



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 13028-10

AGENCY DKT. NO. 2011 16504

S.F. AND S.F. ON BEHALF OF G.F.,

Petitioners,

v.

VERONA BOARD OF EDUCATION,

Respondent.

Lenore B. Laracuate, Esq., appearing for petitioners (Sussan & Greenwald, attorneys)

Gabrielle A. Pettineo, Esq., appearing for respondent (Kenney, Gross, Kovats & Parton, attorneys)

Record Closed: August 29, 2011

Decided: September 22, 2011

BEFORE **MARGARET M. MONACO**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

This matter arises under the Individuals With Disabilities Education Act, 20 U.S.C.A. § 1400 et seq., (IDEA) and the implementing federal and state regulations. Petitioners S.F. and S.F. (Mr. and Mrs. F.), on behalf of their son G.F., filed a due process petition against respondent Verona Board of Education (the District).

Petitioners assert that G.F.'s "program and placement has failed to confer the meaningful and significant progress he should experience," and G.F. requires "an environment in which his day is infused with a uniform, multisensory, language enriched approach, with ample opportunities for practicing newly acquired skills in a supportive and safe environment." Petitioners further allege that the placement and program set forth in G.F.'s 2010–2011 Individualized Education Program (IEP) is not appropriate, and is not geared toward providing G.F. with significant educational benefit, does not represent the least restrictive environment, and that the proposed program in a self-contained class fails to confer a free appropriate public education (FAPE). Petitioners requested a determination that the least restrictive environment where meaningful and significant progress may take place is the Craig School, and an order directing that the District place G.F. at the Craig School and be responsible for all costs attributed to that placement. Because the parents disagreed with the program and placement, they unilaterally placed G.F. at the Craig School on February 14, 2011.

Petitioners filed the instant petition on or about September 30, 2010, and the Office of Special Education Programs of the Department of Education transmitted the matter to the Office of Administrative Law, where it was filed on December 1, 2010, for a hearing. The hearing commenced on January 26, 2011, and continued on February 14, March 3, March 28, April 4, April 6, May 9, May 12, June 29, and July 14, 2011. The record closed on August 29, 2011, at the conclusion of closing arguments.

FACTUAL DISCUSSION

Based upon a review of the testimony and the documentary evidence presented, I **FIND** the following preliminary **FACTS**.

As of the 2010–2011 school year, G.F. was eight years old and in the second grade. G.F. is eligible for special education and related services based upon the eligibility category of Multiply Disabled, and attended the District's schools from preschool until February 14, 2011, when the parents unilaterally placed him at the Craig School.

In June 2005 the parents contacted the District regarding its Preschool Disabled Program. Although somewhat differing testimony was offered as to what was said during that conversation, there is no dispute that the parents ultimately elected not to go forward with the enrollment process at that time. The parents' next contact with the District was in the fall of 2006, when G.F. was four years old, after which the District conducted evaluations to determine his eligibility for special education and related services.

In November 2006 the District conducted a social assessment, a physical therapy (PT) evaluation and an occupational therapy (OT) evaluation. (R-2; R-3; R-5.) The physical therapist found that G.F. presented with decreased muscle tone, and delayed gross motor skills, and that PT services would be beneficial to enhance various listed skills. The occupational therapist found that G.F.'s fine motor skills were over 25% delayed and that OT services would be beneficial to enhance G.F.'s fine motor and ocular motor skills. A speech/language evaluation was conducted, during which the Preschool Language Scale-4 (PLS) was administered. (R-1.) The results of the PLS indicated that G.F.'s receptive and expressive language skills at 4.3 years appeared to be at the 2.10 age level, representing a 33% delay in both receptive and expressive language skills. Elizabeth Skinner, who then served as the learning disabilities teacher-consultant (LDT-C), conducted an academic assessment, during which she administered the Developmental Indicators for the Assessment of Learning-Third Edition (DIAL). (R-6.) G.F.'s total standard score was in percentile rank 1. On the language domain, his standard score was in percentile rank <1. Skinner reported that G.F.'s expressive language was extremely limited and difficult to understand, and all of his scores were well below average for a child his age and indicative of a greater than 33% delay in motor, concepts and language areas. The school psychologist, Elise Edelstein, conducted a psychological assessment, during which she administered the Wechsler Preschool and Primary Scale of Intelligence—Third Edition (WPPSI). (R-4.) Edelstein reported that G.F.'s expressive language was unintelligible most of the time; he “was very distractible and redirection was difficult”; and his “cooperation during testing was minimal.” Although G.F. achieved low scores on the WPPSI, Edelstein stated in her report that “these results must be interpreted with caution,” noting that

G.F.'s "cooperation during testing was minimal and therefore his performance may not reflect his true abilities."

After the evaluations were completed, an eligibility conference was held on December 21, 2006, and G.F. was determined eligible for special education and related services under the eligibility category of Preschool Disabled. (R-7.) The program in the IEP, which the parent signed, provided that G.F. would be in the District's half-day Preschool Disabled Program. (R-8.) The related services included individual PT and OT, and individual/small group speech/language, twice a week. G.F. began attending the District's program on January 8, 2007.

The District conducted additional evaluations of G.F. in May/June 2007, because he was then aging out of the preschool program. The OT evaluator found that G.F.'s fine motor skills were still over 25% delayed, and he continued to have visual motor delays. (R-9.) The physical therapist reported that G.F. had a greater than 25% delay in gross motor skills. (R-10.) Skinner conducted an academic assessment and administered the Kindergarten Readiness Test (KRT). (R-12.) Out of the possible total score of 49 on the KRT, G.F. achieved a total score of 6, or <45%, which Skinner reported suggested questionable readiness for kindergarten. Edelstein conducted a psychological assessment and administered the WPPSI. (R-11.) Although G.F. achieved low scores on the WPPSI, Edelstein noted in her report that he "had a great deal of difficulty understanding directions, often even when provided with a visual model," and "[h]is performance on a standardized assessment was therefore adversely affected." A speech/language evaluation was conducted. (P-19.) On the Peabody Picture Vocabulary Test (PPVT), G.F. had a receptive vocabulary age-level score of 2.8 years. On the Clinical Evaluation of Language Fundamentals—Preschool (CELF-P), his receptive and expressive language skills were in the 1st%ile and 2nd%ile levels. On the Goldman-Fristoe Test of Articulation (Goldman-Fristoe), he scored in the <1st%ile.

After the evaluations were completed, an eligibility conference was held on June 14, 2007, and G.F. was deemed eligible under the category of Multiply Disabled. (R-13.) The program in the IEP, which the parent signed, provided that G.F. would be in a self-contained classroom with kindergarten curriculum for the 2007–2008 school year.

(R-14.) The related services included individual PT, individual/small group OT and small group speech/language, twice a week. During the 2007–2008 school year, G.F. attended a full-day program in a self-contained Language Learning Disabled (LLD) classroom, which is a multi-age special education classroom taught by a teacher who is dually certified in general education and special education. Maryann Bifulco was his special education teacher in that class, and Monica Millin provided speech/language services to G.F. An IEP meeting was held on December 5, 2007, to further refine the goals and objectives in G.F.’s IEP and to address his speech/language services. The IEP developed at that meeting increased his speech/language services to three times a week, individual/small group, and the goals and objectives were expanded. (R-17.) After this meeting, Millin provided two individual sessions and one group session to G.F. The parents shared with the District a report of an Oral-Motor Speech Evaluation on April 21, 2008, which recommended oral-motor speech therapy five times a week. (P-28.)

An IEP meeting was held on June 18, 2008, and the IEP team, including the parent, agreed that G.F. should remain in the LLD class with kindergarten curriculum for the next school year. (R-18.) The related services included individual/small group OT and PT twice a week. Speech/language was increased to small group five times a week. During the 2008–2009 school year, G.F. continued to be in the self-contained LLD class with Bifulco as his special education teacher. Millin and Diane Conboy were his speech therapists and provided four individual sessions and one group session.

The parents had G.F. evaluated by Karen Golding-Kushner, Ph.D., CCC-SLP, who conducted a speech and language evaluation on July 23, 2008. (P-32.) Her report reflects that G.F.’s score on the Goldman-Fristoe was below the 1st percentile. Kushner reported that G.F. “presented with a profound articulation disorder,” and recommended direct articulation therapy, along with the termination of oral motor and other non-speech therapy, and a full language evaluation. In a later letter from Kushner to the parents dated August 28, 2008, she addressed the District’s progress notes and G.F.’s IEP. (P-33.) She expressed concern that the IEP provided for speech in small group, which should be individual therapy, and recommended that all references in the IEP to oral-motor therapy, sensory simulation and stroking be removed, along with goals

related to “awareness” of sounds and “auditory discrimination.” Mrs. F. shared Kushner’s evaluation and letter with the District. Mrs. F. described that she met with Millin and Conboy at the beginning of the 2008–2009 school year to discuss the report, and the District therapists agreed that G.F. was not able to articulate what he knows and the primary focus would be on articulation in coordination with Kushner, whom the parents had retained to provide private services to G.F. The testimony as a whole supports that it was jointly agreed that the primary focus would be on articulation in coordination with Kushner, and that a communication log was maintained between Kushner, the District’s therapists and the parents addressing G.F.’s progress in articulation. The evidence also reveals that in the spring of 2009, the District’s therapists had concerns about G.F.’s language skills and conducted informal testing, with parental consent, that showed significant delays in his receptive and expressive language skills.

An IEP meeting was held on May 6, 2009. (R-23.) The program set forth in the IEP provided that G.F. would be in a self-contained class for reading/language arts and math. Science, social studies, and the special subjects would be in general education. The related services included individual/small group OT and PT twice a week, and small group speech/language five times a week. During the 2009–2010 school year, G.F. continued to be in the LLD class with Bifulco as his special education teacher for reading/language arts and math, and he was mainstreamed in general education for science, social studies and the special subjects. Millin and Conboy continued to be his speech therapists and provided individual sessions to G.F.

After the commencement of the 2009–2010 school year, the parents provided the District with a Language Evaluation and Speech Progress Note by Kushner, which reported the results of her testing in July 2009. (P-44.) G.F.’s score on the Goldman-Fristoe was in the 1st%ile. Kushner noted that while G.F.’s standard score and percentile rank (which were based exclusively on the quantity of errors) were still seriously below age level, the quality of his errors changed dramatically. G.F.’s score was in the 1st%ile on the Khan-Lewis Phonological Analysis (KLPA). On the CELF-P, his core language score was in the 1st%ile; his receptive language score was in the 2nd%ile; and his expressive language score was in the 1st%ile. His score was in the

8th percentile on the Receptive One Word Picture Vocabulary Test (ROWPVT), and in the 2nd percentile on the Expressive One Word Picture Vocabulary Test (EOWPVT). Kushner reported that G.F.'s language skills ranged from a 3-year level to a 4.10-year level, significantly below his chronological age (6.11 years). She noted that "[a]ll of the therapy goals here to date have been related to articulation and suppression of phonological processes, with outstanding progress in those areas," and recommended that articulation therapy continue with language therapy at school.

The parents also had a pediatric neuro-developmental evaluation conducted by Carlo Melini, M.D., who administered various tests, and shared his report with the District. (P-45.) Melini stated in the report that G.F. had a "wide scatter from a low of four years to a high of almost eight years in his developmental processes"; the "whole focus should be on maximizing his strengths and bypassing his weaknesses"; and he needed "constant visual reinforcement for all language based learning." He further indicated that, "[w]ith appropriate accommodations and interventions, [G.F.] should make steady process in the school setting and be seen as a youngster with a learning disorder," and made various recommendations, including recommendations concerning reading and comprehension. In the fall of 2009, Bifulco completed an ANSER System school questionnaire at the parents' request. (P-46.)

In April 2010, further evaluations were conducted as part of G.F.'s triennial re-evaluation. Millin and Conboy conducted a speech and language functional assessment. (R-24.) The report includes the results of Kushner's 2009 testing, which it states would be included in the formulation of the IEP, and notes that G.F. had improved certain listed sounds after the KLPA, which would dramatically change his score. The report addresses G.F.'s fluency and states that fluency goals will be written into the IEP. The therapists reported that G.F. makes slow and steady progress toward mastering his language goals; that he responds best to a multi-sensory approach and repetition; and the need to review previously learned material. According to the report, he has difficulty retelling simple stories and demonstrating comprehension of what he has read; he has been working on sequencing skills to improve these skills; and his skills have improved using dramatization, photographing him doing sequences of activities and copying pictures from books. He can do a four-picture sequence

independently, sequence three sentences, and seems better able to relate a story, which is in sequence and longer, but continues to have difficulty during “picture walks” and is not able to describe pictures beyond the concrete level and misses intention, predictions and cause-effect relationships. According to the report, he receives numerous greetings from peers and adults when he walks down the hall; he will use language to comment, request, protest, and negotiate and to draw attention to himself and others; and most of his verbal interactions with adults are about his day (e.g., schedules).

The LDT-C who conducted the educational evaluation is no longer employed with the District and did not testify at the hearing. She conducted her evaluation on four days, and administered the Woodcock Johnson Tests of Achievement (Woodcock Johnson). (R-25.) G.F. was then 7.8 years of age. According to her report, G.F. followed her directions, worked diligently on all of the tests and was focused and attentive throughout the testing. G.F.’s Broad Reading score was in the low-average range. He achieved at the above-average range in the word identification and word attack subtests, and in the average range in the reading fluency subtest. On the passage comprehension subtest he was at the < K grade equivalent (GE) level and, according to the chart in the report, in the exceptionally low range. He was also in the low-average range in the reading vocabulary subtest. He scored in the very low range (GE < K) in the reading comprehension cluster. His Broad Written Language score, which includes the spelling, writing fluency and writing samples subtests, was in the average range. He was in the above-average range in the spelling subtest, and in the average range in the writing fluency and the writing samples subtests. G.F.’s Broad Math score, which includes the math calculation, math fluency and applied problems subtests, was in the average range. He was in the average range in the math calculation and math fluency subtests, and in the low-average range in the applied problems subtest. G.F.’s Oral Language cluster score was in the low range (GE < K). He scored in the average range on the story recall and picture vocabulary subtests, and the low-average range on the understanding directions subtest. He was in the low range (GE < K) on the listening comprehension cluster, along with the oral comprehension subtest.

