms, such as additional instructional time, specialized services, or even monetary awards to support the Student's IEP goals. Ultimately, the process is designed to be equitable and flexible, ensuring that the remedy addresses the specific harm caused by the denial of FAPE and supports the Student's ongoing educational progress.

The evidence here demonstrates that the District failed to consistently provide required services and did not fully remedy the loss through compensatory education. Accordingly, it is concluded that the District did not fully meet its obligations under IDEA to provide FAPE to [] during the relevant period. The District must, therefore, convene an IEP team meeting to determine the appropriate amount and delivery of compensatory services, based on an accurate accounting of missed sessions and the Student's current needs. The determination of the specific nature and extent of compensatory services is made by the Student's IEP team. This team includes Parents, school personnel, and other relevant professionals who understand the Student's needs. The IEP team reviews data on the Student's present levels of academic achievement and functional

performance to assess the impact of the FAPE denial. Factors considered during this process include the nature and duration of the FAPE denial, the Student's current educational needs, and the specific services that were missed. The goal is to develop a plan that is reasonably calculated to enable the Student to make appropriate progress and address any skills or learning lost. These services can be provided outside the regular school day, during weekends, or over school breaks, and may even extend beyond the Student's typical age of eligibility if warranted. In general, the individualized determinations of whether, and to what extent, compensatory services are required must be made by a group of persons knowledgeable about the Student, of which I would certainly recommend staff from []. The IEP Team must analyze credible data to determine the extent of the denial and the educational loss suffered by the Student, particularly given the complex needs of []. The goal of compensatory services is to place the Student in the position they would have been in had FAPE been properly provided, addressing learning loss and ensuring the Student is not permanently disadvantaged. These services are highly individualized, tailored to the Student's unique needs, and are not necessarily a minute-for-minute replacement of missed services. The school missed services and you can't say he would not have made gains – the consensus from testimony and the records indicate he makes slow, steady progress, but some of that progress was likely denied without the direct services the school was obligated to provide.

The IDEA does not explicitly require that a district proactively provide compensatory services. However, the obligation arguably is implicit in the IDEA's FAPE mandate. The IDEA obligates districts to ensure students with disabilities receive an "appropriate" education. [34 CFR 104.33](#). Per the U.S. Supreme Court, FAPE requires that a district develop an IEP that is reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Endrew F. v. Douglas County Sch. Dist. RE-1*, [69 IDELR 174](#) (U.S. 2017). Arguably, under the IDEA's FAPE standard, a district has an obligation to provide compensatory services to make up for the services it failed to implement to ensure the student continues to receive FAPE. The IDEA requires a district to implement a student's IEP with all required components. [34 CFR 300.323](#) (c).

2. Whether the Student's IEP and placement at [] from September 19, 2023, through the end of the 2023-2024 regular school year was reasonably calculated to provide the Student with an appropriate program in the least restrictive environment given the Student's needs?

Yes. The IDEA requires that each eligible student receive a FAPE through an IEP that is reasonably calculated to enable the student to make progress appropriate in light of their circumstances, and that placement occurs in the least restrictive environment suitable to their needs. *Endrew F v. Douglass County Sch. District RE-1*, [69 IDELR 174](#) (US 2017). The evidence in the record demonstrates that [] presents with significant cognitive, behavioral, and communication challenges, including inappropriate vocalizations, physical aggression, and

deficits in functional and social skills. Comprehensive assessments and testimony from qualified professionals confirm that the Student's needs are substantial and require intensive, individualized supports.

The IEP team at [] developed and implemented a program that included regular review of behavioral data, targeted goals for communication and daily living skills, and the addition of parent training to support generalization of skills at home. Progress monitoring shows that while the Student's growth is slow and incremental, there is measurable progress in key areas such as reduced behavioral incidents, increased independence, and improved engagement. The placement at []—a specialized setting outside the typical school—was determined necessary due to the Student's social and behavioral needs, and the record supports that this environment provided appropriate structure, predictability, and qualified staff. Testimony from the school psychologist and other professionals further establishes that the Student benefited from the programming and that removal to a more restrictive, residential setting would not be warranted at this time.

Accordingly, it is concluded that the IEP and placement at [] during the relevant period of 2023-2024 were reasonably calculated to provide the Student with an appropriate educational program in the least restrictive environment, consistent with the requirements consistent with the requirements of IDEA, 20 U.S.C. § 1412(a)(1), (a)(5), and the standard set forth in Endrew F. The District met its legal obligations by delivering services tailored to the Student's unique needs, monitoring progress, and adjusting supports as necessary. While challenges remain and progress is gradual, the evidence does not support a finding that the Student was denied FAPE in 2023-2024, with the exception of some missed services that were accumulating (see Issue #1) or that a more restrictive placement would have been beneficial during this timeframe (2023-2024). []'s program did not focus at all on his ability to function in any setting other than [], which impacts him in the 2024-2025 school year through the present. While the Parents were certainly dealing with issues from challenging behaviors, they were expressing satisfaction with [] programming as IEP Team members, although they were beginning to remark on some concerns at home.

