

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Regional School District No. 10

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Appearing before: Attorney Gail K. Mangs, Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the Board of Education provide an appropriate program for the 2003-2004 school year?
2. If not, does the Gengras Center at St. Joseph's College provide an appropriate program?

PROCEDURAL HISTORY:

This hearing was requested on July 14, 2003. The prehearing conference was held on July 31, 2003. Initially, the parent requested a placement at CREC Riverstreet School. In a letter dated October 2, 2003, the school district learned that CREC Riverstreet could not offer the Student a placement at that time. This letter was sent to parent's counsel on October 14 as a proposed exhibit. At the hearing on October 16, 2003, the parent moved to amend their issues. The school district objected and moved to dismiss the hearing. The hearing officer requested that the parties brief the issues; briefs were received on October 24, 2003. The parent's motion to amend the hearing issues was granted and the school district motion to dismiss was denied. The issues were amended to read as stated above. The hearing was convened on the following dates: September 8, October 2 and 16, November 20, and December 16, 19 and 23, 2003. Briefs were submitted in a timely fashion on January 12, 2004. The parent presented the following witnesses: The Student's father, Nadine Napolitano (family friend), Dr. Marshall Gladstone

(neuropsychologist) and Margaret Tompkins (coordinator of academic services at the Gengras Center). The school district presented the following witnesses: Lisa Ann Fragale (high school special education teacher), Barbara Morrow (middle school special education teacher), Doreen Daneault (occupational therapist), Linda Carabis-Brown (middle school special education coordinator), Dr. Norma Ingram (school psychologist), Jennifer Bousquet (speech and language pathologist), Jill Dymczyk (supervisor of special education), Sarah A. Cutler (art teacher) and Ania J. Czajkowski (director of special education).

SUMMARY:

The Student, whose date of birth is May 6, 1988, was diagnosed with autism while still in preschool, since which time she has attended the school district's schools; she has also been diagnosed with mild mental retardation. Beginning with her sixth grade year in middle school, the Student has been enrolled in a self contained special education classroom program called S.T.A.R.S. (specialized training and academic reinforcement services) where she received most of her academic education. The Student attended homeroom, lunch and special subjects in mainstream classes. In February, 2002, the school district made a referral to DCF after the Student came to school with bruises on her chest. A DCF investigation was undertaken but closed after a finding that abuse could not be substantiated. In May, 2002, the Student's father requested independent neuropsychological and speech and language evaluations; the PPT agreed. The neuropsychologist recommended consideration of a specialized day treatment program. Based upon this recommendation, the Student's father requested that the Student be placed at the CREC Riverstreet School. The school district refused the placement and offered an IEP for the 2003-2004 school year. The Student's father rejected the proposed program and requested a due process hearing. He later amended his placement request to specify the Gengras Center at St. Joseph's College as discussed above.

FINDINGS OF FACT:

1. The Student, who was born on May 6, 1988 and received services from the Birth to Three program, has attended school within the school district since preschool at which time she was diagnosed with autism. She was later diagnosed with mild mental retardation and also language, motor, communication and social deficits as well as limitations in the area of adaptive functioning. She also exhibits an unsteady gait (toewalking and pronation), unpredictable behavior and repetitive speech. The Student and her brother were adopted by their maternal grandparents. The Student's grandmother passed away during the summer of 2000, shortly before the Student entered sixth grade in the middle school. She and her brother currently live with their adoptive father (grandfather). (Exhibits B-18, B-44, Testimony of Father, Dr. Marshall Gladstone)
2. During middle school (the sixth, seventh and eighth grades), the Student received most of her academic education within a self-contained special education classroom program called the S.T.A.R.S. (Specialized Training and Academic Reinforcement Services) program. She attended Unified Arts classes (which cycles through classes such as technology, health, computers and food and consumer science), homeroom, lunch and some extra-curricular activities with non-disabled peers. Speech and language, occupational, music and physical therapies were provided throughout middle school. To

improve her social and communication skills, the Student also participated in a “lunch bunch” which includes non-disabled peers and is facilitated by her speech therapist. The academic program focused on functional reading and math skills as well as social and life skills including appropriate conversation and hygiene. The Student was helped to wash and style her hair, do laundry and apply nail polish. Throughout middle school, the Student’s teacher and father communicated through a daily journal. The Student has had a one to one teaching assistant assigned to her throughout middle school and during her current ninth grade placement. (Exhibit P-1, Testimony of Barbara Morrow, Jennifer Bousquet)