Edelstein conducted a functional psychological assessment consisting of a classroom observation, a report from G.F.'s teacher and a review of the record. (R-26.) Edelstein reported that the teacher relayed that G.F. has some very strong skills, including excellent decoding and encoding skills; he can now write all of his letters; math is an area of strength; he required prompting to continue working; he will not always ask for assistance when needed; he demonstrates weakness in visual perceptual skills and reading comprehension; he is more successful with socialization in a small, familiar group and will observe before participating in a larger group; and he has more success reading social cues with adults than with his peers. Edelstein's summary states that G.F. "appears to be successful in his current educational setting and, according to his teacher, has made significant progress in all areas since entering her class when he was in kindergarten." (R-26.)

After the assessments were completed, an eligibility meeting was held on May 5, 2010, and G.F. continued to remain eligible for special education and related services under the Multiply Disabled category. (R-29.) The testimony reveals that the IEP team discussed continuing G.F. in general education for science and social studies, but ultimately determined that his academic subjects (reading/language arts, math, science and social studies) would be in the LLD classroom. The program set forth in the IEP provided that G.F. would be in a self-contained class for those subjects, with the special subjects (i.e., art, music, physical education, computers, library and world language) in general education. (R-30.) The related services included individual speech/language four times a week, OT individual/small group twice a week and PT individual/small group once a week.

The IEP includes goals and objectives in the area of language arts literacy that refer to the New Jersey Core Curriculum Content Standards and address reading fluency, reading strategies, comprehension skills/response to text and writing. This section lists evaluation criteria (i.e., performance of assigned tasks with 80% accuracy) and instructional strategies (i.e., provide a multi-sensory approach to learning; encourage vocalization of conceptual thinking; provide opportunities for student to read for pleasure; and use strategies such as self-talk, self-questioning and brain-storming). The IEP includes goals and objectives that refer to the Core Curriculum Content

Standards for mathematics. Goals and objectives are also included for science and social studies, and addressing fine and gross motor skills. Techniques and activities to support personal and social growth are listed. As to speech/language, there is one goal (i.e., G.F. will develop expressive and receptive language skills as well as comprehension skills) and two objectives (i.e., G.F. will describe pictures and create/choose pictures that are described to him). This section lists an 80% accuracy evaluation criterion; instructional strategies (i.e., G.F.'s fluency will be monitored and discussed at monthly progress meetings and the parents/teachers will be provided information about fluency and how to respond when he is dysfluent); and the Visualizing and Verbalizing program under materials and specialized equipment.

Under letter dated July 12, 2010, counsel for petitioners forwarded to the District's counsel reports prepared by Princeton Speech-Language Learning Center (Araten report) and Edna Barenbaum, Ph.D. (P-58.) In the letter, counsel summarized the reports, and stated that both reports agree that G.F.'s needs may not be met appropriately in his current placement. Counsel requested that the reports be shared with the CST and that an IEP meeting be scheduled to reform the IEP to be consistent with the recommendations. Subsequently, by letter dated August 4, 2010, G.F.'s new case manager, Jennifer Stier, LDT-C, informed the parents that, after reviewing the information provided in the reports, she felt strongly that they should meet as a team to review G.F.'s current IEP. (R-31.) She indicated that since it was the summer a meeting date may be difficult to schedule, and requested that the parents contact her to schedule an appointment for late August. Ultimately, no IEP meeting was held before the filing of the petition in late September. Stier described that an administrative assistant in Skinner's office received a response to the letter; the parents responded appropriately and in a timely manner, but there was no time and date that was available; and the parents mentioned that they wanted their lawyer present, which also made scheduling a little more difficult. In September 2010, G.F. began second grade in the District. Jean Sapienza was his special education teacher in the LLD class, which had four students (including G.F.). Cathleen Wrobel provided individual speech/language sessions to G.F. The parents unilaterally placed G.F. at the Craig School during the course of the hearing, on February 14, 2011.

THE TESTIMONY

Apart from the testimony that forms the foundation of the above findings of fact, a summary of other pertinent testimony by certain witnesses follows.

For The District

Elizabeth Skinner

Skinner has been employed by the District since 1983 and has served as the director of special services since January 2007. She previously worked as a teacher, as an LDT-C, and as the supervisor of special services. Skinner was qualified, without objection, as an expert in special education. Skinner testified that at the end of G.F.'s first year of kindergarten, the parents, teachers and service providers had raised no concern to her regarding G.F.'s progress or program. G.F. was making steady progress during his second year of kindergarten; he continued to progress in first grade; and his second-grade teacher saw him as making significant progress, and the related-service providers indicated that he was making solid progress that year. In Skinner's view, G.F. had made significant progress during his schooling in the District. Skinner's knowledge as to G.F.'s progress is based on CST and teacher reports and occasional visits to his classroom. The District measures progress not only by standardized testing, but by the child's daily functioning in the classroom and the assessments administered throughout the year. When G.F. began in the District, his speech was unintelligible; he had low language skills; his pre-reading skills were not well developed; he could not identify colors, shapes or the alphabet; and he counted by rote to three. Three and a half years later, he was reading, writing, adding, subtracting, learning to regroup and working with second-grade material. He was able to compose a sentence and write a paragraph without assistance. He had conversations with peers and initiated conversations with Skinner. The educational evaluation indicates that G.F. had made meaningful and significant progress since his evaluations in 2006. Skinner indicated that it is not unusual for a student to have the same special education teacher for continuing years, and not unusual for children at a young age to repeat a grade. She described that the District integrates G.F.'s related services within the school day and it is a "very

integrated” and “coordinated” program. The related-service schedules are developed in cooperation with the LLD classroom teacher; G.F. does not miss academic instruction; and the teacher will later teach the lesson. There is ongoing communication between the therapists and the teacher in terms of what is happening in the classroom and in therapy so that they can apply the different skills across all settings.

The Woodcock Johnson had not been administered to G.F. before the 2010 reevaluation. Skinner explained that it is not an appropriate assessment tool to use until the child has acquired some academic skills because it measures academic skills and achievement. According to Skinner, the various subtests may be administered over more than one day, and the overall results revealed that G.F.’s academic performance was well within the average range in most areas. The reading comprehension score in which G.F. scored below the kindergarten level is a combined score of the reading fluency, reading vocabulary and passage comprehension subtests. Passage comprehension was G.F.’s lowest subtest score and below a kindergarten level. Skinner stated that a “cloze procedure” is used on a portion of that subtest, and G.F.’s raw score would lead her to believe that he did not understand the directions. She noted that G.F. had a high level of comprehension on the reading fluency subtest, which is a timed task that requires the child to read a series of sentences and answer whether the sentences are true or false. In the picture vocabulary subtest, which Skinner indicated can often influence reading comprehension, G.F. was in the lower end of the average range. He was also in the average range on the reading comprehension subtest of the Diagnostic Achievement Battery (DAB) administered by Barenbaum and the comprehension section of the Gray Oral Reading Test (GORT) administered by Araten. His oral language skills were at a below-kindergarten level. Skinner stated that this section does not test language in the same manner as a speech/language evaluation, and the skills and performance tested within that battery are very different from the CELF. Skinner described the various goals and objectives, the evaluation criteria and the instructional strategies in the 2010–2011 IEP. She noted that teachers are certified, so they would also use what they know as best practice and what they have been trained to do when teaching the goals, and a number of multi-sensory research-based programs are used in G.F.’s classroom (e.g., Project Read, Foundations, Preventing Academic Failure, Writing Workshop). Although the IEP stated that G.F.

would attend a world language class in general education, G.F. was excused from that class. She described that the class is more of a cultural experience; they learn to say greetings, basic colors and numbers in Mandarin, and learn about the culture, celebrate the holidays and recognize some traditions.

Skinner addressed Barenbaum's and Araten's reports. She disagreed that G.F.'s IEP should have been reformed based on Melini's report, stating that a number of the recommendations in that report were already incorporated into G.F.'s program. As to the standardized tests, she noted that each subtest has very different demands and requirements, which must be looked at in addition to the student's performance on the test. For example, G.F. performed at a much higher level when he was able to refer back to the text. Skinner disagreed with Barenbaum's concern regarding a failure to include measurable goals and objectives and to objectively measure progress in G.F.'s IEPs. Although Skinner agreed that it is not listed in the IEP in a manner that includes a baseline, she stated that the present levels outlining skills can be compared to the previous present levels to ascertain progress. With regard to the objective to describe pictures in the current IEP, Skinner acknowledged that she could not ascertain G.F.'s level as to that skill from the IEP. She agreed that G.F.'s reading comprehension is delayed; he is now at an age where he will be reading to learn; and frustration and deceleration in learning can lead to acting-out behaviors. No reports have been made to her regarding him acting out or any significant concern about his behavior. Although G.F. did not have an individual behavior intervention program, there were classroom-management techniques and programs in place. Skinner agreed that in the testing by Araten G.F. had a core language index in the 1st%ile on the CELF-4, and scored below the 1st%ile in narrative language, and that oral narration is part of expressive language broadly. She could not state whether the 1st%ile was progress over the earlier 2006 testing because the tests could not be compared. She agreed that Araten's testing indicated that he scored in the 2nd%ile in pragmatic judgment and that the 2009–2010 IEP did not include a social skills group, but noted that the speech/language goals address pragmatic language. Skinner has not witnessed G.F. struggling with social interaction. Skinner did not agree with Araten's testimony that with appropriate intervention G.F.'s percentiles would have increased within a certain period. She further opined that a child remaining at the 1st%ile on a standardized test is an indication of

progress because the child is being compared to other children, who continue to age and acquire skills. Maintaining a percentile means that the child is acquiring skills, and a 1st percentile is related to a raw score, meaning that it is not based simply on participating in the test. Skinner agreed that G.F. needs a small, language-based classroom instruction.

Skinner visited the Craig School in November 2010 and June 2011, and detailed the information obtained and her observations during the two visits. (R-59.) The school is a private school that is not approved as a special education placement by the Department of Education, Special Education Programs, and the lower school is for children grades three to eight. Among other concerns, G.F. was being taught using a third-grade curriculum, and he did not appear to understand many concepts during her observation. G.F. engaged in numerous off-task, avoidance and/or attention-seeking behaviors, which were not always stopped or redirected. After being at the school for approximately fourteen weeks, he still had not learned to use his locker and carried all of his belongings. He was dependent on adult assistance for most activities, which was different from his level of independence in the District. He did not appear to have established any peer relationships, and he was not given instruction in ways to initiate conversation or request inclusion in the group. There also did not appear to be coordination between the speech therapist and the teachers as to the lessons in the classroom, in contrast to the District's coordinated and integrated program. Skinner opined that the Craig School was not an appropriate placement for G.F. The District would recommend an out-of-district placement if the District could not meet a student's needs, and if the student was not learning and not progressing. Skinner opined that the District was providing G.F. with a comprehensive educational, multi-sensory program; the District is meeting his needs; and G.F. made demonstrated and significant progress that is documented.

Elise Edelstein

Edelstein is employed by the District as the school psychologist for the preschool and elementary schools, and was qualified, without objection, as an expert in school psychology. In her role as G.F.'s case manager, Edelstein had contact with G.F.'s

preschool teacher, and described that G.F. was making progress but had only been in the program for a few months because he was aging out of preschool. As the elementary school psychologist, Edelstein informally observed G.F. in his kindergarten classroom, and stated that G.F. was making progress. He was participating in the curriculum and was intelligible in his speech, which helped him socially. G.F. was speaking to other students and they were speaking to him. Edelstein conducted a functional psychological assessment in April 2010. During her observation in G.F.'s first-grade class, G.F. was attending to the tasks, read without error and interacted appropriately. He self-corrected when he made an error; he was able to follow very specific directions; and he completed tasks independently with strategies such as word banks. He had difficulty recalling story details; struggled with reading comprehension and a sequencing activity; and needed prompts or models. His speech was markedly better from Edelstein's 2006 evaluation. After her assessment, Edelstein periodically informally observed G.F., who was actively participating in the curriculum in class and greeting students in the hallway. Although Edelstein would not expect a child with a low-average IQ to be in the 1st%ile or 2nd%ile in any area after intensive remediation, she indicated that it could happen. A child with a low-average IQ and a specific learning disability might achieve in that percentile rank because the child may need more help in an area, and the area still may demonstrate a large discrepancy between IQ and academic achievement.