3. Whether the Student's IEP and placement at [] for the 2024-2025 regular school year was reasonably calculated to provide the Student with an appropriate program in the least restrictive environment given the Student's needs?

No. Progress has been slow and sometimes not at all according to reports made available through hearing presentation. Why wasn't the IEP and positive behavior support plan adjusted? On the other hand, progress has been slow, but witnesses testified that [] was going at his own pace to his capacity, and the IEP was reasonably calculated. *He has four quarterly ratings: 1, 1, 1, 2.* Classroom teachers and staff are implementing the goals daily, but []'s progress remains at a rating of 1 ("Does not meet"). They cannot determine whether he would progress more with direct SLP or OT services, and instruction is being delivered through ABA methods. OT/SLP

could not say if his progress was impacted without those providers because they continue working on all goals when direct service providers were not available. In just this one example, the goal is rated a 2, but the narrative is needed to fully understand progress in relation to the annual goal. In reviewing the many progress reports and report cards, [] was making limited, if any progress. It's unclear what was adjusted to address this minimal progress. Documentary evidence and undisputed testimony establish that [[]] saw (at best) only a small amount of inconsistent progress at [] in the 2024-2025 school year [through the present]. The IEP goals are numerous but only tackle very basic skills that brush the surface of functional needs which have been described in multiple assessments, data charts/graphs, and through testimony.

Every day at home, Parents observe [] engaging in aggressive behaviors (hitting, biting, kicking, punching, pulling hair, head butting, and pinching) primarily at his mother, but he will also aggress towards his father, siblings, other children, dogs, and community members. His behaviors were escalating, indicating regression whenever he was not in school. The Parents communicated this on multiple occasions. []'s parents became concerned that he required a much higher level of ABA instruction through his IEP both to bring his negative, aggressive behaviors under control and to begin to master and generalize the basic functional skills he needs for a successful transition to adulthood. In *Questions and Answers on Endrew F. v. Douglas County School District. Re-1*, 71 IDELR 68 (EDU 2017), the U.S. Education Department noted that "every child should have the chance to meet challenging objectives." It added that meeting that standard will hinge on how effectively the IEP team gathers and interprets information about the child's current performance. In determining an appropriate and challenging level of progress, ED wrote that each IEP team "must consider the child's present levels of performance and other factors such as the child's previous rate of progress and any information provided by the child's parents."

Experts wrote and testified []'s needs are best served in a residential setting with access to 24/7 support and services. Based on his findings using credible tools, Dr. [] recommended that [] transition to a residential program offering 24/7 instruction governed by the principles and practice of ABA across the day and across environments, under the ongoing supervision of BCBA. [] also recommended [] continue to receive 1:1 educator, along with programming that targets life skills, functional academics, social engagement, and behavior management.

Inconsistent delivery of related services due to staffing shortages also factors into the appropriateness of his programming. The Progress Report covers the first full year of []'s IEP goals issued in September 2024. This report, on which "1" designates "Does Not Meet" and "2" designates "Partially Meets," contains data on four "academic" goals, three of which were rated "Does Not Meet." It also reports data on []'s functional goals, many pertaining to his related services, none of which were met after one year. It's plausible that his performance was impacted without these direct services. The IEP amendments do not reflect adjustments to facilitate meeting those needs.

[] requires continuous, direct supervision, as documented in testimony and meeting notes. His eating must be closely monitored, as he frequently places excessive amounts of food in his mouth, creating a substantial choking hazard. He is unable to brush his teeth independently and cannot bathe, shower, or dress without full assistance. He requires prompting for all tasks, demonstrates minimal safety awareness, and has shown little to no progress in developing daily living skills over the past year. This lack of progress is reflected in relevant IEP goals, where advancement has been slow, inconsistent, or not generalized to other settings. As part of []'s triennial reevaluation in August 2024, the District re-administered the Vineland-3 scales, again obtaining adaptive behavior composite scores well below the first percentile for all adaptive skills, including in the areas of communication, daily living skills, and socialization. The evaluation report by school psychologist on August 31, 2024 explained that “[a]daptively, [] is not performing commensurate with his ability, suggesting room for improvement with his functional skills...[] struggles more with his functional communication at home and his ability to express himself verbally. []'s greatest adaptive weakness at home is with his Daily Living Skills including dressing, hygiene, and community living skills.” For the 2024-2025 school year, we did not see an IEP reflective of all his needs with respect to functional skills, and we saw a challenge with [] trying to address these needs in the hours outside of school. Although [] continually tried to obtain additional after-school ABA services for [] it was not able to provide the 35 hours per week for which MaineCare had qualified him.