3. During sixth grade, school staff tried to assist the Student in coping with her mother’s death. They consulted with the school psychologist, listened to the Student, talked her through her sad periods and had her draw pictures to help her express her feelings. (Testimony of Barbara Morrow, Dr. Norma Ingram)

4. The Student received occupational therapy (two thirty minute sessions per week), speech and language therapy (one hour per week), music therapy (two sessions per week) and physical therapy services (thirty minutes per week) during the sixth grade. Progress was reported in these areas during the sixth grade. (Exhibits B-3, B-5, B-7, B-8 and B-9)

5. The Student’s special education teacher reported that the Student made good progress during the sixth grade. The Student could decode at a fourth grade level although her comprehension was weak. She made progress with writing although she had not mastered her writing goals and objectives. The Student could also add two and three digit numbers and was learning to count with money and tell time. The sixth grade S.T.A.R.S. program also included life skills where the Student was learning to become independent with washing and drying her hair, brushing her teeth, washing her face and appropriately using a bathroom routine. The Student was also becoming increasingly able to control her frustration; outbursts were less frequent and her conversation was somewhat more spontaneous. (Exhibit B-6)

6. The PPT convened on April 24, 2001 to review the Student’s sixth grade progress and plan for her seventh grade program. It was agreed that the Student would remain in the S.T.A.R.S. program with a one to one teaching assistant, one hour per week of speech and language therapy, one hour per week of occupational therapy, thirty minutes per week of physical therapy and one and one half hours per week of music therapy. Along with her one to one teaching assistant, the Student would attend homeroom, lunch, unified arts, chorus and physical education classes with non-disabled peers. Improvement in the following areas were listed as IEP goals: reading comprehension, written language skills, functional math skills, social skills, functional life skills, knowledge of appropriate social studies, science and current events topics, communication skills, fine motor and visual motor integration and the quality of gross motor activities. A six week extended school year program was also agreed upon. (Exhibit B-9)

7. During the fall of 2001, the Student’s triennial review was conducted. The school psychologist administered the Test of Nonverbal Intelligence-3 (TONI-3) and the Human Figure Drawing. The Vineland Adaptive Behavior Scales were completed by the

Student's special education teacher. On the TONI-3 the Student's score fell at the developmental age equivalent of 7-3 or low average cognitive functioning. On the Vineland, the Student's scores fell within the deficient range for the communication and socialization domains. The school psychologist concluded that the Student meets the diagnostic criteria for autism due to her impairments in social interactions and communication and her repetitive motor mannerisms (such as rocking and hand flapping). The Student's low average cognitive ability allows her to succeed at concrete, rote learning of routines and academics but her higher level abstract reasoning, social reciprocity and problem solving skills are impaired so that her adaptive behavior skills are low. (Exhibit B-18)

8. The physical therapy portion of the triennial review indicated that the Student can, with supervision, perform the functional mobility activities necessary within a school environment. Her running skills fell at an age equivalent level of 4.11, balance at 5.5, bilateral coordination at 6.11 and strength at the 7.2 age equivalent level; most of these were slight improvements over her prior triennial assessment. It was recommended that the Student continue to receive physical therapy once a week for thirty minutes to improve strength, joint mobility, coordination, balance and gross motor ability. Similarly, the occupational therapist noted some improvement in fine motor skills and recommended that occupational therapy continue to be provided in order to improve the Student's writing, typing and other fine motor skills. (Exhibits B-16, B-17)