Jennifer Stier

Stier has served as an LDT-C with the District since September 2010, and was assigned as G.F.'s case manager in the summer of 2010. She was qualified, without objection, as an expert in special education. Stier described that the Woodcock Johnson evaluates a child's educational abilities, academic performance and skills; the child's ability to apply these skills in a timed setting; and the child's weaknesses and strengths. Stier opined that G.F.'s test results indicate that he was developing skills and is in the average range in many of the cluster areas. As to G.F.'s scores in the reading comprehension subtests, G.F. had a low score on the passage comprehension subtest and was in the low-average range on the reading vocabulary subtest. He was also in the low-average range in the math applied problems subtest, which involves

comprehension. The reading fluency subtest, in which he achieved in the average range, provides some insight as to reading comprehension in that the student must read a very simple sentence and answer yes or no. Stier opined that the Woodcock Johnson language cluster could not be compared to the PLS or the DIAL. Stier agreed that it would be expected that G.F.'s skill set would be within a standard deviation of his 88 IQ, and his 1st percentile was approximately three standard deviations below expectations. She stated that a child with a learning disability in an area could have a standard deviation of three in that area, and language ability is important to a child's academics so it impacts other areas. It is also necessary to take into consideration that the growth of other children is progressing, and she did not have the functional information to answer whether the 1st percentile is growth. For example, G.F. was below a kindergarten level in passage comprehension, which is largely language based. The report did not address how G.F. did functionally with that subtest, noting that sometimes children do not understand the directions and the beginning does not use the "cloze procedure." Stier agreed that G.F.'s listening comprehension score on the Woodcock Johnson by the number itself was not significant and meaningful progress, but indicated that she did not know functionally what his progress has been. She agreed that his score on the understanding directions subtest was also low, and that following instructions had been a goal in each IEP. Stier agreed that the results of the GORT by Araten were consistent with the District's educational evaluation and consistent with what G.F. did in school. She believed that the results of the Burns/Roe Informal Reading Inventory (Burns/Roe) regarding reading words were also consistent with the District's above-grade-level testing. A score is considered valid if both are consistent. She also agreed that the Woodcock Johnson is based on grade, and G.F.'s scores would have been lower if it was based on his age.

Stier's knowledge concerning G.F.'s progress in second grade is based on progress reports, teacher's reports and observations. She testified that G.F. was progressing well and was showing growth in all academic areas and his related services. Sapienza reported no concerns, and his related-service providers reported progress. During Stier's observations, G.F. interacted well with adults and appropriately with peers. He initiated conversations with Stier. G.F. required a lot of support to work independently and had distractibility. Reading comprehension definitely seemed to be

G.F.'s weakness, and he required visual supports for language and reading. Stier opined that G.F.'s DRA scores show "fantastic progress"; he jumped many levels in a few months. She described the District's program as an integrated program in which the therapists are able to modify their schedules to meet the needs of the learner, and the teacher would make up any missed instruction. The therapists and teacher have constant dialogue. The therapist can address the teacher's concerns and provide suggestions, strategies or material to help support the child in the classroom. Stier did not discuss with the speech pathologist how Visualizing and Verbalizing was integrated into the classroom, and did not observe it when she visited G.F.'s classroom.

Stier visited the Craig School in November 2010 and May 2011, and detailed the information obtained and her observations during the two visits. (R-58.) Among other concerns, Stier noted that G.F. exhibited certain repeated behaviors (e.g., not paying attention, calling out in class), and there was inconsistent correction of these behaviors. He did not appear to have friendships with students his age, interactions with them were minimal, and there was no adult intervention to facilitate social interactions. The academics appeared to be too difficult (reading comprehension) or too easy (single-digit addition and subtraction). G.F. worked less independently than he did in the District, and most of the curriculum did not appear to be individualized to his needs. His related services also were not provided at the frequency offered by the District, and were not integrated as in the District. Stier opined that the Craig School was not an appropriate placement for G.F.

Thomas Valente

Valente was the principal at G.F.'s school for seven years prior to his retirement in June 2010. Valente observed G.F. during his related services, at gym and in the hallway and lunchroom. He recalled G.F. asking him to play a game in first grade, having a later conversation with him about the game, and G.F. chatting with him when he delivered the attendance sheet. Valente covered a reading group in G.F.'s first-grade class. G.F. read fluently and answered questions about the story. G.F.'s teacher and aide did not express any concerns to him. Valente observed growth in G.F. in terms of being able to speak about issues, and his reading and word-identification skills.

Maryann Bifulco

Bifulco has been a special education teacher for nine years, and was G.F.'s special education teacher in the LLD class in kindergarten and first grade. When G.F. entered her class in September 2007, his speech and language were delayed, and he was shy and immature or impulsive. He had difficulty attending for a long period; he had a short attention span; he tired easily; and his speech was not intelligible. Bifulco testified that G.F. made some "nice progress" after the December 2007 meeting. He became more comfortable in the school environment, started to learn more letters and sounds, and became a little more intelligible. G.F. was provided the District's kindergarten curriculum that year, and Bifulco targeted other areas specific to G.F. Social-skills training is incorporated in the LLD program, and G.F. also participated in a school-wide character education program with the adjoining kindergarten classroom and fourth graders. Her class worked on social skills, including interaction with peers, and specifically with G.F. on conversational skills, playing skills, expressing his needs or wants, asking questions, seeking help when he became frustrated or needed something, and interacting with other individuals.

Bifulco described the kindergarten curriculum and her strategy with regard to reading and comprehension (e.g., review the cover and title, preview the story, do a picture walk, discuss vocabulary, use words such as beginning, middle and end). At times, she would make pictures of the story for the class to put in sequential order, and used story maps and graphic organizers. The class acted out stories and listened to stories on tape. They used the reading series, trade books and the Foundations program. G.F. responds well to pictures and images. Her goal was to make the students more comfortable with a verbal approach, and this was done by trying to keep the "whole environment immersed" in language (i.e., they had labels on objects in the classroom). If G.F. did not understand what she presented in the group session, Bifulco worked with the speech therapist, who would provide strategies. Bifulco had communications with G.F.'s therapists when they picked him up, and they would discuss the skills being worked on and the areas they could work on together. Bifulco testified that G.F.'s letter/sound assessment, self-portrait drawings, and report card

show his progress. (R-15; R-16.) He interacted more frequently as the year progressed, and she witnessed him playing with children during center time in the adjoining kindergarten classroom. At the conclusion of the year, G.F. had made progress with regard to academic skills (i.e., knew more shapes, colors, letters and numbers), and exhibited consistency in his knowledge on those concepts. There was some improvement with his speech, and he was becoming more comfortable in the classroom. Bifulco reported in the present levels dated April 2008 that G.F.'s speech was "mostly unintelligible" and his social skills were "improving slightly." The IEP team agreed that G.F. was still not completely and consistently at a kindergarten level and he would benefit from a second year in kindergarten.

Bifulco followed a kindergarten curriculum the next year, and described that G.F. was not learning the same skills. She reviewed his skills in the beginning of the year to ensure that he had retained them, but then took letters and made them into words, and made the words into sentences, and G.F. started to learn how to read. Bifulco continued to communicate with G.F.'s therapists. A new math program was used that year in the District, which had work maps, more manipulatives and a Smart Board component. G.F. was doing well with that program. Bifulco stated that G.F. was progressing "nicely" throughout the year and working on grade level. His math chapter tests show that he had made progress from the previous year, and reflect his consistency in certain areas and areas of weakness. (R-47; R-48.) His self-portraits, end-of-the-year math tests and writing assessment also demonstrate his progress. (R-20; R-21; R-45; R-46.) His report card showed that he was progressing each marking period and no areas were listed as needing improvement as of June. (R-19.) G.F. was showing more sustained effort and more time on task, and was better able to use his strategies before asking for help. His comprehension was "improving," his vocabulary was expanding, he could describe more details about a story and he was reading at a kindergarten level. Some stories he would comprehend on an initial reading and others would take more time. If he did not demonstrate confidence with a story, Bifulco connected it to stories where he did well and used sequencing strips, story maps and graphic organizers. G.F. showed some progress socially. G.F. was more fluent and intelligible at the end of the year and could communicate better outside of the classroom and with more children throughout the school. In Bifulco's view, G.F. had made

significant progress in a lot of areas. Although G.F. scored lower in an area on the DRA, the DRA kit provides a book of instructional strategies that can be used to aid in learning, which Bifulco used for G.F. (R-40.) Bifulco described the strategies she used after the Reading Grade 1 Placement Test in his first year of kindergarten, which showed that G.F. needed to work on comprehension skills. She acknowledged that the same test given the next year showed progress in all areas except for comprehension. (R-41; R-42.)

Bifulco provided a first-grade curriculum to G.F. the next year. G.F. spent more time in the first-grade general education class. He was reading at grade level, but his comprehension was below grade level. Bifulco worked on G.F.'s reading comprehension skills by using basically the same strategies from kindergarten, and worked on retention. The speech therapist also provided strategies and suggestions, and would take lessons or stories being worked on to the therapy room. G.F. was able to comprehend a story some of the time, but it took a lot of work and a long period of time. He had excellent decoding skills and could read books that were beyond his grade level. He struggled with some of the math concepts, such as time and money, but with supports and strategies he showed progress in math. G.F. was holding his own in science and would understand most of the concepts. However, it was more difficult for him to stay focused in the larger general education classroom setting, and he was more productive in the smaller group in her classroom. He at times shut down and was quieter in those classes, and had difficulty with the material, which she would work on in a small group or individually. Bifulco described that the educational demands on G.F. were higher in the first grade, and he was having difficulties with that at times. He would at times tire easily, get frustrated or act out. Some of these frustrations diminished over the year. A strategy Bifulco used when these issues arose was keeping a chart where the children would receive smiley faces and a prize for a certain number. G.F. responded well to praise. G.F.'s Reading Benchmark Test, quiz grades, first-grade writing portfolio and report card show his progress, and that he was meeting expectations as of the June report card. (R-22; R-27; R-28; R-43.) His grade-equivalent scores were all at a first-grade level. Bifulco did not agree that the DRA in June 2010 indicates that G.F. had made no progress, but agreed he was below grade level on the comprehension section. (R-44.)

Bifulco testified about the school questionnaire she completed. The areas Bifulco listed in which she would like to help G.F. would generate his IEP goals and objectives. As to her stated concern that he was less confident and not as motivated as in the prior year, and needed more prompting and encouragement to work independently, Bifulco believed that this was due to the higher level work. Bifulco had e-mail correspondence with the parents that year, who advised her that G.F. was starting to pick up on his reading comprehension issues, and requested different books to read each night, believing that he would be less frustrated. Bifulco reported in another e-mail in January 2010 that she was seeing more “learned helplessness” behavior as the school year went on. With regard to e-mails sent in February 2010, Bifulco indicated that she did not send home reading material with pictures and no words, but sent home a Rebus book that had sentences with Rebus pictures inserted for G.F. to fill in so he could participate in the story and have a visual component that he could add to the story. According to Bifulco, Melini’s report was consistent with the goals and instructional strategies in G.F.’s IEP, and she used strategies recommended in the report. Bifulco recalled informing Mrs. F. that G.F. called out and did not wait his turn, which occurred on an inconsistent basis and started in kindergarten. It was occasionally done in first grade and as of June 2010. At times, G.F. would not volunteer even if he knew the answer, which occurred primarily in kindergarten and decreased over time. When she indicated to Barenbaum that it was a typical day for G.F., she was referring to the schedule. He had been absent the day before and three days the previous week. The speech therapist went over the story in speech, and Bifulco provided G.F. individual instruction later that day regarding the story and sequenced the story, after which he had a good grasp of the story. Bifulco noted that there are two stories per unit in the reading series, which they start on Monday with the picture walk, the vocabulary and sight words. They read the stories over the course of a week. She worked with G.F. on a one-to-one basis at least twenty to thirty minutes a day in kindergarten, and recalled working on comprehension. She worked with him on an individual basis in first grade on an as-needed basis, and worked on reading comprehension for language arts, science, social studies, reading and math word problems.

Bifulco described the growth and progress she observed in the three years she taught G.F. G.F.'s language was developing; he was interacting and socializing with children at his age level; and there was a noticeable improvement in his articulation. Bifulco witnessed his back-and-forth conversations with peers, and he would converse with children in the hallway, at lunchtime and on the playground. He learned how to read, write and spell, and had new math skills. Bifulco measures progress by the DRA, the Benchmark tests, chapter tests, weekly quizzes and writing assessments, along with daily observations. In her view, the assessments reflected significant progress. G.F. still needed to work on comprehension, recalling, retelling and sequencing events and stories. They were still working on language and communication concepts; some of his math skills were still not consistent, such as coins and measurement; and some of his science and social studies concepts were not as strong as one would hope, but with modifications, strategies and accommodations, G.F. could do the work. Bifulco understood that G.F.'s cognitive ability was at an average level, and agreed that a child with average ability should make around a year's progress in a year. She also agreed that remaining at the same percentile rank after three years was not progress.

Jean Sapienza

Sapienza has been employed by the District as a special education teacher for seven years, and was G.F.'s special education teacher in September 2010. Her class was a second-grade-to-fourth-grade LLD class. Although Sapienza could not access G.F.'s IEP before the start of school due to a glitch with the computer system, she had his IEP by the second day of school, which she reviewed. Sapienza ascertains where to begin instruction by getting to know the student; conducting some assessments; and referring to prior documentation if needed. She bases her teaching on the student's individual needs, and tailored her instruction around G.F.'s therapy. At the beginning of the year, G.F. had very strong reading and word identification skills; could read fluently; and did well in decoding, encoding and spelling. He was able to grasp new math concepts easily and had learned great strategies (e.g., using word banks). He followed written and oral directions "when he wanted to"; needed questions rephrased and repeated at times, especially relating to fiction; and struggled with reading comprehension. Sapienza provided a second-grade curriculum to G.F. and worked on

strategies apart from that curriculum. She had communications with the related-service providers, who kept her informed of what G.F. was working on in therapy. The therapists came in and out of her classroom and she talked with them as needed.