4. Whether the Student’s IEP and placement at [] for the current 2025-2026 regular school year is reasonably calculated to provide the Student with an appropriate program in the least restrictive environment given the Student’s needs?

No. My rationale is similar to the third issue, but I will take it a step further. [] and the District believe that [] is the appropriate placement for [] and that they can serve him and implement his IEP. While [] is not asking [] to leave, [] needs more than 5 days at 6 hours during the school week. []'s second annual progress report, issued in September 2025, indicated that his primary behavioral goal—tolerating on-topic conversation, waiting for a preferred item, or accepting the unavailability of an item or person, which are typically triggers for his aggressive behaviors—was marked “Does Not Meet.”

I left the review of evidence with many questions. Why hasn’t [] been invited into the [] to work with [] so the person supervising [] staff or [] staff themselves learn to replicate practices that are successful during the school day in other settings? To what extent is the IEP written so that []'s school program overlaps with [] and so that [] can be working more with []? Or a monthly clinic with [], [], and the Parents, who all learn and work together to bridge the hours [] is out of school and have consistent practices and communication? Is the staffing ratio appropriate for [] when he goes out into the community – should it be a 2:1 ratio? Is [] going out into the community as part of his [] programming?

The Parents do not believe the IEP has been appropriate because, among other things, they are not seeing what they hear or read he does at school when [] is at home and in the community. There were many testimonies that [] does not generalize skills outside of the school setting to the detriment of his safety and the safety of others. If [] is falling apart at home, this can be worse than falling apart at school considering the lack of built-in supports at home. By contrast to school, home is more dynamic, less structured, and highly relational, which means dysregulation may escalate more quickly. There are 100 plus hours a week where this student is not in the structured school environment.

[] may be an appropriate education, but it's not enough – clearly from the evidence. How do we robustly staff a full program? The current one is not working. What is going on in the 130 hours of week that [] needs instruction, when his needs are not being met in the current program? [] is not successful with lower levels of support and absence of robust education instruction – his current program is inadequate. If the Student is already in the most restrictive setting/placement operated by or available to the District, I do not immediately think of jumping to a residential placement unless additional interventions are not working. Bring in some outside support and consider: are we trying to make the Student fit into the District's paradigm or are we being flexible and thinking outside of the box, where necessary, to develop an individualized program for the Student? This program is not working for []. And it hasn't been for quite some time. []'s educational and functional [and behavioral, psychological, psychosocial, socioemotional, medical] needs are inextricably intertwined. Given the residential schools the Parents mentioned in testimony, any non-academic services the Student received met the IDEA's definition of "related services."

While the District verified that the Student's evaluations are up-to-date and the Student has been evaluated in all areas of suspected disability, there are concerns when a Student is being potentially placed for behavioral reasons. The Behavioral Intervention Plan is not up to date, nor has it been shown to have been implemented with data showing consistent progress. The out of school time support staff were working on generalization of skills with little success as early as Fall 2023 compared to the level of need [] exhibited; there may have been opportunities for combined, collaborative efforts between the [] and outside support staff, but this didn't happen to []'s detriment. There are many challenges with ADL's and self-regulation, and if [] can't support these, then the IEP and [] are not appropriate.

A key component to my review of the evidence and witness statements has to do with the extent to which [] has the opportunity for generalization in his IEP. Generalization is the process by which a student transfers what they have learned from the original learning environment to new and varied contexts. It means the learning is not limited to one task, setting, or person, but becomes flexible and usable across real-life situations. The term 'generalization' was used consistently in this hearing, particularly concerning the lack of generalization [] has with skill

application and not having an IEP appropriate to foster the generalization he needed in school and outside of school, particularly in real world contexts. The Student demonstrates the skill at school, at home, in the community, etc. The Student can perform the skill with different teachers, peers, Parents, or supervising staff members. The Student applies the concept even when the context or demands change. More specifically under ABA principles, generalization occurs when a learner acquires a skill in one structured context and successfully uses it across new people, settings, materials, and situations without additional teaching. Often formally tracked through stimulus generalization, response generalization, and maintenance. Students—especially those with autism or intellectual disabilities—may learn a skill only in one environment unless instruction explicitly teaches generalization. There have not been opportunities for [] to generalize any teaching in learning which is critical to acquiring new skills. When it comes to special education and specially designed instruction, generalization refers to a student’s ability to transfer educational or functional skills taught in the IEP to non-instructional, natural, or real-life settings, demonstrating that learning is meaningful and not context-bound. If a student can perform a skill only in a highly controlled environment, they have not mastered it for educational purposes. Lack of generalization may indicate the need for more intensive, systematic instruction, environmental consistency, or even residential placement when generalization cannot occur across home/school/community without 24-hour programming (e.g., *Kruelle, Elizabeth E., S.M. v. Chichester* cases). As in this case, the 1st U.S. Circuit Court of Appeals in the *Gonzalez* case recognized that in cases where "all agree that the student's activities need to be highly structured both during and after school in order for him to receive an appropriate education, clear lines can rarely be drawn between the student's educational needs and his social problems at home. *Gonzalez v. Puerto Rico Department of Education*, [34 IDELR 291](#) (2001). A residential placement may be necessary for a student with severe and profound intellectual disabilities who requires generalization of daily life skills in order to learn. This is frequently the case for students whose education consists of training in basic self-help skills and social skills, such as toilet training, dressing, feeding, and communication. *See, e.g., Abrahamson v. Hershman*, [554 IDELR 403](#) (1st Cir. 1983) (ruling that the services in a residential program, such as training and reinforcement in skills of daily life, were essential in order for the student to make any educational progress).