9. Based upon the results of the speech and language triennial review, the speech and language therapist concluded that the Student showed some growth in language and communication skills but would continue to benefit from direct language services. On the Peabody Picture Vocabulary Test-3, the Student's scores fell at an age equivalent level of 7-5. On the Expressive One-Word Picture Vocabulary Test, the Student's scores fell at an age equivalent level of 10 years. The Student attained an age equivalent score of 6-1 on the Expressive Vocabulary Test. The Student's scores on the Test of Auditory-Perceptual Skills and The Oral and Written Language Scales fell significantly below the mean. (Exhibit B-19)

10. The Student's special education teacher administered the Woodcock Johnson III as part of the triennial review. The Student's strengths included letter-word identification and spelling (low average scores); it was noted that decoding is a strength for the Student. Scores in story recall, understanding directions, math, reading and writing fluency all fell within the very low range. The Student's special education teacher recommended ongoing placement in the S.T.A.R.S. program and continued work on her IEP goals and objectives. (Exhibit B-20)

11. Results of the triennial assessment were reviewed at a PPT convened on September 27, 2001. It was agreed that the Student continued to be eligible for special education services and that her goals and objectives remained appropriate. (Exhibit B-21)

12. During the fall of 2001, the Student's father raised concerns when the transportation vendor was changed by the school district and the Student was given a new bus stop. He felt that the Student should be picked up in her driveway rather than have to walk down their hilly road with her unsteady gait. The issue was eventually resolved by the

provision of a smaller vehicle that could turn around in their driveway. (Exhibits P-2, P-3, P-4, B-24, B-23, B-25, B-44, Testimony of Father)

13. In February, 2002, the Student came to school with bruises on her chest. School personnel, as mandated reporters and in accord with school policy, made a referral to the Department of Children and Families (“DCF”). An investigation was conducted after which it was concluded that the report of alleged abuse could not be substantiated; the investigation was closed. However, the DCF investigator did express concerns about the Student’s hygiene and recommended that a visiting nurse or home health aide provide support and services. In March, 2002, the Student’s family obtained legal representation. After the DCF investigation, the Student’s father rarely made entries in the daily home-school journal. (Exhibits P-5, P-6, B-26, B-72, Testimony of Father, Barbara Morrow)

14. The Student’s physical therapist, speech and language pathologist, occupational therapist, special education teacher and music therapist prepared annual reports covering the 2001-2002 school year. The physical therapist recommended that physical therapy be reduced to a consult once per month as the Student had reached her maximum independent gross motor potential. The speech and language pathologist, occupational therapist and music therapist all reported progress but recommended continuation of their therapeutic programs and goal and objectives. The special education teacher reported progress in academic and functional skills. At the beginning of the school year, the Student had been working in a second grade reading program with 72% accuracy; she completed that program with 79% accuracy and was now working at the third grade level with 70% accuracy. In math, the Student had moved from a second grade to third grade program and was maintaining 79% accuracy on the program’s assessments. The Student’s particular strengths were decoding, computation, personal grooming and spontaneous conversation with complete sentences. Reading comprehension, telling time, working with money and behavioral outbursts were areas of some concern. (Exhibits B-28, B-29, B-30, B-31, B-32)

15. The PPT convened on May 10, 2002 to review the annual reports and plan the Student’s eighth grade program. The PPT accepted the physical therapist’s recommendation and removed physical therapy as a direct service; the physical therapist would continue to consult with the Student’s teacher. Goals to improve expressive communication through music therapy and to improve self help skills as they impact classroom performance were added. The rest of the goals were not changed although higher levels of performance were expected. Other aspects of the Student’s program and placement (S.T.A.R.S.) were essentially the same including a six week extended school year program. The Student’s father attended this PPT with legal representation. Although neither he nor his attorney disagreed with the educational program proposed or the goals and objectives, the Student’s father requested independent neuropsychological and speech and language evaluations; the PPT agreed to this request. (Exhibit B-33)