In reading/language arts, Sapienza worked on multiple readings of text with questions, vocabulary and reading strategies. She would pick apart material and at times used whole-group material to teach strategies. Sapienza used leveled readers, trade level books, individual text, guided reading materials and the Scott Foresman reading series, which is a research-based program. She worked with G.F. on an individual basis and in small group. She used pictures and context clues, went through the story (i.e., beginning, middle, end), and did story mapping. Sapienza noted that reading is not only a specific lesson in a primary classroom, but is in the morning message, calendar, etc. G.F.'s weekly reading tests were within the good performance range. He completed the Launching the Writing Workshop independently in her class, which reflects that he went from just labeling and very simple sentences to writing more detailed sentences and stories. (R-38.) Sapienza opined that G.F.'s DRA scores in second grade show meaningful progress related to reading. He was at the highest first-grade level in January 2011. (R-39.) His spelling tests in October on which he achieved 100% were representative of his spelling ability. He independently completed an undated selection test, which tests vocabulary and comprehension, and had 100%. (R-34; R-35; R-36.) The October 2010 selection test on which G.F. had two of the five questions wrong on the comprehension section involved a story that required higher level thinking and inferencing and, as a result, he needed more questioning or rephrasing. (R-37.) The strategies she used to assist him with comprehension included thinking about the story, going back, re-reading and describing the stories in small pieces. She believed the speech therapist also did a reread of that story with G.F., and Sapienza made a story follow-up with a picture and his writing. Sapienza agreed that many times G.F. was below grade level in comprehension. He continued to need to work on learning to read for meaning and not just reading words. The speech therapist was working on Visualizing and Verbalizing and would come in and give examples to Sapienza, who is not trained in those techniques. Although G.F. had speech three mornings a week, Sapienza's classroom is very individualized; G.F. did not miss instruction; and he had the equivalent of 90 minutes of language arts each day. In

math, they were working on double-digit addition and subtraction and money. G.F. had difficulty counting mixed groups of coins, and she practiced with manipulatives and he learned touch math. G.F. had progressed over the year in math. Sapienza administered social studies and science in a small group with one other student. G.F. did well in social studies; he was able to work with the hands-on material and understood the vocabulary.

Sapienza described that G.F. asked questions each morning concerning the day and engaged in reciprocal conversations. He told stories about things he had done; initiated conversations with his peers; and engaged in reciprocal exchanges with other students in an unstructured activity, such as snack. He occasionally answered questions without raising his hand. Sapienza stated that social skills is part of the teaching procedure and routine, and social skills are discussed as the need arises. She has behavior charts throughout the classroom. Sapienza worked with G.F. on being able to work independently, and he was beginning to work more independently after his November report card. In Sapienza's view, G.F.'s report card and IEP progress report show that he was making progress. (R-32; R-33.) She measures progress by teacher observation, anecdotal records, homework, classwork and tests.

Monica Millin

Millin has been employed by the District as a speech/language specialist since 2006, and provided speech/language services to G.F. from September 2007 to June 2010. She was qualified, without objection, as an expert in speech and language. When Millin began working with G.F., his speech was very difficult to understand, and he had a limited vocabulary and oral motor issues. She initially focused on oral motor skills, and also worked on his vocabulary and articulation. The small group session brought in some pragmatic and social skills. They played games, engaged in turn-taking and did role play. Millin communicated with Bifulco about his speech services, and Bifulco expressed concerns regarding his speech and oral reading comprehension. She worked with G.F. on the story being read in the classroom, and they would walk through the pictures and discuss the story. She also worked on some concepts that Bifulco was teaching, and provided strategies to her regarding speech issues,

particularly with articulation. Millin observed G.F. in the classroom, and he was interacting with peers by the middle to the end of that year. By the end of the year, G.F.'s speech was more intelligible at the word level, and he was saying sentences; using speech to ask for help; and initiating conversations (e.g., asking her in the hall if he had speech).

At the beginning of the next year, G.F. was initiating speech and talking in sentences, and could be understood more by his peers. He still needed work on his articulation, on all aspects of his language, and on his social and pragmatic skills. The District therapists worked with Kushner almost the entire year doing articulation therapy. G.F. was very concrete, and had difficulty with making inferences and with his imagery. They did a lot of multi-sensory speech. Bifulco would provide Millin with a story, they looked at the pictures, talked about the sounds and colors, and worked on comprehension. They did more complex role playing in the small group session. Millin observed a significant gain with G.F.'s speech at the end of the year. He was initiating more speech; naming more pictures and common nouns; and putting together and sorting different categories and naming them. Millin testified that the District therapists were very concerned about G.F.'s language skills, were concerned that they were not doing enough language therapy with him, and believed that he should have a complete language evaluation, which was conveyed to the parents.

The therapy during the 2009–2010 school year focused on language skills. Millin continued to go into G.F.'s classroom on a regular basis to observe him, and worked on material in the speech room that he had difficulty with in the classroom. She continued to communicate with Bifulco and offered her strategies. They worked a lot on sequencing. Millin showed Bifulco how she would first give the title of the story, then look and talk about the pictures and then sequence the story. She observed G.F. on a few occasions in the lunchroom sitting and talking with classroom peers. Millin did not change anything specific after receiving Kushner's July 2009 evaluation, stating that they were working on receptive and expressive language concepts and working on goals to increase his vocabulary, his recall of detail, and his ability to see the main idea and describe a picture. At the end of the year, although G.F. still had an articulation disorder, he could be understood at the word level and was fairly intelligible at the

sentence level. It was her impression that he was interacting with peers. He still needed to work on articulation, receptive and expressive language concepts, reading and oral comprehension, all aspects of speech and language, imagery, and being able to identify the main idea. Millin was not G.F.'s speech therapist when the District received the parents' reports and she did not read the reports for purposes of providing a program to G.F. She expressed surprise at Araten's findings concerning G.F. not being able to formulate a sentence, which he could do, and using telegraphic speech, which he was not doing. She was not as surprised by his core language, receptive and expressive scores on the CELF, stating that it is hard for a child with a language disability to respond in a structured setting such as a formal test. As to his pragmatic-judgment score, Millin was pleased that he had a formal test, and stated that pragmatics was not one of their main goals.

Diane Conboy

Conboy has been employed by the District for nine years as a speech/language specialist, and was qualified, without objection, as an expert in speech pathology and speech/language. Conboy provided services to G.F. from September 2008 through June 2010. When she began working with G.F., his intelligibility was poor and he was difficult to understand. He had weaknesses in his vocabulary and the ability to follow along at age level in language skills. He had a terrific memory for things that he understood and mastered. During that year, the parents had requested that the District therapists work with Kushner, focus on articulation and help implement her articulation plan. It was decided at a group meeting with the parents that articulation would be the primary focus and that Kushner would take the lead in G.F.'s articulation therapy. Conboy stated that G.F.'s IEP language goals were addressed, but the primary focus was articulation, and they would "mix in" language goals during the course of articulation drill work. Conboy communicated with Bifulco on a daily basis when she picked up G.F. from the classroom. She explained that speech/language skills have a tremendous impact on a student's educational program because a lot of education is based on spoken and written language. Conboy provided strategies to Bifulco to use in the classroom. She observed G.F. interacting with peers, describing that he often talked about the schedule, and G.F. would want to walk to therapy with a peer so they

could talk. By the end of the year, Conboy observed much improvement in G.F.'s ability to be understood. He went from using short phrases to using storytelling and connected sentences.

Conboy testified that there came a point during that year when the District therapists believed that they should concentrate more on language, with articulation being second. The other therapist brought to Conboy's attention in May her increasing concern regarding G.F.'s language skills. This was conveyed to the parents, who agreed to informal language testing, which showed significant delays in receptive and expressive language. Conboy offered to do formal testing but the parents elected to have Kushner do the testing, which showed similar delays. This resulted in a significant change in the District's speech/language services. The team, including the parents and speech therapists, decided that Kushner and the parents would take the primary role for articulation and the District's therapy would focus more on language, but support the articulation therapy. Conboy and Millin increased the time that they spent on language skills, and this change was in place for the 2009–2010 school year. At the beginning of that year, G.F.'s reading comprehension was not at the same level as his decoding skills. Although he was eager to communicate with peers, his conversations were not going as "deep" as they wanted. He had improved vocabulary and some characterization skills, but needed more development in those areas. Conboy spoke with Bifulco on a daily basis and attended some of Bifulco's weekly meetings with the parent. She worked with G.F. in the classroom at times, such as to demonstrate a strategy to Bifulco. She discussed story comprehension with Bifulco, and went into the classroom to observe G.F. Conboy used photographs to help G.F. sequence, and he made great gains during that activity. Conboy observed G.F. interact with peers in gym, during small group activities, walking through the building and in the library. At times Conboy was very impressed by his social interactions, and at times she wanted them to go a little "deeper," explaining that G.F. got caught up in schedules and routine. G.F. participated in the classroom's "Star Day" and did a presentation to his peers about himself. In Conboy's view, G.F. had shown progress at the end of that year. He was able to do longer turn-taking exchanges and storytelling. He engaged in longer narratives that were in sequence and contained details, and he had longer exchanges with Conboy and his peers. His articulation also continued to progress.

Conboy stated that some of the findings in the April 2010 speech/language functional assessment were consistent with what she had observed; G.F. is a slow and steady progress maker. The team's concern at the 2010 IEP meeting involved G.F.'s language skills and reading comprehension. Millin and Conboy believed that the Visualizing and Verbalizing program, which was discussed at the meeting, could help G.F. in both areas and was a very good direction to go for second grade. Conboy testified that the parents only agreed to the speech/language goal in the IEP, and had requested the team to wait for the results of the outside testing. Conboy understood that the goals and objectives may be reworded and expanded based upon the outside testing, and the team would further develop the IEP after receipt of that information.

Conboy testified that it is necessary when looking at tests scores to look at the descriptive phrases and sometimes the age equivalent or raw score to ascertain whether there has been improvement, noting that Kushner had stated in her report that G.F. had made outstanding progress in articulation. In her view, the language age on the PLS in 2006 could not be compared to the receptive vocabulary age level on the PPVT in 2007 because the former is a language battery score and the latter is a vocabulary score. The Woodcock Johnson could not be compared to a language test because it measures significantly different skills. Conboy did not agree that there had been no progress from Kushner's 1st%ile and other evaluations to Araten's testing in 2010 in receptive language and expressive language. She explained that to be at the 1st%ile of your peers means that 99 peers are higher. However, the peers will increase their skills each year so a child can continue progressing and still not pass the peers who were already ahead of the child.

Cathleen Wrobel

Wrobel has been employed by the District as a speech/language specialist since 2003, and provided speech/language services to G.F. from September 2010 to February 2011. She was accepted, without objection, as an expert in speech and language. When she began services, G.F. had good decoding skills and, in her view, pretty good pragmatic language skills. He was very friendly to her, other teachers and

students whom he saw in the hallway, and very conversational. His attention and memory were weaknesses, and he needed to be redirected. Wrobel was aware that the District had discussed the Visualizing and Verbalizing program at the end of the 2009–2010 school year, which the parents' speech/language evaluation also recommended. She began using the program in September 2010, and assessed G.F.'s ability to visualize things in his own life before starting to implement the program. Wrobel opined that it is an appropriate program to use with G.F. because the District is trying to facilitate improvement of his language comprehension and language expression, and it helps to promote higher-order thinking, inferences and vocabulary. Wrobel was not trained in that program and is not using it as a reading specialist. She is not using the program in its entirety, but parts of it. Wrobel described that the program is a more formalized way of presenting concepts that the District has always used. She also indirectly worked on articulation by supporting sounds that Kushner was working on. Wrobel communicated with Sapienza, who voiced no concerns. Wrobel would arrive a few minutes before or stay a few minutes after her session to discuss what they worked on in speech. She also tried to incorporate in her therapy material that G.F. was working on in class (e.g., photocopy pictures from a story and make sequencing cards). Wrobel told Sapienza about the Visualizing and Verbalizing program, and had G.F. do a Visualizing and Verbalizing activity in the classroom so that Sapienza was familiar with what she was doing. Wrobel witnessed G.F. share personal anecdotes with the teacher or aide and engage them in conversation. She witnessed him greeting and asking questions of other children and teachers on the way to therapy, and engaging students in his class in conversations. Wrobel recognized growth and progress in G.F. that year. His articulation continued to improve and was significantly better than when she first met him in the summer of 2008. From what she observed, G.F. engaged in appropriate pragmatic skills for a child his age. He was able to better visualize and be descriptive in his explanations and stories, and showed an improvement in memory. Wrobel testified that the CELF-P administered by Kushner in July 2009, reflecting a core language index at the 1st percentile, is not the same test as the CELF-4 administered by Araten in April 2010, reflecting a core language index at the 1st percentile. The CELF-4 is for older children and involves more complex information and more vocabulary. She agreed that it is better to compare the CELF-P and the CELF-4 than two different tests. As a speech pathologist,

she looks at testing to determine progress, but also considers progress observed in therapy and in class, and would not base progress on a percentile score.¹

For Petitioners

Mrs. F.