I’d also like to point out that while the [] [[]] offered “some” training to the Parent. The role of parent counseling and training as a related service is a very underutilized requirement of the IDEA and plays an integral role for many students and families. The purpose of the counseling and training is to provide support and information to the Parents in order to better equip them to participate in their child's educational program. 71 Fed. Reg. 46,573 (2006). *See also Hatboro-Horsham Sch. Dist.*, [114 LRP 49525](#) (SEA PA 10/03/14) (requiring the district to provide training by a Board Certified Behavior Analyst to assist the Parents with the Student's generalization of skills into the other environment and help them acquire the skills necessary to support their child's IEP). Courts and hearing officers may sometimes prescribe related services

for parents to remedy violations of the Student's IDEA rights. *See, e.g., Hatboro-Horsham Sch. Dist., [114 LRP 49525](#)* (SEA PA 10/03/14) (instructing the district to provide training to assist the Parents with the Student's "generalization of skills into other environments" following the district's failure to fade out the Student's services). *See also Redlands Unified Sch. Dist., [49 IDELR 294](#)* (SEA CA 2008) (requiring the district to provide three hours per month of parent training in addition to the compensatory education awarded to the child).

5. If the Parent seeks a placement at a residential placement as compensatory relief for any past FAPE violation, is the Student entitled to a remedy that includes an ABA residential placement?

Yes. This is a tale of at school and out of school time, a time where the evidence shows a child truly in need of services and support 24/7 in order to be safe (to self, others and the community), to learn, to generalize skills, to regulate, and to prepare for adult life. The evidence from documents and witnesses who interact the most with him during the time outside of the 35 hours he is not in school, made it clear. The question before me is whether there is a difference between educational and functional needs. There were testimonies and documents asserting he needs something more, but is it the educational responsibility of the school for instruction outside of the 35 hour per week school day? The answer is yes. The IEP is insufficient as is his placement at [].

Everyone testified that ABA is the appropriate instructional methodology for meeting []'s needs, whether in the school, community, or home settings. Witnesses agree that, due to his level of disability, [] requires ABA instruction across-the-board to learn, master, and generalize skills. He learns primarily through repetition and reinforcement, with the gradual fading of prompts and supports. This approach is consistent with ABA instructional methods. [] also requires ABA instruction to learn coping skills and to reduce and control his negative behaviors, including physical aggression, elopement, and loud vocalizations. The learning for [] does not end at 3:00 or whenever the school day ends. The learning [] needs in the out of school hours cannot be separated. Applying the test of whether the placement is needed for the Student to learn, then, is whether [] can reasonably be expected to make academic progress outside of a residential program. If we regard this as an educational question, there appears to be a consensus in the negative. Dr. [], Dr. [], the Case Manager/ABA Services Provider, his Parents, and the hearing officer have all reached the conclusion that a residential placement is necessary in order for [] to get an education. It is true that the District and [] staff testified that a day program like the one provided by the District "would educationally meet []'s needs," but it is clear from the context that the District/[] did not react to the gravity of []'s behaviors that the Parents and persons knowledgeable about the Student were reporting.

A residential placement, where a student with a disability lives in a residential facility and receives educational and other support services, is generally regarded as the most restrictive. A

child needs 24/7 residential educational services only when their disabilities prevent meaningful learning without intensive, round-the-clock, highly structured programming, integrating therapy and academics. Less intensive programs are insufficient, and placement must be individualized to the child's unique needs. Is this the appropriate remedy for []? A residential placement is justified if it is educationally necessary, not merely for convenience or safety. For [] to make progress toward his IEP goals, the goals need to be first revised for what his needs are in BOTH educational and functional performance, which includes the generalization of skills beyond the school day; second, it is of the opinion of this Hearing Officer that [] cannot make meaningful educational progress in less restrictive settings, and the residential program provides the level of structure, support, and services needed to meet the his individualized needs which have been clearly documented by assessments conducted by school and out of school staff/experts.

300.104 Residential placement

If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the Parents of the child.