16. During the extended school year program of 2002, the Student’s father complained that the Student had been given a yo-yo and a glow stick, both of which were unsuitable gifts due to the Student’s tendency to chew inappropriate items. The issue was discussed with the Student’s teachers and thus resolved. (Exhibits B-43, P-7, P-8, P-9)

17. Dr. Marshall Gladstone, Ph.D., a neuropsychologist, performed an independent neuropsychological evaluation during September and October, 2002. Dr. Gladstone remarked upon the Student's unusual gait, high-pitched, nasal, monotone speech, laborious verbalization and echolalia. He described her demeanor as atypical with a limited affect. Her social skills and expressive weaknesses are consistent with autism. Several tests were administered. On the WISC-III, the Student achieved a full scale score of 49 placing her in the intellectually deficient range; there was little variability among the subtests. On the Woodcock Johnson Tests of Cognitive Abilities-III, most scores were at or below the 2nd percentile except for near average scores in phonemic awareness, word identification, spelling and written language. However, she is unable to generalize her skills: her comprehension of written and oral material is quite impaired and, although she is able to perform calculations, she is unable to make change. Dr. Gladstone concluded that the Student's overall intellectual and adaptive functioning indicates mild mental retardation. Her adaptive functioning and problem solving skills fall at the five to five and a half year old level. He noted good behavioral self-control, a capacity for empathy and adequate social functioning within a protected environment. Dr. Gladstone observed the Student in school during the fall of 2002 and again in October, 2003. He reported that the Student functioned relatively well in both her self-contained and mainstream placements although during the 2003 observation, he noted that Student did not make eye contact with non-disabled peers while in mainstream settings (art and lunch). He described the level of instruction as appropriate and the classroom emotional environment as supportive. Dr. Gladstone expressed concern about the Student's episodic anxiety, inability to modulate emotions and sadness; her sadness may be the result of unresolved grief issues over the death of her mother. He also reported that the educational environment may not offer the level of specialization and expertise required to meet her social, vocational and developmental needs. In particular, he noted the difficult home-school relationship. Dr. Gladstone recommended that the PPT meet to determine the most appropriate educational setting for the Student; he suggested consideration of a specialized day treatment program for autistic children such as the CREC Riverstreet Program. He also recommended psychiatric consultation, in-home social work services, contact with the Department of Mental Retardation and Bureau of Rehabilitation Services, implementation of a behavior management program in the home and family counseling. (Exhibit B-44, Testimony of Dr. Gladstone)

18. The Board initially objected to the 2003 observation by Dr. Gladstone but eventually agreed if it was understood that Dr. Gladstone was testifying at this hearing as a parent witness. He testified that the Student seemed comfortable and did not appear agitated during his most recent 2003 observation. He reported that she had a good routine and good relationship with her teaching assistant. However, the Student did not initiate any interactions during his observation and seemed to be in her own world. Dr. Gladstone testified that the school district program is appropriate but not sufficiently comprehensive. He recommended a more specialized program that collaborates with the home and incorporates referrals to outside agencies. Dr. Gladstone also testified that personal safety skills should be a part of the Student's program. (Testimony of Dr. Gladstone)

19. In a document dated January 27, 2003, Linda Rammler, M.Ed., Ph.D. reported on a consultation she performed at the request of the school district. She was asked to

evaluate the program and make recommendations. Dr. Rammler reported that the school district's programs at the middle and high schools offered the Student the most appropriate program in the least restrictive environment. She also recommended that the Student spend more time in mainstream classes and activities with appropriate modifications. (Exhibit B-46)