Mrs. F. detailed the chronology of events regarding G.F.'s schooling in the District, including, among other matters, her concerns regarding the psychological assessments and her disagreement with the 2008 present levels indicating "much progress" and the January 2008 speech/language report indicating that he was progressing and making gains. Although Mrs. F. agreed that the primary focus during the 2008–2009 school year would be on articulation, she believed that language would be worked on with G.F. She had been told that he would be in a language-enriched environment, language would be covered throughout his day, and it was pervasive throughout the program. Mrs. F. expected to see him make progress in receptive and expressive language ability. She never told the speech therapists to stop doing language therapy, but asked them to coordinate articulation with Kushner. When Conboy asked later that year about providing additional language therapy, Mrs. F. indicated her belief that this was what they were doing. She attended the May 2009 IEP meeting, and disagreed with the reports that G.F. had made significant progress. Mrs. F. informed the team that she disagreed with the speech present levels regarding language based on her experiences at home. She noted that his science and social studies tests came home with 50% scores. Mrs. F. requested that more be added to the IEP. She could not tell whether the work coming home from school was done independently, and G.F. could not complete homework independently. Bifulco had told Mrs. F. that G.F. shut down in general education, and they discussed his "learned helplessness" with an aide often staying very close. Mrs. F. wanted G.F. to learn to work independently. While these areas are noted in the present levels of that IEP, they were not incorporated into his goals and objectives. Mrs. F. could not believe the extent

¹ The District also offered testimony by the therapists who provided OT and PT services to G.F. The Petition does not dispute the appropriateness of these services or that G.F. had made progress in those areas. The witnesses also addressed their interactions with G.F.'s teacher, and G.F.'s interactions with them and other students.

of G.F.'s language delays when she received Kushner's July 2009, report. Mrs. F. agreed with the recommendations in Melini's report, and did not observe certain listed reading comprehension strategies being used with G.F. The parents secured a private tutor for G.F. after this report. Mrs. F. later sent an e-mail to Bifulco regarding the level of books being sent home; she stated that G.F. was getting upset because he had the same book; and she requested different books. Mrs. F. did not agree with the January 2010 speech/language progress report. She did not see G.F. demonstrate what was reported at home; she disagreed with the "slow and steady progress" statement; and she questioned whether there was regression, in that spatial concepts had been rated as mastered in June 2009, and not in January 2010. Mrs. F. was "blindsided" by Bifulco's e-mail regarding G.F.'s "learned helplessness," and had been told the prior month that he was showing initiative. She was upset by the reading results on the District's 2010 educational assessment and that G.F.'s comprehension remained below the kindergarten level after three and a half years in-district. Oral language was also as low as the last evaluation. As to the functional psychological evaluation, Mrs. F. stated that Edelstein did not know G.F. and never had reason to spend time with him. She did not agree with her statement regarding his success in his current class, which did not reference District records such as the Woodcock Johnson results, and appeared to be solely based on teacher input.

The parents retained Barenbaum because they were not successful in getting the District to change G.F.'s IEP based on other reports, and wanted an objective view. Mrs. F. discussed the report with Barenbaum after receiving it in July, and was not surprised that Barenbaum recommended an out-of-district placement because G.F. was too bright for the self-contained class and he had too many attention issues for general education. Mrs. F. also agreed with Araten's recommendations. She contacted the Craig School in August 2010, but did not enroll G.F. It was a very deliberate decision by the parents due to the impact that changing schools would have on G.F. Mrs. F. met with the Craig School director in October 2010. G.F. continued to attend the District school. G.F. was picking up behaviors of lower functioning peers in his class; homework time was "unbearable"; and G.F. cried and threw pencils. In the parents' view, he was "losing ground" in the District, which culminated in their unilateral placement of G.F. at the Craig School on February 14, 2011.

Mrs. F. testified about her communications with the Craig School director, and said that the school has been sensitive to G.F.'s need for a time of adjustment. She was given detailed progress reports at a parent-teacher conference. (P-61.) The consensus at the school was that G.F. was bright, and stepped up to the bar when they raised it. The teachers reported that he is willing to work, gives ample effort, and is an active and engaged participant in reading. The math teacher explained to the parents the program being used, which was tactile and kinesthetic. The school uses Inspiration for writing instruction. G.F. receives 55 minutes of reading comprehension. G.F. is now doing his homework independently; his homework is organized in binders; he knows what to do; and he wants to discuss anything difficult about homework with his teachers. Mrs. F. detailed the differences between the two schools in the type of homework and level of reading books, along with the strategies given for comprehension at the Craig School. Mrs. F. has attended activities at the school and observed G.F. She observed G.F. engaged in a scavenger-hunt activity involving third graders through fifth graders and a dodge ball game, during which his team was chanting his name as encouragement. She observed him playing "monkey in the middle," his favorite game, during recess. G.F. has gone to the movies with a group of third to fifth graders, and been invited to birthday parties. Based on her observations of G.F. with his peers, Mrs. F. believes that G.F. is interactive and engaged. The parents were aware that he did not always use his locker, and agreed with the school staff that this was not a priority at this time. He uses the locker each week on pool day. Mrs. F. reviewed the reports by Stier and Skinner regarding their observations and addressed each of the concerns noted. Mrs. F. believed that a great deal of Stier's report was positive, as Stier observed G.F. engaged and interactive in his classes. Mrs. F. noted G.F.'s self-advocacy when a teacher approached him, redirection by the staff at various times, and the personalization technique for comprehension used in the lesson, which she noted is also done in math. She understood that the points system at the school does not reprimand for participation, such as calling out in class, and noted that G.F. has received two points deductions, after which he did not repeat the behavior. Mrs. F. understood that the school integrates social skills in the program. She did not believe that it was "fair" to expect mastery in fourteen weeks, and expressed her concern regarding the references to G.F. receiving a lot of attention from teachers given his level

in receptive language. The speech therapist at the school communicates with Kushner. G.F. receives two speech sessions (an individual session and a group session) and one OT session weekly at the school. He also receives a group session through County Special Services.

Edna M. Barenbaum

Barenbaum conducted a psycho-educational evaluation of G.F. (P-56), and was qualified, without objection, as an expert in educational psychology, reading, learning disabilities and special education. Barenbaum holds an Ed.M. in educational psychology and school psychology, and a Ph.D. in educational psychology and special education. She has been employed as a professor at Cabrini College in the psychology department since 1997, and previously served in the college's special education department. She directed the teacher training program in special education. Barenbaum has authored and co-authored various tests, and has published several articles addressing, among other matters, the Woodcock Johnson. As part of her evaluation, Barenbaum observed G.F. in-district on March 31, 2010, and conducted various testing at her office on April 12, 2010.

Barenbaum detailed numerous concerns regarding the District's assessments and IEPs. She stated that the 2006 academic assessment revealed that G.F. scored below the 1st percentile in language, which was of "great concern," and signifies a very serious language and communication problem that required "extensive remediation." Barenbaum expressed concern that the 2006 psychological assessment was conducted in the cafeteria, particularly due to G.F.'s speech, language and attention problems. She opined that the WPPSI was not an appropriate tool to evaluate him because it tested his disabilities (i.e., verbal abilities), not his abilities, and also required the use of fine motor skills. She expressed concern that the same instrument was used for the May 2007 assessment, and that the 2007 academic assessment did not establish educational baselines, which are necessary to determine the needed goals and objectives, to measure progress, and to develop a meaningful IEP. Barenbaum explained that research literature indicates that children with language and communication delays often develop reading and reading comprehension problems,

and those areas need to be intensely addressed; otherwise, the child will end up experiencing difficulty in reading and reading comprehension, as seen with G.F. She opined that a functional behavior analysis should have been conducted based on the behavior reported in the 2007 IEP, which also failed to include social/emotional goals addressing the behavior; that repeating kindergarten was of highly questionable value; and that an IEP meeting should have been convened after receiving Melini's report to amend the IEP to include his conclusion as to G.F.'s cognitive level of functioning and to reconstruct the goals and objectives.

Barenbaum also detailed numerous deficiencies in G.F.'s IEPs. Overall, she opined that the present levels in the IEPs only provided very general statements, without objective measurements, which are necessary to develop measurable goals and objectives. The IEPs failed to include needed and measurable goals and objectives, and lacked baseline information, benchmarks or percentages to judge when and how G.F. had met the criteria, along with a sufficient evaluation procedure to measure progress. They lacked sufficient detail to develop and provide an appropriate and meaningful educational program to G.F. Barenbaum has taught special education college students for approximately fifteen years concerning how to write meaningful goals and objectives that are measurable. She opined that goals and objectives should not be measured by teacher observation because every teacher observes differently. The earlier IEPs also did not include a sufficient level of speech/language services. The 2007 present levels reported that G.F.'s receptive and expressive language skills were at the 1st%ile and 2nd%ile. Barenbaum noted that in many tests one can score at the 1st%ile by simply participating in the test. The scores indicate that G.F. is communication impaired and in need of a "very strong speech and language communication" program addressing receptive and expressive language skills. Barenbaum opined that G.F. needed a language-enriched classroom where the major focus is on communication, which is absent from the IEPs, along with individual and small group speech/language sessions. She did not agree that a speech pathologist observing a student in a classroom is a feature of an integrated program, stating that an integrated program would be if the speech pathologist were sharing in the teaching and the delivery of the lessons.

Barenbaum expressed concern that the Woodcock Johnson was the only instrument used in the 2010 educational assessment, and that it had been administered over four days. She testified that the test is standardized to be administered in one sitting, and a test constructor would say that G.F. had been given an advantage over other students because the standardization takes into account that a child fatigues. In passage comprehension, G.F. had a grade equivalent of below kindergarten, and a Relative Proficiency Index of 0/90, meaning that an average child his age would score 90 and G.F. scored 0. She explained that his Broad Reading score is so high because it includes the reading fluency, passage comprehension and word attack subtests, and G.F. is well above grade level in decoding ability, which inflated the score. Barenbaum noted that because a particular strength in one area can skew the scores, it is necessary to look at the subtests. His Oral Language score, which is expressive and receptive language combined, was below a kindergarten level, and his understanding of the words he reads or vocabulary was also very low. G.F.'s strengths, such as decoding and spelling, show his cognitive ability and predict where he would have been had intervention been appropriate. Unlike her assessment, the writing sample portion of the Woodcock Johnson does not test whether the child can compose a story, but only requires the child to combine sentences, which is a very discrete skill. Although Barenbaum agreed that G.F. scored high on the reading fluency subtest, she explained that the subtest involves reading comprehension skills to a very small extent. It is not a test of comprehension in the traditional sense because reading comprehension entails reading several sentences and answering questions. She also expressed concern as to the psychologist's statement in the 2010 evaluation that, according to his teacher, G.F. has made significant progress, when he is at 0 in reading comprehension on the Woodcock Johnson, which is not successful progress after three years of education.

Barenbaum reviewed the 2010 IEP after she prepared her report. She opined that it is not appropriate to report the original IQ test results in the 2010 IEP, because the results are not reflective of G.F.'s ability. The IEP does not address what is sought to be achieved by mainstreaming. While the present levels indicate that G.F. enjoyed reading, Barenbaum did not observe this in her evaluation, during which G.F. was very anxious about reading. Barenbaum disagreed with the present levels indicating that he had made significant progress that year, based on the results her evaluation. She

noted that G.F.'s first-grade teacher reported in the school questionnaire that G.F. had processing delays. She questioned why an FM system was not in the classroom to help filter out extraneous noise and noted that no goals and objectives address the reported processing issues in his numerous IEPs. The teacher also listed other issues, which do not appear to be addressed in the goals and objectives.

Barenbaum opined that G.F.'s DRA tests demonstrate that he was making very little progress. He was still at the first-grade level in January 2011, when he was in second grade and after two years of kindergarten and first grade. Based on her experience constructing literacy reading tests, the first-grade reading placement test in June 2009 and the reading evaluation in June 2010 were both at a pre-primer level, which is a "very low level" after three years of specialized instruction. The 2009 test showed that G.F. struggled to comprehend pictures and struggled with the comprehension process of reading. The grade-one reading benchmark test in January 2010 did not show meaningful and significant progress from the earlier test; rather, G.F. was still at the same place. The writing portion reflects that G.F. struggled with writing sentences, putting details into stories and trying to answer questions, which is a comprehension issue. Barenbaum conducted her evaluation a few months after this last test. G.F. achieved an 88 IQ on the TONI, which, taking in account the four-point standard error of measurement, would place him in the average range of intelligence.

Barenbaum opined that, given his cognitive ability and years of education, G.F. should be reading and able to comprehend at a second-grade level. Her opinion, which factored in his learning disability, would not change even if the 88 IQ score without the error of measurement was used. G.F. was still at a pre-primer level in reading, and made minuscule progress in reading and comprehension. He had problems with listening comprehension, and made no measurable progress in expressive and receptive language. The educational assessments do not reflect that he has made meaningful and significant progress. Barenbaum testified that G.F. "absolutely" would not still be at the 1st%ile and would be at a much higher level had he received the appropriate programming and strategies during his years in the District. The results of Araten's CELF-4 testing correlated with her testing, in that they demonstrate significant receptive and expressive language problems, and correlated with the findings in the

District's 2010 speech evaluation, and were consistent with the Woodcock Johnson, in which G.F.'s oral language skills, story recall, picture vocabulary, understanding directions and oral comprehension are at a low level and would be approximately at the same percentile. His percentile scores were also at or below the 1st percentile on the Test of Narrative Language, and the CELF-4 score for working memory is consistent with the District's documents indicating that G.F. has working-memory problems. Barenbaum noted that even though different tests were used, they were coming out with the same information. She explained that if tests are testing similar areas, and the child is achieving similar scores, then the tests are highly correlated because they are measuring the same elements even though they are different tests. She testified that a child diagnosed with a learning disability should be assumed to be able to progress at the same rate as his peers, within reason. Although the child may not be exactly at grade level, a learning-disabled child with a normal IQ should progress, and certainly should not be two or three levels below or staying at the 1st percentile in many areas.