Residential placements are the most restrictive placements and often offer programs for students with disabilities to live in while receiving specialized education with additional supportive services.

An IEP team may consider a residential placement if:

- The team has tried to implement the student's IEP with additional aides and support services, but doing so didn't yield any educational benefit.
- The student did not benefit from any specialized day programs (e.g., leaving general education classes to attend different special education programs).
- The student's mental health or medical needs require more extensive support than can be provided in any other educational setting.
- Outside agencies and professionals recommend that the student attends a residential program.

The IDEA requires that school districts make available "a continuum of alternative placements available to meet the needs of children with disabilities for special education and related services." This includes placement in a public or private residential program, if that is necessary for a FAPE. When a child needs residential programming for FAPE, the school district will be responsible for all costs of the program, including non-medical care and room and board. Courts look at whether a student's educational needs cannot be separated from social, emotional, and mental health needs. If a student cannot achieve educational benefit without residential therapeutic supports, the school district will be responsible for the residential placement. If residential placement is necessary for medical, social, or emotional challenges apart from the

learning process, the school district will not be responsible for the costs of the residential placement. In []'s case, he is not achieving educational benefit given behavioral, attentional, and communication needs as well as lack of progress in activities of daily living. A residential placement is one of the most restrictive placements for a student with an IEP. For a student to be eligible for residential placement by the school district IEP Team, the school must be unable to provide a free appropriate education, meaning that the student is not making progress in their current placement, AND must be having similar issues in the home environment. In other words, the student must need 24/7 care to make progress on the IEP. To make this determination, the IEP Team needs to have attempted a full range of appropriate academic and behavior supports prior to making the determination for residential placement.

The obligation the District has under IDEA is primarily to the Student. The free appropriate public education must be offered to the Student. The aid of the IEP is to enable the child to make progress toward pursuing academic and functional advancement. See §§ 1414 (d) (1) (A) (i) (I) - (IV). The Supreme Court, in *Endrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 137 S. Ct. 988, 999, 197 L. Ed. 2d 335 (2017) stated: *That the progress contemplated by the IEP must be appropriate in light of the child's circumstances should come as no surprise. A focus on the particular child is at the core of the IDEA. The instruction offered must be 'specially designed' to meet a child's 'unique needs' through an '[i]ndividualized education program.'* §§ 1401(29), (14).

In some situations, this means that the only way a student will make progress is if they are placed in a residential school for a period of time.

In *Coventry Public Schools v. Rachel J.*, the District of Rhode Island reviewed whether the school district had provided a free appropriate public education (FAPE) under the Individuals with Disabilities Education Act (IDEA) to a student with multiple disabilities. The court upheld the administrative decision in favor of the parents, concluding that the district failed to propose an IEP reasonably calculated to confer educational benefit, particularly because the plan lacked sufficiently intensive, individualized services tailored to the student's significant needs. *Id.* at 334–36. The court emphasized that an IEP must be “reasonably calculated to enable the child to receive educational benefits,” and it relied on First Circuit precedent to clarify this standard. Citing *Abrahamson v. Hershman*, the court reiterated that where a student requires a high level of specialized and intensive programming, the IDEA obligates the district to provide services robust enough to permit “meaningful educational progress,” not merely trivial advancement. *Id.* at 336 (citing *Abrahamson v. Hershman*, 701 F.2d 223, 227 (1st Cir. 1983)). Ultimately, the court affirmed the administrative order requiring the district to fund the private placement that could deliver the level of individualized instruction necessary for the student to benefit educationally. *Id.* at 339–40. *Coventry Public Schools v. Rachel J.*, 893 F. Supp. 2d 322 (D.R.I. 2012), with

proper citations, including the court’s reliance on *Abrahamson v. Hershman*, 701 F.2d 223 (1st Cir. 1983).

In *Kruelle v. New Castle County School District*, the Third Circuit addressed whether the Education for All Handicapped Children Act (EAHCA), now the IDEA, required a school district to provide residential placement for a severely disabled child whose educational progress could not be separated from his need for consistent, round-the-clock behavioral and developmental programming. The court held that when a child’s medical, emotional, and educational needs are so intertwined that residential placement is necessary for the child to receive any meaningful educational benefit, the Act obligates the district to fund such placement. *Id.* at 693.

The court emphasized that EAHCA requires more than access to a school building—it requires a program “reasonably calculated to enable the child to benefit from instruction.” *Id.* at 693 (applying *Rowley* principles). Where a child’s disabilities are such that education cannot be effective without a structured 24-hour environment, residential placement constitutes an educational, not purely medical, service under the statute. *Id.* at 694–95. *Kruelle v. New Castle Country School District*, 642 F.2d 687, 693 (3d Cir. 1981).