20. The reports of Dr. Gladstone and Dr. Rammler were reviewed at a PPT convened on January 27, 2003. Department of Mental Retardation services were recommended; the Student's father said he would think about it. Dr. Rammler also offered to work directly with the family on parent training and behavior issues; the Student's father said he would think about that too. In addition, Dr. Gladstone's recommendation for a psychiatric consultation was discussed but the Student's father refused. He stated that the DCF referral and investigation had affected his family greatly and that he did not want anything to do with the school. Citing Dr. Gladstone's recommendation, the father's attorney requested an outplacement for the Student; the PPT refused this request. A goal calling for the Student's father and school staff to meet in ongoing collaborative sessions was added to the IEP. Home-school collaborative sessions were eventually scheduled but the Student's father only attended one time. Neither the Student's father nor her attorney stated any specific disagreement with the IEP. (Exhibit B-47, Testimony of Barbara Morrow, Jill Dymczyk)

21. In addition to the members of the PPT on January 27, 2003, the Student's father expressed to Dr. Gladstone and to Linda Carabis-Brown how upset he was about the complaint to DCF. (Testimony of Dr. Gladstone, Linda Carabis-Brown)

22. In April, 2003, an independent speech and language evaluation was performed by Stephanie Bendiske, a speech and language pathologist affiliated with the Connecticut Children's Medical Center. The evaluation was composed of a review of records, teacher interviews and observation. The evaluator concluded that the Student was making progress in her program. Recommendations included continuing speech and language services, addressing targeted goals expressively and receptively, presenting the Student with follow-up questions after she attends a mainstream class, working on abstract language skills and continuing the lunch bunch and the use of social stories and scripts. (Exhibit B-53)

23. The Student's special education teacher and therapists provided annual reports to the PPT on May 7, 2003. The special education teacher noted that the Student had improved her reading comprehension skills with respect to factual questions (81% accuracy with respect to factual questions in her third grade reading program although more abstract concepts were still difficult for her) and had grown in her ability to speak and write in more complete sentences. On an Inventory of Basic Skills in language, the Student had moved from a score of 79% in September to 87% on the latest testing. The Student was working in a third grade math program with 84% accuracy on the program's assessments. On an Inventory of Basic Skills in math, the Student had moved from a score of 77% in September to 85% on the latest testing. The occupational and speech and language therapists reported that the Student had made satisfactory progress toward her goals although the occupational therapist reported an increase in rocking. The physical therapist reported that the Student had maintained her gross motor abilities although she

continued to walk on her toes. The PPT recommended that the Student move to the S.T.A.R.S. program at the school district high school for the ninth grade and that her program should include functional living skills, independent living skills, work-study and community participation as well as functional reading and math instruction. The recommended program included a prevocational class, a lifeskills class and community-based activities and field trips. Occupational, speech and language and music therapies were also included in the IEP as was a weekly home-school collaborative session. An extended school year program was proposed and accepted by the PPT. The Student's father requested placement at the Riverstreet School; the school district refused this request. The Student's father did not express any specific disagreement with the proposed IEP. (Exhibits B-55, B-57, B-58, B-59, B-60)

24. On May 13, 2003, a "PATH" (a futures planning process) meeting was held; the Student's father did not attend. (Exhibit B-62, Testimony of Barbara Morrow)

25. On July 14, 2003, the Student's father requested a due process hearing. (Exhibit B-64)

26. In a PPT convened on August 21, 2003, the Student's IEP was modified to incorporate new objectives and modifications based upon the independent speech and language evaluation performed by Stephanie Bendiske. Neither the Student's father nor her attorney objected to the revised IEP although they continued to request an outside placement similar to the Riverstreet School. (Exhibit B-67)