Barenbaum observed G.F. in his first-grade class in the District on March 31, 2010. She estimated that she conducts approximately fifteen to twenty observations at schools each year. Barenbaum observed a lot of teacher-directed instruction and guidance during circle time, almost to a point that G.F. did not seem to have a chance to practice independence. The socialization and conversation at snack time were teacher-directed; the children showed no interest in each other; and there were no activities directed toward having them engage in conversations with each other to promote socialization skills. G.F. had Wilson reading instruction, and then spelling. Barenbaum noted that G.F. had been in the class for approximately an hour and had not started a program where he would gain meaningful instruction because he already knew how to do everything that had been taught to this point. During the reading session, the students took turns reading a story, which Barenbaum described as a pre-primer story. Although G.F.'s reading was appropriately fluent, he could not answer the teacher's question at the end of the story. The teacher prompted him to look at the story and he located the correct response. G.F. did not respond when asked another question. There was no discussion about the story prior to reading it (i.e., purpose, setting, discussion of pictures), and no vocabulary instruction. During the next story, G.F. did not know where the class was when it was his turn to read; he was not paying attention;

and he was only able to provide a response to the teacher's question through prompting and support. Bifulco informed Barenbaum that it was a typical day for G.F. He was then pulled out of math for speech, and the therapist informed Barenbaum that she had started to work with G.F. on reading comprehension two weeks earlier. The speech therapist had G.F. reread the story, no new techniques were introduced on how to remember, and he still could not remember the story. G.F. essentially sat alone and ate quietly at lunch, and he engaged in inappropriate social play by taunting another child in recess.

Barenbaum expressed great concern that forty-five minutes of the reading instruction was dedicated to word identification and spelling, areas in which the Woodcock Johnson indicates G.F. is above grade level and does not require specialized instruction. She opined that this time should have been used for reading comprehension, reading comprehension strategy instruction, memory, and writing strategy instruction. Barenbaum opined that G.F. had very little meaningful instruction to advance him academically, and she questioned the strategies that were used to teach him to read. She opined that the way the lesson was presented would not have promoted comprehension and the program observed was not appropriate for G.F. to receive meaningful instruction. Although Barenbaum did not know whether the story had been originally presented earlier in the week, and was unaware of G.F.'s absences, she stated that each lesson should stand on its own, and noted that a second story had been introduced using the same technique. While Barenbaum agreed that the teacher's direction to look at the book for the answer was a reading comprehension strategy, she explained that it is not a meta-cognitive strategy. Barenbaum did not agree that the speech therapist's action in going over the story evidenced an integrated program, and opined that it shows that is not integrated, since the therapist did exactly the same thing as the teacher and G.F. still could not answer questions. She noted that G.F.'s education should have included teaching him meta-cognitive strategies, listening and remembering skills, which are not in his IEPs. It is necessary to do something different so he can comprehend the story, and G.F. is not being taught how to remember, how to learn and how to use those skills in different environments. Barenbaum's opinion was based on her observation of G.F. and her experience developing a test of children's

language for ages 3–7, and personally testing approximately 1,500 children, looking at reading, spoken and written language, and early literacy.

Barenbaum evaluated G.F. at her office in April 2010, and established a rapport with him before the formal testing began. G.F. was easily distracted by sounds and questioned her about the sound of the City clock that was approximately five blocks away. He tested within the average range on the TONI. Barenbaum used the TONI because it is highly correlated with the WISC and is a highly regarded test. It measures abstract reasoning and problem solving. It does not require speaking, listening or fine motor skills so it factored out all of G.F.'s disabilities. Barenbaum administered the DAB, which is similar to school tasks. G.F. achieved at the 84th percentile in the alphabet/word knowledge subtest, indicating that he was well above average in word recognition and not a child who needs Wilson instruction. In the subtest involving expressive language, he struggled with beginning words and created his own word, indicating that he has great difficulty with vocabulary meaning. Barenbaum attributed his high score on the reading comprehension subtest to the fact that the story was about going to the beach, which his family does, so he personalized the story and was able to retain it. Although he scored high in punctuation, Barenbaum stated that G.F. figured out the system and starts every sentence with a capital letter and puts a period at the end. However, when she asked G.F. to compose a story, he did not use any capitalization and punctuation, and the sample was essentially one long sentence and very difficult to read, illustrating that he has not learned to generalize from rote exercises. When given the writing sample that G.F. completed in first grade, Barenbaum indicated that she did not know how much work had been done prior to this version and noted that it includes incorrect capitalization. G.F. had a very low score in math reasoning, and was unable to tell time, which entailed time to the hour and half hour. Barenbaum testified that the testing indicated that G.F. was functioning significantly below grade level, and that he should be achieving at grade level given his cognitive ability. She administered the Burns/Roe, which is similar to the manner in which G.F. is tested with the DRA. G.F. would only read out loud, even when asked to read silently, and he read at a pre-primer independent level. His instructional/frustration level was at the primer or pre-first-grade level. The Graded Word Lists portion looks at his ability to recognize (not understand) words. His independent level on that portion

was at a third-grade level and his instructional/frustration level was at grade four. In assessing his social/emotional well-being, Barenbaum found that G.F. has a poor self-concept, appeared very concerned about school, and is more anxious than a typical child his age. He also demonstrated poorer social skills than a typical child, and he did not fit in his classroom.

Based on her evaluation, Barenbaum found G.F. to be primarily communication impaired in listening, speaking, and reading comprehension. She opined in her report that G.F.'s then current environment was not meeting his academic and emotional needs, and that G.F. was in need of specialized instruction in all academic areas to assist him in learning at a rate commensurate with his cognitive ability. Barenbaum testified that "he has not made progress in three years"; he is "still almost at the starting point of where he was, except for his word recognition[, which] has grown"; and he is "still at the starting point in reading and reading comprehension." She opined that G.F. is in need of an out-of-district placement in a very small school with highly specialized teachers who understand how to support children in the learning process and provide meta-cognitive strategies and the strategies stated in her report. Specifically, in order for G.F. to overcome his learning difficulties, he required specialized teaching with "reciprocal teaching" in which the teacher and child work together (e.g., let's relate this to an experience you had). He needs "interactive teaching," using dialogue, such as preparing him for what he would be reading about, which assists with comprehension. He needs "joint responsibility for task solution," meaning that after reading the story the teacher asks him to tell her about the story, with the teacher asking questions. He needs "emphasis in domain-specific knowledge," meaning teaching the child to use the strategies, or transfer teaching, in different areas (i.e., look at pictures in reading and using the same strategy in social studies), which Barenbaum did not observe during her District observation. He received Wilson strategy in one part, and there is no mention of that strategy instruction in the reading group. He also needed transfer and generalization of strategy instruction to all areas and teacher and student interaction characterized by scaffolding and coaching. The type of instruction she recommended was not present during her observation of Bifulco's lesson. Barenbaum testified that G.F. will not learn in a traditional teacher presenting information mode of learning, and that he is in need of highly specialized teaching with experienced teachers who have

skills in the area of teaching learning disabled students in a classroom that is free of distractions and noise and where they are working together so that he feels that there is someone supporting him through the learning process. She also recommended an extended school year. Barenbaum noted that the goal would be for G.F. to move back to the District school setting at some point.

Barenbaum observed G.F. at the Craig School on April 20, 2011. (P-62.) She observed G.F. talking to older boys as he entered the school, and he appeared comfortable socially. Barenbaum met with the director of the school, who informed Barenbaum that, although the school begins at third grade, careful consideration was given before accepting G.F. to ensure that he would fit in socially, emotionally and academically. The director further informed Barenbaum that because G.F. did not need concentration in decoding, but needed work in comprehension, the school had adjusted his schedule since he began in February. They discussed comprehension strategy, and Barenbaum described that the school had focused immediately on teaching G.F. how to think about what he reads, comprehend what he reads, and be able to recall what he has learned. The school uses Inspiration, which is a well-regarded program used for children with learning problems; she did not see evidence of use of this program in the District. Barenbaum was informed that G.F. was social with older boys and that attention has been given to ensure that he works in small groups with peers, but he had only been at the school a short time. Each of the classrooms that she observed was equipped with an FM system and carpeted. In the reading class, the desks were set up in a u-shape formation to facilitate discussion, in contrast to the structure that she had observed at the District, where the students were seated in rows listening to the teacher. The Craig School classroom was very well organized, with the schedule posted. The teacher used the meta-cognitive strategy and scaffolding that Barenbaum had described during a poetry lesson. Prior to instructing the students to read a poem about parents pretending to be sick, she discussed with them what they are like when they are sick, etc., and instructed them to think about what was funny in the poem, giving them a reason for reading. G.F. raised his hand to read. The teacher asked the students to define words in the poem, and did not assume that they knew the word meanings, which Barenbaum stated was working on comprehension. She also reviewed the homework to ensure that they understood it. The comprehension lesson

continued with a second poem, during which the teacher asked questions and discussed vocabulary. G.F. was participating in the class. Barenbaum noted that G.F. had at least forty-five minutes working on reading comprehension and obtaining meaning from reading.

The next class, which focused on reading fluency, was for a short period, and was the area where his schedule had been adjusted. G.F. then had a Benchmark class, which is an outstanding program that addresses learning how to decode, to comprehend and to write. The class taught G.F. additional strategies to decode more difficult words, and vocabulary instruction was embedded in the lesson. The next class focused on writing, and the students had to write three paragraphs about the topic "What the Craig School Means to Me." Barenbaum noted that this is an area where G.F. needs "significant support," and an aide worked with him individually most of the time. In discussing the difference between his schools, G.F. informed the aide that he was sad at his old school. In response to Barenbaum's inquiry about G.F. carrying all of his belongings, she was advised that G.F. still did not understand the use of a locker and needed more time to adjust to the environment. The math class had a visual, tactile and auditory activity; the students touched their elbows to their knees as they counted by tens and fives. Barenbaum observed G.F. initiating a conversation with the girl next to him in class, which was not teacher directed. The math class had an activity where students would purchase an item from the classroom store. The teacher individualized it for G.F. by asking for dollars when he wanted to pay in quarters. Barenbaum testified that this activity was instruction, and an authentic activity, which is the way G.F. learns. The math class was a very interactive and active class that promotes learning for G.F., and he was engaged in the activity. She did not observe this at the District school. Based on her observation, G.F. appeared very comfortable and was responding, which would lead her to believe that he is being instructed on an instructional level that is appropriate, rather than a level that is too easy or too hard for him. Similar to her recommendations, the Craig School is a small school environment with specialized education and highly trained teachers. She was impressed that the school had already identified his strengths and needs and reconfigured his educational program, and was impressed by the school's use of meta-cognitive strategies. Every class was centered around learning strategy. If a vocabulary word arises in a class they

use the same Benchmark strategy. Barenbaum opined that the Craig School was a very appropriate program for G.F., and it was a very good fit for him. The program she observed is the type of environment Barenbaum had recommended, and all of her recommended strategies (e.g., reciprocal teaching, etc.) were used during her observation.

Lori Araten

Araten has a master's degree in speech/language pathology, is certified as a speech pathologist, and holds a certification of clinical competence from the American Speech Language and Hearing Association. She has worked at Princeton Speech-Language Learning Center since September 2002, and serves as a senior speech/language pathologist. Araten evaluates and treats clients with various disorders from ages two to eighteen, and conducts approximately thirty-five to forty evaluations annually. She previously worked as a speech language pathologist for a public school district and at an early-intervention center. Araten was qualified, without objection, as an expert in speech/language pathology with an interest in reading as a form of written language.

Araten conducted a language, functional, auditory processing and social-thinking evaluation of G.F. (P-57.) Prior to testing G.F., Araten reviewed various records, including prior assessments and G.F.'s IEPs, and detailed her concerns regarding these records. The 2006 speech/language evaluation indicated that G.F.'s receptive and expressive language skills were at a 2.10-year level as a four-year-old child, and the 2006 academic assessment indicated that he was below the 1st%ile on the DIAL, which is a screening assessment for receptive and expressive language. Araten stated that the appropriate intervention for a child in the 1st%ile would be a language-enriched environment where the child is receiving language intervention throughout the day with specific language supports in place in the classroom, such as some type of scaffolding, and individual speech/language services four to five times a week. Araten explained that before reading a story about spring, it is necessary to set up the scene (i.e., think of things that happen in spring), and verbal and visual cues should be provided so that the student can visualize what is happening prior to reading the story. She opined that the

amount of speech/language offered in the 2007 and 2008 IEPs and the small-group designation were inappropriate for a child in the 1st%ile. While a small-group speech session would help a student work on pragmatics, receptive and expressive language needs to be worked on first on an individual basis and infused into a language-enriched classroom. Araten did not believe that a small group would be beneficial for social thinking for a child in the 1st%ile because the child would not be getting enough practice and repetition with his goals. She would have expected to see baselines and progress from the intervention in the 2007 academic assessment, which are absent from the report. She opined that the present levels and goals and objectives in G.F.'s 2007 and 2008 IEPs were not written with baselines or percentages of accuracy, which is necessary to know when to move on to the next objective. They did not include any objective way to measure progress and were not measurable. Araten provided various examples of deficiencies in the 2007 and 2008 IEPs' reading and speech goals and objectives, including, among others, goals and objectives that were not individualized or measurable or were under the incorrect category, and needed objectives and goals that were absent (e.g., retrieval skills, comprehension with reading). Araten expressed similar concerns regarding the lack of specific and measurable information in the present levels; the absence of a behavioral program or reward system to address reported behavior in the 2008 present levels; and the absence of assistance to increase G.F.'s attention span even though the present levels report his distractibility. Araten also detailed her numerous concerns regarding the 2008 and 2009 speech progress reports. After his years in the District, Araten could not ascertain G.F.'s speech/language present levels from the IEPs. If Araten was the speech/language pathologist for G.F., she would need to evaluate him in order to have baselines, and basically rewrite the goals so that they are individualized, appropriate, specific, and measurable with levels of accuracy to measure progress. As a speech pathologist, Araten does not rely on her subjective observation of a child because it is unstructured, and one cannot measure progress with subjective information or write specific goals that are individualized. She would want to see structured objective data from an assessment tool that provides specific information in order to know where to start in therapy and how the client is progressing.