In *Jefferson County School District R-1 v. Elizabeth E.*, the Tenth Circuit considered whether a student’s private residential treatment center qualified as an appropriate placement under the IDEA such that the parents were entitled to reimbursement. The court held that reimbursement was proper because the residential placement was necessary for the student to receive educational benefit, and the public-school district’s proposed IEP did not adequately address her significant emotional and behavioral disabilities. *Id.* at 1233–34. The court emphasized that a residential placement is reimbursable if it is “educationally necessary,” even when the placement also addresses medical or mental-health needs, so long as those needs are intertwined with the student’s ability to access education. *Id.* at 1233. The evidence showed that the student’s emotional instability made it impossible for her to benefit from the district’s less restrictive options, and the residential program provided the integrated therapeutic and educational environment required for meaningful progress. *Id.* at 1233–34. *Jefferson Cnty. Sch. Dist. R-1 v. Elizabeth E.*, 702 F.3d 1227 (10th Cir. 2012)

In *Twp. of Bloomfield Board of Education v. S.C.*, the District of New Jersey reviewed an administrative determination that the school district failed to provide a free appropriate public education under the IDEA. The student, who had significant behavioral and emotional disabilities, required a highly structured program with intensive therapeutic support. The ALJ concluded that the district’s proposed placement lacked the level of individualized services and behavioral interventions necessary for the student to make educational progress. *Id.* at 6–10. The court upheld the ALJ’s determination, agreeing that the district’s IEP was not reasonably

calculated to confer meaningful educational benefit. It emphasized that the IDEA obligates districts to provide programs tailored to the “unique needs” of the child, and that a placement is inappropriate where it cannot meet those needs in practice. *Id.* at 10. The court also affirmed the order requiring the district to reimburse the parents for the unilateral private placement, finding that the private program appropriately addressed the student’s educational and therapeutic requirements. *Id.* *Twp. of Bloomfield Bd. of Educ. v. S.C.*, 2005 WL 2320029 (D.N.J. Sept. 22, 2005)

In *Lamoine School Committee v. Ms. Z.*, the District of Maine reviewed an IDEA dispute concerning whether the school district’s proposed IEP provided a free appropriate public education to a student with multiple disabilities. The hearing officer had concluded that the district’s IEP was inappropriate and that the parents were entitled to reimbursement for the unilateral private placement. The court affirmed the hearing officer’s findings. It held that the district’s IEP failed to meet the IDEA requirement that an educational program be “reasonably calculated to enable the child to receive educational benefits.” *Id.* at 32. Specifically, the court found that the district did not provide sufficiently individualized instruction or related services to meet the student’s complex needs, and that the proposed program lacked the level of structure, support, and therapeutic integration required for meaningful progress. *Id.* at 31–32. The court also determined that the parents’ private placement was appropriate under the IDEA because it offered the intensive and coordinated programming necessary for the student’s educational development. Consequently, reimbursement was warranted. *Id.* at 32–33. *Lamoine Sch. Comm. v. Ms. Z. ex rel. N.S.*, 353 F. Supp. 2d 18 (D. Me. 2005)

In *Edmonds Sch. Dist. v. A.T.*, [74 IDELR 218](#) (9th Cir. 2019, *unpublished*), a Washington district had to reimburse the parents of a high schooler with ADHD, oppositional defiant disorder, and schizophrenia for the cost of their son's placement in a therapeutic residential program. The 9th Circuit upheld a District Court ruling at [71 IDELR 31](#) that the placement was educationally necessary and based on the student's educational needs. The daily group therapy sessions and other mental health supports the student received at the residential school were necessary to address his truancy and make him available for learning. The court held that mental health services, which he needed in order to receive a FAPE, didn’t turn the residential school into a medical placement.

S.M. v. Chichester Sch. Dist., 2025 WL 2404383 (E.D. Pa. 2025) – I spent a great deal of time examining this case and found information helpful in rendering a decision. The student, “S.M.,” is a 17-year-old with severe autism and intellectual disabilities. Because of his needs, S.M. resided in a residential treatment facility (RTF). His parents contended that upon discharge from the RTF, he required a residential educational placement to receive a meaningful education, and hence the district owed him a valid IEP and FAPE under the Individuals with Disabilities Education Act (IDEA). A hearing officer initially dismissed the parents’ administrative complaint, reasoning that the district — as the “resident district” under state law — had no duty