27. Before entering the S.T.A.R.S. program at the school district's high school, the Student visited the high school and met with her new teacher both during her eighth grade year and also during her extended school year program. Her high school teacher also met with the Student's therapy providers; the same therapists provided the Student's services in middle and high school. The S.T.A.R.S. program in the high school has one special education teacher, two teaching assistants and four students. The program has two classrooms; a traditional classroom and a life skills classroom that contains a bathroom, kitchen area and computer which the Student uses everyday. The program provides functional academics, a vocational component and daily life skills including communication and social skills. In addition, the Student attends physical education with non-disabled peers and continues to participate in a "lunch bunch." She also attends a mainstream studio art class. Her art teacher testified that the Student completes the same projects as the other students and, like the rest of her class, easily changes her seat for each new project. While she rarely interacts with the other art students, her teacher believes that she is listening to the conversations and appears to enjoy the class. Regular education students also participate in the S.T.A.R.S. classroom as part of an independent study class. Ms. Fragale testified that her daily lessons cover many areas not specifically spelled out in the IEP such as understanding personal safety issues. She also testified that the Student has made a good transition to high school and appears to be happy. Ms. Fragale and Ms. Bousquet both testified that the Student wants to communicate and is able to benefit from socialization with non-disabled peers through her interactions with them and her interest in modeling their speech and behavior. (Testimony of Lisa Fragale, Jennifer Bousquet, Sarah Cutler)

28. On August 27, 2003, the Student's father reported to the school district that the Student seemed to be upset and was crying although she was unable to verbalize the cause. He requested that the staff notify him of any problems. The Student's father also testified that she seemed apprehensive about her new school. A family friend who frequently interacts with the Student testified that the Student has told her she does not want to go to school and that the Student has appeared to be more agitated (Ms. Napolitano testified on September 8, 2003, just after the school year began). (Exhibit P-10, Testimony of Father, Nadine Napolitano)

29. The Gengras Center at St. Joseph's College is a state approved private special education facility with approximately 130 students aged 5 years through high school and 80 staff members divided between elementary and high school units. Forty per cent of the students are on the autistic spectrum. All students at the Gengras Center receive special education services. Each unit has its own administrator, speech and language clinician and social worker. There are five classrooms in the high school unit with placement based upon language, social and academic needs. Students aged thirteen and up participate in pre-vocational classes and work in the St. Joseph mailroom, copy center, library, and grounds. Eventually, students work one or two days per week in the community at selected work sites. All students have at least one period per week of activities with non-disabled peers. The Student has observed the Gengras Center and has been accepted to the program. If she attended, she would be placed in a life skills classroom with ten students, a special education teacher and two or three paraprofessionals. Initially, she would have three hours per week of vocational training and one hour per week with non-disabled peers. (Testimony of Margaret Tompkins)

CONCLUSIONS OF LAW:

1. The parties do not dispute that the Student is eligible for a free and appropriate public education ("FAPE") with special education and related services as set forth in the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. Sec. 1401, et seq. and the Connecticut General Statutes Sections 10-76 et seq.
2. The Board has the burden of proving that the program and placement they have offered is appropriate for the Student, which burden must be met by a preponderance of the evidence (Connecticut Agencies Regs. Sec. 10-76h-14).
3. The standard for determining whether a school district has provided FAPE is set forth as a two part inquiry in Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 U.S. 176 (1982). First, it must be determined whether the school district complied with the procedural requirements of IDEA and second, there must be a showing that the individualized educational plan ("IEP") is reasonably calculated to enable the child to receive educational benefit. The requirement of FAPE is satisfied by "providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." Board of Education v. Rowley, 458 U.S. at 201. This standard of educational benefit, however, contemplates more than trivial advancement. (Mrs. B. ex rel M.M. v. Milford Board of Education, 103 F.3d 1114 (2d Cir. 1997))

4. The IDEA also requires that children with disabilities be educated, to the maximum extent appropriate, in the least restrictive environment (“LRE”) and are to be removed from regular education only when “...the nature and severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” (34 C.F.R. Section 300.550) In order to meet this requirement, school districts must “...ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.” (34 C.F.R. Section 300.551(a)) These alternative placements must include instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. (34 C.F.R. Section 300.551(b)(1))

5. Under the line of cases that includes Burlington v. Dept. of Educ., 736 F.2d 773 (1st Cir. 1984), *aff’d* 471 U.S. 359 (1985) and Florence County Sch. Dist. Four v. Carter, 510 U.S. 359 (1985), a parent can seek payment for a private placement from their school district if first, there is a finding that the school district’s proposed placement was not appropriate, and second, that the private placement is appropriate.