Araten conducted an evaluation of G.F. in April 2010. Although G.F. needed to be prompted with a verbal cue to accompany her into the evaluation room and was nervous, he was fine after a couple of minutes, which was a typical amount of time. Her test results were also comparable to prior testing results. Araten administered the ILAUGH, which is a social-thinking and social-language assessment. It was difficult for G.F. to initiate a conversation, comment on a conversation and work on social-thinking skills. He was unable to engage in a back-and-forth conversational exchange, and had difficulty establishing eye gaze and understanding the perspective of others. His core language index on the CELF-4 was in the 1st%ile, indicating the presence of a receptive and expressive language impairment in all areas of language, which she noted is the same 1st%ile that is seen since he was four years old. On the Test of Auditory Processing Skills, his greatest difficulty was with comprehension and auditory reasoning. His comprehension was also in the 1st%ile on the Test of Narrative Language (TNL), and his expressive oral narration of retelling a story was at the 1st%ile. Araten attributed these scores to the fact that G.F.'s goals were not written appropriately and the intervention was not done appropriately. On the pragmatic-judgment portion of the Comprehension Assessment of Spoken Language (CASL), he scored at the 2nd%ile, the impaired range, which Araten attributed to the failure to provide appropriate intervention teaching social-language skills. On the GORT, his decoding was at the average to above-average level, but it was very difficult for him to comprehend age-appropriate passages. He was unable to answer five comprehension questions correctly, even when Araten went back to a kindergarten-level passage. He missed literal-level comprehension questions as well as more abstract-level questions. Araten opined that a Wilson Reading Program was not appropriate to remediate the discrepancy between his decoding and comprehension. She further opined that if G.F. could learn how to read, he could learn to comprehend if given the appropriate comprehension strategies, and his comprehension ability at the 1st%ile should have progressed. Araten's impressions were that G.F. is a child with a severe language disorder in all areas of receptive and expressive language, along with critical thinking, problem solving, social language, perspective taking and reading comprehension. Araten opined that G.F. required an out-of-district placement that could provide him with the appropriate services listed in her report to meet his academic and social needs. She opined that at this point no mainstream classes would be appropriate. She also

opined that the language therapy cannot be done in isolation and must be carried over into the classroom in a language-enriched environment. She recommended language therapy four to five times a week.

The District's April 2010 speech/language assessment reported that G.F.'s CELF-P core language score was at the 1st%ile. Araten opined that there was no progress if a child achieved in the 1st%ile at 4 and 8 years old. His scores on the receptive and expressive vocabulary tests were also in the impaired range. The scores indicate that no progress was attained since G.F. began his intervention. The 2010 educational assessment indicated that, although G.F.'s reading fluency (i.e., actual reading or decoding) was above average, his reading comprehension was in the impaired range and at a kindergarten level, and his oral language or expressive language was below the kindergarten level, which Araten opined did not show progress since he began the program; rather, he remained in the 1st%ile or below. The assessment also indicated that he was in the low-average range on understanding directions, and in the impaired range in oral comprehension. Araten stated that, given the discrepancy between his decoding ability and comprehension, a lot of intervention should have been done to work on his comprehension. Comprehension strategies should have been worked on when working on decoding. Araten opined that G.F. would have progressed past the 1st%ile if the District had worked on comprehension and comprehension strategies were in place, such as visualization, rehearsing or chunking of information, and that with the correct interventions his comprehension could have been as strong as his decoding skills. Araten noted that the summary in the 2010 psychological assessment indicating that G.F. is successful in his current educational setting and making progress is not valid considering that he remained in the 1st%ile after all of the intervention.

Araten reviewed the 2010 IEP after she completed her report. Araten testified that present levels do not include baselines; the reports of G.F.'s levels are not specific and measurable; and no measurable goals are in place to demonstrate progress. The present levels indicating that G.F. had made significant progress in first grade are not valid, and the statement that he has strengths in decoding and vocabulary is not accurate because the receptive and expressive vocabulary tests indicate that his

vocabulary was in the 1st %ile. Araten could not understand why he would be in general education for world language when he had difficulty with English. Although individual speech/language services four to five times a week would be appropriate, Araten opined that G.F. would also need those services to be provided in a language-enriched environment as well as the therapy room, with goals that specifically target his individual areas of difficulty. She opined that the decoding goals should not be in the IEP because he does not need a goal for decoding; the reading comprehension goals do not include baselines and are not measurable and individualized; and specific strategies (e.g., visual cues, chunking of information) must be in place in order for him to achieve listed skills (i.e., demonstrate the ability to read facts/details of text), which must be mastered before working on more abstract language such as making inferences, which is stated as an objective. Araten opined that given his age and ability, and with appropriate support services, G.F. should be able to make inferences and predict, but he is not at that level. She testified that the speech/language goal that G.F. will develop expressive and receptive language skills as well as comprehension skills should be separate goals; the speech objective “describing pictures” did not provide her with any information; and this goal was repeated from other IEPs and lacked baselines and was not specific, measurable or individualized to meet G.F.’s needs. If Araten had to administer the speech/language program to G.F., she would need to retest him and write all new goals that are specifically individualized to meet his needs. Although the IEP lists the Visualizing and Verbalizing program, it does not include specific goals related to that program. Araten explained that there are sequential goals embedded in the program that should have been in the IEP (e.g., picture level, sentence level, etc.), and which must be achieved to move on to the next goal. The IEP does not provide information as to when and how the materials will be used, and does not include a baseline with regard to that program to ascertain his level. The program is listed under speech goals, speech/language is delivered in the therapy room, and the IEP does not indicate that it will be used in the LLD classroom. Araten testified that it is not an appropriate application of Visualizing and Verbalizing if it is done only in therapy; it must also be done in the classroom.

Prior to her testimony, Araten reviewed Barenbaum’s report regarding her observation at the District school. She expressed concern regarding the time devoted

to the Wilson reading instruction, which she opined was not the correct intervention because G.F. is able to decode and read and the program does not address comprehension. Araten also expressed concern that there was no discussion about the story prior to reading, there were no comprehension strategies, and G.F. did not comprehend the story. Araten expressed concern that the speech/language pathologist stated that she began working on comprehension a couple of weeks earlier, when that should have been infused for years if G.F. was in a language-enriched environment. Araten opined that the strategy the therapist employed was not appropriate. She went on to a second question without an answer to the first, provided no assistance correcting an incorrect response, and no comprehension strategies were used, such as scaffolding or chunking (i.e., shorter amounts of information). There was no one to prompt G.F. or model for him during lunch/recess to assist him with socialization and how to interact appropriately with peers or with conversational skills. Barenbaum's testing indicated that G.F. was in the impaired range in story comprehension and expressive language, and based on the Burns/Roe, no progress had been attained in reading. Araten opined that G.F. was not given the appropriate language-infused and language-enriched environment to succeed academically, no comprehension strategies were in place, and his goals were not written appropriately, which resulted in inappropriate intervention.

Although every child is individualized, Araten has treated and evaluated many children with profiles similar to G.F. over a decade. Based on her experience, none of the children remained in the 1st%ile. After two years of intervention, she would expect to see significant progress, and a child in the 1st%ile moving up to maybe the 40th%ile or the 50th%ile when given appropriate intervention. Although not every child makes the same amount of progress at the same time, there is growth. Based on her experience, a child would not remain in the 1st%ile or the impaired range if the child were provided a language-enriched environment and appropriate services. Araten testified that even if only G.F.'s classroom had been a truly language-enriched classroom and the speech/language sessions worked on articulation, his receptive and expressive language and vocabulary scores would have progressed significantly and would not be at the 1st%ile. His articulation skills would have progressed as well. Araten noted that articulation should not be worked on independent of language; they need to be worked

on together with specific goals geared toward both as they relate together; and it is the job of the treating speech pathologist to advocate for a child if someone gave the therapist an opinion that she did not agree with. If both pieces of the program were in place, Araten opined that G.F.'s scores would be somewhere between the 30th percentile and the 50th percentile. Araten's opinion about G.F. remaining at the 1st percentile over three years would not change even if he was in an LLD class. She testified that had he been given appropriate intervention and a language-enriched environment, his scores would not have remained at the 1st percentile.

Araten reviewed Barenbaum's report of her observation of the Craig School and agreed with her conclusion. The reading teacher used scaffolding, which was a good and appropriate strategy. She also worked on the vocabulary in the context of the reading, which is a good strategy for comprehension. These strategies fulfill the recommendations in Araten's report. The report reflects that G.F. had approximately fifteen minutes in Read Naturally, which is a program of reading and increasing fluency, indicating that the school is not wasting time working on skills such as decoding that G.F. has already learned. His language arts program that worked on comprehension was approximately one hour, which "is very good." The school also used Project Read written expression and multi-sensory techniques. She explained that it is very good to have a multi-sensory environment to increase comprehension for children with learning and language disabilities such as G.F. In the writing class, Araten liked that G.F. was given assistance, noting that it appeared that at the District school he was not given assistance with or strategies for working on tasks that were difficult for him. In math, the class worked on skip counting and the teacher scaffolded the information for them. A great way to practice language and math is to work on it functionally, and the school-store activity was a wonderful and very functional activity that worked on social skills, language, vocabulary and math. G.F. spoke to peers during math and when walking in the school. Araten completely agreed with Barenbaum's report. It appeared that the Craig School was meeting G.F.'s academic and social needs and is an appropriate placement for him. The school has an FM system to tune out extraneous noise and to help him process information. It is using scaffolding and appropriate goals to meet G.F.'s needs. It has the correct strategies in place to work on the goals, which are being worked on appropriately, and it appears to be language enriched, with language

infused into all of the subject areas, including math. Araten opined that, even if G.F. were receiving speech services fewer than four times a week, he would progress as long as he was in a language-enriched environment. The higher priority for G.F. at this point is a language-enriched environment, rather than the number of speech/language sessions he has per week. As an expert, if Araten had to choose between an appropriate language-enriched environment or promoting socialization for G.F. at this time, she would choose the appropriate language-enriched environment. The priority would also be the language-enriched environment at the Craig School, even if the Craig School has more students in the class.

LEGAL DISCUSSION

The IDEA provides federal funds to assist participating states in educating disabled children. Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley, 458 U.S. 176, 179, 102 S. Ct. 3034, 3037, 73 L. Ed. 2d 690, 695 (1982). One of purposes of the IDEA is “to ensure that all children with disabilities have available to them a [FAPE] that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.” 20 U.S.C.A. §1400(d)(1)(A). In order to qualify for this financial assistance, New Jersey must effectuate procedures that ensure that all children with disabilities residing in the state have available to them a FAPE consisting of special education and related services provided in conformity with an IEP. 20 U.S.C.A. §§ 1401(9), 1412(a)(1). The responsibility to provide a FAPE rests with the local public school district. 20 U.S.C.A. § 1401(9); N.J.A.C. 6A:14-1.1(d). The district bears the burden of proving that a FAPE has been offered. N.J.S.A. 18A:46-1.1.

The United States Supreme Court has construed the FAPE mandate to require the provision of “personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.” Rowley, *supra*, 458 U.S. at 203, 102 S. Ct. at 3049, 73 L. Ed. 2d at 710. New Jersey follows the federal standard that the education offered “must be ‘sufficient to confer some educational benefit’ upon the child.” Lascari v. Bd. of Educ. of Ramapo Indian Hills Reg’l High Sch. Dist., 116 N.J. 30, 47 (1989) (citing Rowley, *supra*, 458 U.S. at 200, 102 S. Ct. at 3048, 73 L. Ed. 2d at

708). The IDEA does not require that a school district “maximize the potential” of the student, Rowley, supra, 458 U.S. at 200, 102 S. Ct. at 3048, 73 L. Ed. 2d at 708, but requires a school district to provide a basic floor of opportunity. Carlisle Area Sch. v. Scott P., 62 F.3d 520, 533–34 (3d Cir. 1995). In addressing the quantum of educational benefit required, the Third Circuit has made clear that more than a “trivial” or “de minimis” educational benefit is required, and the appropriate standard is whether the IEP provides for “significant learning” and confers “meaningful benefit” to the child. T.R. v. Kingwood Twp. Bd. of Educ., 205 F.3d 572, 577 (3d Cir. 2000); Ridgewood Bd. of Educ. v. N.E., 172 F.3d 238, 247 (3d Cir. 1999); Polk v. Cent. Susquehanna Intermediate Unit 16, 853 F.2d 171, 180, 182-84 (3d Cir. 1988), cert. den. sub. nom. Cent. Columbia Sch. Dist. v. Polk, 488 U.S. 1030, 109 S. Ct. 838, 102 L. Ed. 2d 970 (1989). In other words, the school district must show that the IEP will provide the student with “a meaningful educational benefit.” S.H. v. State-Operated Sch. Dist. of Newark, 336 F.3d 260, 271 (3d Cir. 2003). This determination must be assessed in light of the individual potential and educational needs of the student. T.R., supra, 205 F.3d at 578; Ridgewood, supra, 172 F.3d at 247-48. The appropriateness of an IEP is not determined by a comparison of the private school and the program proposed by the district. S.H., supra, 336 F.3d at 271. Rather, the pertinent inquiry is whether the IEP offered a FAPE and the opportunity for significant learning and meaningful educational benefit within the least restrictive environment.

Toward this end, an IEP must be in effect at the beginning of each school year and be reviewed at least annually. 20 U.S.C.A. § 1414 (d)(2) and (4); N.J.A.C. 6A:14-3.7. A complete IEP must contain a detailed statement of annual goals and objectives. N.J.A.C. 6A:14-3.7(e)(2). It must contain both academic and functional goals that are, as appropriate, related to the Core Curriculum Content Standards of the general education curriculum and “be measurable” so both parents and educational personnel can be apprised of “the expected level of achievement attendant to each goal.” Ibid. Further, such “measurable annual goals shall include benchmarks or short-term objectives” related to meeting the student’s needs. N.J.A.C. 6A:14-3.7(e)(3). The New Jersey Supreme Court has recognized that “[w]ithout an adequately drafted IEP, it would be difficult, if not impossible, to measure a child’s progress, a measurement that

is necessary to determine changes to be made in the next IEP.” Lascari, supra, 116 N.J. at 48.