to provide a new IEP or placement unless S.M.'s return from the RTF was “imminent.” The parents filed a suit in federal court. The district later entered into a “Local Educational Agency Responsibility Agreement” with other school districts, thereby assuming full responsibility for providing S.M.’s FAPE. The district court granted a preliminary injunction requiring the district to secure and fund a residential educational placement for S.M. while litigation proceeded. After extensive litigation, including an independent expert evaluation, the court ordered placement at the Melmark School. The district appealed. On February 28, 2025, the Third Circuit affirmed the order. The Court held that once the district assumed responsibility for S.M.’s education via the inter-district agreement, it owed him a FAPE — including the duty to develop and maintain an IEP. The Court rejected the notion that an IEP obligation depends on “imminent” return from a residential facility. The obligation existed regardless of whether discharge from the RTF was immediately forthcoming. The Court agreed that, given S.M.’s severe and complex needs, a residential educational placement was necessary for him to make educational progress. Less restrictive settings would not suffice. Accordingly — and weighing the evidence including expert opinions — the Court ordered the district to fund S.M.’s placement at Melmark through at least August 2028. The decision offers strong precedent for families of students with severe disabilities — especially where intensive, round-the-clock support may be required for meaningful educational benefit. I did identify with the Parents’ Final Argument section specific to the S.M. case, although I was already familiar with it: *S.M. was entitled to a residential educational placement given the severity and complexity of his disability profile and educational needs. In addition—and relevant to the compensatory remedy request by []’s parents—the federal court considered the delays that had prevented S.M. from being residentially placed for approximately three years. On this basis, the court awarded S.M. a residential educational placement at Melmark—an ABA residential school the court found to be “tailored to S.M.’s ‘unique needs’ and preparing him for ‘independent living’”—through August 2028. The court concluded that such a compensatory remedy “both furthers the purposes of the IDEA and is equitable based on the specific facts of the case.” Id. at 7. Indeed, as in the S.M. case, []’s functional needs when at home or in community settings overlap extensively with the educational needs being addressed by his IEP and placement at []. Both Dr. [] and Dr. [] have issued strong recommendations that [] requires a residential placement to address his severe and complex needs, particularly his aggressive and self-injurious behaviors. Mr. [] indicated that the current non-integrated approach of trying to develop []’s functional skills through a school-day IEP plus supplemental community-based ABA services after school is not working for []. All the witnesses agreed that [] requires intensive 1:1 ABA instruction to learn skills and all agreed that he has an extremely limited ability to generalize skills learning in one setting to another setting without explicit instruction. For this reason, to receive a FAPE, [] requires an immediate change of placement to a residential school that employs ABA instructional methods.*

VI. DISCUSSION

This is a case that considers the extent to which FAPE was provided in the LRE and, if not, whether the appropriate remedy is placement in an ABA-centered residential facility. Residential placement under the IDEA is required when it is necessary to provide a student with a free appropriate public education. The Supreme Court’s decisions in *Bd. of Educ. v. Rowley*, 458 U.S. 176 (1982), and *Andrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 137 S. Ct. 988 (2017), set the governing standard: a school must offer an IEP “reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances,” and such progress must be “appropriately ambitious.” *Andrew F.*, 137 S. Ct. at 999–1000. Courts applying this principle have long held that if a student can make educational progress only through round-the-clock programming, the district must fund residential placement. Early cases such as *Abrahamson v. Hershman*, 701 F.2d 223, 226–27 (1st Cir. 1983), and *North v. District of Columbia Bd. of Educ.*, 471 F. Supp. 136, 140 (D.D.C. 1979), established that when a child’s unique condition requires continuous reinforcement for educational benefit, a residential placement may be necessary to provide FAPE. I believe this is necessary for [].

Courts, however, diverge on whether to focus solely on educational need or to distinguish between educational and non-educational reasons for residential care. Some jurisdictions, such as the Ninth Circuit in *M.S. v. Los Angeles Unified School District*, 913 F.3d 1119, 1135–36 (9th Cir. 2019), analyze whether the placement is required for educational purposes, as opposed to addressing medical or social needs unrelated to learning. This approach imposes on school districts a duty to consider residential placement within the continuum of educational options, even when another agency has placed the child for mental health reasons but concludes that IDEA requires funding only when the need is educational. Critics argue that this artificially separates intertwined needs. The Tenth Circuit in *Jefferson Cnty. Sch. Dist. R-1 v. Elizabeth E. ex rel. Roxanne B.*, 702 F.3d 1227, 1236–39 (10th Cir. 2012), rejected this separation and instead applied the statutory framework directly: if the district fails to offer FAPE and the private residential program provides specially designed instruction and necessary related services, reimbursement is appropriate. The Second Circuit’s approach, exemplified in *Mrs. B. v. Milford Bd. of Educ.*, 103 F.3d 1114, 1122 (2d Cir. 1997), similarly holds that if emotional or psychological difficulties prevent meaningful educational progress, the district must fund residential placement, even if those difficulties also warrant institutionalization for non-educational reasons. Nevertheless, many cases—particularly in New York—have declined reimbursement when students made adequate progress in less restrictive settings or when testimony on the need for residential placement lacked clarity. See, e.g., *Walczak v. Florida Union Free Sch. Dist.*, 142 F.3d 119, 131–32 (2d Cir. 1998); *Grim v. Rhinebeck Cent. Sch. Dist.*, 346 F.3d 377 (2d Cir. 2003). Courts caution, however, that such findings must be reassessed in light of the more demanding FAPE standard articulated in *Andrew F.*