6. Therefore, if it is found that the proposed program was appropriate, in that the IEP was reasonably calculated to provide the Student with more than trivial educational benefit by meeting her individual needs in the least restrictive environment appropriate for the Student, and that the procedural requirements of IDEA were met, then the parent’s private placement, even if it too is appropriate, need not be considered. As will be discussed below, the school district complied with the procedural requirements of the IDEA and the IEP proposed by the school district was reasonably calculated to provide educational benefit in the least restrictive environment.

7. The issue in this hearing is with regard to the 2003-2004 school year. It was the issue raised at the prehearing conference, on the first day of hearing, and when the interim decision was issued granting the parent’s motion to amend their hearing request to include the Gengras Center as the proposed private placement for the 2003-2004 school year. While the parent has argued that the goals and objectives were not appropriate during previous school years, those years are not in issue.

8. The IEP documents the individualized educational program planned for each student who receives special education and related services. The IEP must contain a statement of the child’s present levels of educational performance; a statement of measureable annual goals including short-term objectives and how progress towards the goals will be measured; a statement of the special education and related services, supplementary aids and services and modifications or supports to be provided; an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class; a statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed for the child to participate in the assessment or, if it is determined that the assessment is not appropriate for the child, why it is not appropriate and how the child will be assessed; and for children fourteen years of age and older, a statement of transition services. (34 C.F.R. Section 300.347).

9. The IEP written for the 2003-2004 school year (Exhibit B-60) and later modified based upon the independent speech and language assessment (Exhibit B-67), contains most of the elements listed above. The IEP contains a description of the Student's current levels of educational performance and makes reference to her teacher's and therapists' annual reviews. It clearly describes the Student's program including her time in the S.T.A.R.S. room, participation in mainstream settings and appropriate modifications and supports (see Finding of Fact No. 23). The IEP also contains appropriate goals and objectives related to the Student's needs. Due to a lack of expected progress, many of the goals and objectives were carried over from the previous year although with appropriate modifications. Finally, the annual reports and the IEP were discussed and explained in detail at PPT's where the parent and, at the August 21, 2003 PPT, his attorney was present (see Findings of Fact No. 23 and 26).

10. The educational program set forth by the IEP meets the Student's individualized needs. The program provides for functional academics, lifeskills training, activities in the community, a prevocation class, many opportunities to work on communication and social skills (in the classroom, through speech and language and music therapies and the "lunch bunch"), and a home-school collaborative plan which, among other issues, is to deal with transition planning. In addition, the IEP provides a one on one teaching assistant and allows the Student to participate in mainstream settings both through her "lunch bunch" and the participation of non-disabled peers in the S.T.A.R.S. room, but also through a studio art class which she enjoys and in which she is able to complete the same projects as the non-disabled students. Also, it is significant that there was extensive preparation for the Student's entry into her high school program (see Finding of Fact No. 27). She has made a good transition to the program although it is not unexpected that despite the preparation, the Student should experience some difficulty during the initial transition (see Finding of Fact No. 28).

11. Although the issue here is the 2003-2004 school year, it should be noted that during the previous school year, a year the PPT studied in formulating the current IEP, the Student made more than trivial educational progress. The annual reports and the Student's progress on the basic skills inventories administered to her by her special education teacher all indicate that good progress was made (see Finding of Fact No. 23). While it is always hoped that students will master all goals and objectives each year, progress must be "viewed in light of the limitations imposed by the child's disability." (Mrs. B., 103 F.3d at 1121)

12. The parent claims that the IEP goals and objectives are not sufficiently detailed (for example, lessons on personal safety are not specifically included among the goals or objectives). Also, he believes that some of the goals and objectives are not measurable and/or that the way in which progress is to be measured is not objective and, in some cases, not clear. First, there is no requirement that goals and objectives must reach the level of specificity that might be found in a lesson plan. There is no way to include in an IEP everything that occurs in a classroom: an IEP is not intended to serve as a daily instructional plan. However, inclusion of a goal and objectives related to personal safety would be an appropriate addition to the Student's IEP. Second, there is some merit to the parent's claim that the way in which progress on some of the goals and objectives is to be measured is unclear or not sufficiently objective. For example, participation, observation

and work samples are frequently used as assessments and, with some objectives in which an 80% success level is used, it is not immediately obvious how and with what kind of assessment tool the success level is associated (although some of this was clarified during Ms. Fragale's testimony). Neither of these objections invalidate the entire program when in every other way it meets the Student's individualized educational needs, as previously described.

13. It is also worth noting that the parent, even when represented by competent legal counsel, never objected to any of the goals and objectives. In more than one PPT, the parent and his attorney listened to discussions of the goals and objectives and did not request any changes or raise any objections. The request for an outside placement was made without a clear statement of why it was needed or in what way the IEP failed to meet the Student's needs.

14. While Dr. Gladstone, the parent's expert, recommended that a specialized day treatment program be considered by the PPT, he never stated that such a placement was required if the Student was to receive an appropriate program. In fact, he stated that the program provided an appropriate level of instruction and supportive emotional environment, that the Student had a good relationship with her teaching assistant and that she had a good routine in which she was showing more independence. His main criticisms of the program seemed to be with regard to the poor relationship between the home and school; his recommendations emphasized ways in which the relationship could be improved. He made few recommendations with regard to the actual content of the program; specifically he mentioned the need for goals and objectives related to personal safety issues.

15. The school district has actually tried to incorporate many of Dr. Gladstone's recommendations into the Student's program. They suggested to the parent that a psychiatric evaluation could be undertaken and that outside agencies could be brought in to consult and provide in-home social work. Their consultant, Dr. Rammler, offered to work directly with the family on parent training and behavior issues. The father either rejected these initiatives outright or stated that he would "think about it." The school district also tried to implement a home-school collaborative and a futures planning process ("PATH"). The record indicates that the parent only attended one meeting. There is no way to force the parent to take advantage of these services.

16. While the school district argues that this hearing is a result of the parent's extreme distress over the DCF investigation, it is unclear if that was his motivation. The parent raised other home-school situations that were briefly problems (concerns about the bus stop and inappropriate items that were given to the Student during the summer program), but it appears that those issues were resolved to the satisfaction of both parties. In any case, it is obvious that the complaint to DCF was a source of anguish for the family and harmed what was previously a strong and productive home-school relationship. Nevertheless, despite this breakdown in the relationship, it is clear that the Student has derived and continues to derive educational benefit from the program provided by the school district. Therefore, the somewhat strained home-school relationship does not render the program and placement inappropriate.

17. Having concluded that the school district has shown that the Student's educational program for the 2003-2004 school year is appropriate, there is no need to address in any detail the program offered by the Gengras Center. The Gengras Center also offers an appropriate program although one that does not appear to offer a qualitatively better or more appropriate program for the Student than what she receives within the school district. As she is making educational progress in a less restrictive environment than that offered by the Gengras Center where her time with non-disabled peers would be severely limited, it is clear that the school district is providing an appropriate, individualized program that is able to meet the Student's educational needs in the least restrictive environment.

FINAL DECISION AND ORDER:

1. The Board of Education has provided an appropriate program to the Student for the 2003-2004 school year.
2. The PPT shall convene within two weeks of receiving this decision:
 - a. The PPT will review and make certain that the Student's goals and objectives are set forth in a measureable way and that the way in which progress will be assessed is clear and unambiguous.
 - b. The PPT will amend the IEP to add a goal and objectives concerning issues of personal safety.