The IDEA requires that students with disabilities be educated with their nondisabled peers to the maximum extent appropriate, creating tension when a highly restrictive residential placement is considered. Courts emphasize that this tension should first be resolved by ensuring adequate supplementary aids and services in integrated settings, as explained in *Oberti v. Bd. of Educ.*, 995 F.2d 1204, 1214 (3d Cir. 1993). Only when such supports cannot enable the child to make appropriate progress should a residential setting be considered. Consistent with this principle, the Second Circuit in *Walczak*, 142 F.3d at 132, cautioned that residential placements should be approached carefully, though they may be necessary for students with extremely acute needs. Despite these LRE concerns, courts recognize that some children cannot receive educational benefit in any nonresidential setting, even when multiple interventions have been attempted. In *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500–01 (9th Cir. 1996), abrogated on other grounds by *Dep't of Educ. v. Patrick P.*, 609 F. App'x 509 (9th Cir. 2015), the court held that the IDEA does not require a child to remain in an inadequate day program simply so a district can exhaust every less-restrictive option. IDEA's requirement that districts maintain a continuum of placements, 34 C.F.R. § 300.115, reinforces this understanding, as reaffirmed in *M.S.*, 913 F.3d at 1121. Multiple interventions have been identified and implemented for [] in a day program that meets the needs of many students, but not in the case of []. He requires a placement to be essential for educational benefit and primarily oriented toward education. Numerous administrative decisions, including several in Texas, have likewise found residential placements appropriate when students require round-the-clock structure, intensive instruction, and related services to make meaningful progress as in []'s case. See, e.g., *Student v. Little Cypress-Mauriceville Consol. Indep. Sch. Dist.*, 113 LRP 16321 (SEA Tex. Mar. 25, 2013); *Student v. Beaumont ISD*, TEA Docket Nos. 300-SE-0707 & 301-SE-0707; *Student v. Victoria ISD*, TEA Docket No. 286-SE-0809; *Student v. Port Arthur ISD*, TEA Docket No. 195-SE-0417; *Student v. Dallas ISD*, TEA Docket No. 284-SE-0817; *Student v. Leander ISD*, TEA Docket No. 035-SE-1017.

ORDER

The District did not provide FAPE 2024-2025 through the present.

The Student is awarded compensatory services to be determined by the IEP Team. [] is entitled to compensatory services designed to make up his loss of over 100 hours of related services at [] over the past two school years to be determined by February 25, 2026. The District shall submit a copy of the compensatory service plan after IEP Team agreement to the MDOE.

- Ξ. [] is entitled to a comprehensive IEP that provides him with ABA instructional services across his day, including in residential and community settings, to be implemented in a residential educational placement that provides instruction utilizing the principles of ABA, and that [] also is entitled to such a placement for compensatory reasons given the

insufficiency of his 2024-2025 through the present IEPs. The District must revise []'s IEP and work with the Parents to identify the appropriate location and implement this change of placement in a residential setting as soon as possible, no later than March 15, 2026. The District must make a referral for a residential setting. A copy of the revised IEP shall be submitted to the MDOE at that time.

VIII. APPEAL RIGHTS

This decision is a final administrative determination. Either party may appeal this decision by filing a civil action in state or federal court within 90 days of the date of this decision, pursuant to 34 C.F.R. § 300.516. It is so ORDERED.

IX. SIGNATURE AND DATE

Respectfully submitted,

Jacqueline Kelleher

Dr. Jacqueline P. Kelleher, MA, Ph.D.

Impartial Hearing Officer

12/11//2025

Evidence Log

1. 26.026H District Core Records.pdf (1424 pages)
2. Appendix A – Vol. 2 – Correspondence – G. [] Voicemail to Hillary re Emergency IEP Meeting.wav
3. Appendix A Vol. 1 – School District Correspondence.pdf (1504 pages)
4. Appendix B – Vol. 3 – Additional [] Records.pdf (1378 pages)
5. Appendix B – Vol. 4 – Additional [] Records.pdf (223 pages)
6. Appendix B – Vol. 1 – Additional [] Records.pdf (1023 pages)
7. Appendix B – Vol. 2 – Additional [] Records.pdf (1424 pages)
8. Appendix C – Dr. [] Records.pdf (140 pages)
9. Appendix D – [] Records.pdf (1254 pages)
10. Appendix E Vol. 1 – Family Records.pdf (1321 pages)
11. Appendix E Vol. 2 – Family Records.pdf (452 pages)
12. Appendix F – DHHS Records.pdf (81 pages)

13. Index – Appendix A Vol. 2 – School District Correspondence.pdf (1 page)
14. District Post-Hearing Summary (32 pages)
15. Parents’ Final Argument (44 pages)