Parents who withdraw their child from public school and unilaterally place the child in a private placement while challenging the IEP may be entitled to reimbursement if the administrative law judge (ALJ) finds that the school district’s proposed IEP was inappropriate and that the parents’ unilateral placement was proper. Florence County Sch. Dist. Four v. Carter, 510 U.S. 7, 12, 114 S. Ct. 361, 365, 126 L. Ed. 2d 284, 292 (1993); School Comm. of Burlington v. Mass. Dep’t of Educ., 471 U.S. 359, 370, 105 S. Ct. 1996, 2002-03, 85 L. Ed. 2d 385, 395 (1985.) More particularly, an ALJ may require the district to reimburse the parents for the cost of that enrollment if “the district had not made a free, appropriate public education available to that student in a timely manner prior to that enrollment and . . . the private placement is appropriate.” N.J.A.C. 6A:14-2.10(b); see 20 U.S.C.A. § 1412(a)(10)(C)(ii). However, parents who unilaterally withdraw their child from public school and place the child in a private school without consent from the school district “do so at their own financial risk.” Burlington, supra, 471 U.S. at 374, 105 S. Ct. at 2004, 85 L. Ed. 2d at 397. If it is ultimately determined that the program proposed by the district affords the child with a FAPE, then the parents are barred from recovering reimbursement of tuition and related expenses. Ibid. A court may reduce or deny reimbursement costs based on the parents’ unreasonable behavior during the IEP process. 20 U.S.C.A. § 1412(a)(10)(C)(iii). In this regard, the cost of reimbursement “may be reduced or denied” if, at the most recent IEP meeting the parents attended prior to the removal of the student from the public school, the parents did not inform the IEP team that they were rejecting the IEP proposed by the district; if the parents did not give written notice to the district of their concerns or intent to enroll their child in a nonpublic school at least ten business days prior to the removal of the student from the public school; or upon a judicial finding of unreasonableness with respect to actions taken by the parents. N.J.A.C. 6A:14-2.10(c)(1), (2), (4).

ANALYSIS AND CONCLUSIONS

Prior to addressing the critical issue as to whether the District offered a FAPE to G.F., other issues raised by the parties will be discussed. Testimony was presented

suggesting that the District had lower expectations for G.F. stemming from the results of Edelstein's psychological testing in 2006 and 2007, which is referenced in G.F.'s IEPs. This contention is overborne by the testimony of the District's witnesses. The evidence demonstrates that G.F. was never determined to be a cognitively challenged child, and was never classified or treated as such. The District presented persuasive testimony by Edelstein and Skinner, who were members of the CST at the time that G.F. was deemed eligible under the Multiply Disabled category, as to the basis for that category, which the parents never challenged and I accept as **FACT**. The District witnesses explained that the eligibility category was predicated on the fact that G.F. demonstrated delays in two or more areas (i.e., learning disabilities and delays in language/speech and motor development), and his cognitive ability was stated in the IEP because it was the result of the assessment administered. Edelstein described that due to matters such as G.F.'s distractibility and difficulty understanding directions, his scores on the two WPPSI tests indicating a low ability were not a very accurate read on his true ability and were a very minimum estimate. Bifulco also presented testimony, which I accept as **FACT**, that there was no indication of any cognitive issue in G.F.'s daily classroom performance during the three years that she was his teacher, he was never treated as a cognitively challenged student, and she would never base her instruction for a child on one test. She further indicated that G.F. had a language-based learning disability, and she understood that his cognitive abilities were at an average level. In view of these findings, I **CONCLUDE** that there was no dereliction on the part of the District to convene an IEP meeting after receiving Melini's report. Although I agree with petitioners' contention that it would have been better practice if the IEPs had included the psychologist's qualifying language that the testing results may not reflect G.F.'s true abilities, the testimony by individuals directly involved in the IEP process did not lend support for a conclusion that this reporting somehow impacted the programs and services offered by the District. Indeed, with regard to the current IEP, the District had the Woodcock Johnson results illustrating G.F.'s abilities. Edelstein, who was a member of the CST, further testified that the scores achieved in her previous testing did not impact G.F.'s program, and had Barenbaum's higher IQ score been listed in the IEP, it would not have changed G.F.'s program, services, classification or goals and objectives. I **CONCLUDE** that the credible, competent evidence does not support that the reporting of Edelstein's WPPSI results impacted the teacher's delivery of instruction

or the program, services, classification or goals and objectives offered by the District in the various IEPs.

Varying testimony was presented as to what occurred at the 2010 evaluation planning meeting, during which the parents participated by conference call. No documentation was submitted summarizing the results of that meeting. Based on a review of the totality of the evidence, and having had the opportunity to assess the credibility of the witnesses, I **FIND** the following additional **FACTS**. The parents cooperated with the reevaluation process and gave their consent to the educational evaluation and OT and PT assessments. The District agreed to accept Kushner's 2009 testing for purposes of the speech/language evaluation, and the parties agreed that a functional speech/language assessment would be conducted. The parents further consented to a functional psychological assessment. Although Mrs. F. testified about discussions during that meeting that led to the parents' decision to consent to only a functional assessment, plainly such testimony is hearsay and insufficient to support an ultimate finding of fact under the residuum rule. N.J.A.C. 1:1-15.5(b). While the evidence supports that members of the CST were aware that the parents were obtaining private evaluations, the District had the obligation to conduct the testing that it deemed necessary for a complete reevaluation and toward developing an appropriate IEP for G.F. See N.J.A.C. 6A:14-3.8. In this regard, based on Edelstein's testimony, I **FIND** that she did not believe that a standardized psychological assessment was necessary in order for the District to conduct its reevaluation. The record is further bereft of evidence suggesting that the failure to undertake this standardized testing somehow impeded the District's ability to develop G.F.'s IEP or that it took action toward compelling consent for a formal assessment. See N.J.A.C. 6A:14-2.3(c); N.J.A.C. 6A:14-2.7(b). It is also not apparent from the record how any such assessment would have impacted G.F.'s program. I **CONCLUDE** that there was no procedural shortcoming on the part of the District to conduct a full psychological assessment and that, even if a procedural violation had occurred, it did not impede G.F.'s right to a FAPE, did not impede the parents' opportunity to participate in the decision-making process, and did not cause a deprivation of educational benefits. See 20 U.S.C.A. § 1415(f)(3)(E)(ii).

The pivotal issue presented is whether the District provided G.F. with a FAPE in the least restrictive environment and whether the IEP developed for the 2010–2011 school year offered the opportunity for significant learning and meaningful educational benefit consistent with G.F.’s abilities and educational needs. The District contends that it provided G.F. with a FAPE and an educational program specifically designed to meet his unique needs, and supported him with services necessary to benefit from the instruction, from the time he entered its preschool program until he left the District in February 2011. The District argues that G.F. received more than a trivial or de minimis educational benefit, as evidenced by the testimony and the documentary evidence, including G.F.’s DRA results, tests, quizzes, present levels, progress reports and report cards, along with the District’s evaluations. The District maintains that the 2010–2011 IEP, which provides for G.F.’s placement in the LLD class, is an appropriate IEP to confer a meaningful educational benefit to G.F. in the least restrictive environment; the educational program and services offered met his individualized needs; and his needs arising from reading comprehension issues, listening comprehension issues, and speech/language issues were addressed in the IEP. Conversely, petitioners allege in their due process petition that G.F.’s “program and placement has failed to confer the meaningful and significant progress he should experience”; the placement and program set forth in 2010–2011 IEP is not appropriate, is not geared toward providing G.F. with significant educational benefit, and does not represent the least restrictive environment; and the District’s proposed program in the self-contained class fails to confer a FAPE. Although petitioners did not specifically state in their petition that the District failed to provide G.F. with a FAPE prior to the 2010–2011 IEP, the evidence at the hearing and arguments advanced in their brief assert this position. Plainly, any such contention is subject to the limitations in N.J.A.C. 6A:14-2.7(a)(1), which require that a due process petition be filed within two years of the date that the party knew or should have known of the alleged action. In short, petitioners argue that the 2010–2011 IEP was inappropriate in that it is not reasonably calculated to confer significant educational benefit. Petitioners contend that the District’s program was inappropriate to meet G.F.’s needs; it failed to provide him with a FAPE; and G.F. has made no meaningful progress in his areas of greatest disability but, instead, he has remained at the 1st%ile despite the years of special education and related services.

In evaluating the strength of the testimony, I found Barenbaum and Araten to be highly qualified and credible witnesses. They possess extensive experience in the realm of reading, learning disabilities, special education and speech/language. Succinctly stated, petitioners' experts presented credible and persuasive testimony vis-à-vis their evaluations, observations and G.F.'s progress and needs. Their opinions as to G.F.'s progress and needs were consistent with each other, predicated on the battery of tests administered, including the District's own testing, and not materially discredited by counsel's thorough cross-examination. Although I found the District witnesses to be highly qualified and devoted professionals, I **FIND** that the more reliable evidence of G.F.'s progress or lack thereof is the results of the objective standardized testing. See D.S. v. Bayonne Bd. of Educ., 602 F.3d 553 (3d Cir. 2010).

The Third Circuit observed in D.S. that Rowley does not support the position that "high scores achieved in special education classrooms are unambiguous evidence of an IEP's sufficiency," and when "high grades are achieved in classes with only special education students set apart from the regular classes of a public school system, the grades are of less significance than grades obtained in regular classrooms." D.S., supra, 602 F.3d at 567. The court noted, "we consistently have declined to adopt bright line rules to determine whether a student is receiving a meaningful educational benefit under the IDEA." Id. at 568. It further stated, "[o]verall, we think that it is clear that a court should not place conclusive significance on special education classroom scores, a conclusion that we believe is reinforced by the circumstance that, as here, there may be a disconnect between a school's assessment of a student in a special education setting and his achievements in that setting and the student's achievements in standardized testing," and "[w]hen there is such a disconnect we think that there should be an especially close examination of the appropriateness of the student's education." Ibid.

Against this backdrop, the evidence as a whole supports that G.F. has made progress over the years in various skill areas, including his decoding, spelling, reading fluency, penmanship, and math skills. It also supports that his articulation improved as a result of the collaboration between the District's therapists and petitioners' private speech/language pathologist, and that he has made gains through the PT and OT services. However, the parties do not appear to dispute, and the evidence supports,

that for years G.F.'s areas of weakness have been his comprehension and language skills. Indeed, he has been in the District's self-contained LLD classroom in recognition of his language-based disability. Although testimony and documentary evidence was presented in support of G.F.'s progress in these areas, the objective testing persuasively establishes otherwise.

I **FIND** that G.F.'s report cards and speech/language progress reports are not a reliable indicator of G.F.'s progress. The progress reported in these records is inconsistent with the objective testing conducted by both the District and petitioners' experts. Apart from this, and notwithstanding the consistent testimony that G.F. was below-grade-level in comprehension, he was rated as meeting expectations in this area (i.e., no check mark exists signifying "not yet meeting expectations") in his June and November 2010 report cards. (R-28; R-32.) Although testimony was offered as to the District therapists' concerns regarding G.F.'s language skills and the informal testing demonstrating significant delays, the June 2008 speech/language progress report rated him as "progressing" in all receptive and expressive language skills/pragmatic objectives except two, and the June 2009 progress report rated him as having "mastered" or "progressing" in all of these objectives. (R-55; R-56.) The progress report in January 2010, shortly before the testing by petitioners' experts, also rated him as having "mastered" or "progressing" in all but two of these objectives. (P-50.)

In reviewing the litany of the testing administered over the years, I recognize that the various standardized tests are not the same tests, and some tested language skills in the context of an educational evaluation. Petitioners' experts offered persuasive testimony that the testing, which tested similar areas, could be compared for purposes of assessing G.F.'s progress. The testing demonstrates that G.F. had a 2.10 age level and a 33% delay in both expressive and receptive language skills on the PLS, administered in 2006 as part of the speech/language assessment. On the DIAL, administered as part of the educational evaluation that year, he scored in the <1st%ile on the language domain. The results of the speech evaluation in May 2007 revealed that he had a receptive vocabulary age-level score of 2.8 years on the PPVT, and his receptive and expressive language skills on the CELF-P were in the 1st%ile and 2nd%ile. Two years later, Kushner's July 2009 testing showed that on the CELF-P his core

language index score was in the 1st%ile, with receptive and expressive scores in the 2nd%ile and 1st%ile. He was also in the 2nd%ile on the expressive vocabulary test and had a low percentile ranking on the receptive vocabulary test. In April 2010, more than three years after the District's intervention, Araten's testing indicated that G.F.'s core language index on the CELF-4 was in the 1st%ile with expressive and receptive language index scores in the 1st%ile and the 2nd%ile. His oral narration and narrative comprehension were in the impaired range and in the 1st%ile on the TNL. He scored in the impaired range in the 2nd%ile in the pragmatic judgment portion of the CASL. G.F. was also at a pre-primer independent level on the reading portion of the Burns/Roe, with an instructional/frustration level at a primer or pre-first-grade level. He was unable to answer five comprehension questions correctly on the GORT, even when Araten went back to a kindergarten-level passage, and he missed literal-level comprehension questions as well as more abstract questions. He achieved below average on the story comprehension section on the DAB. And, his overall academic achievement scores on Barenbaum's testing indicated that he was functioning significantly below grade level.

The District's own testing yielded similar results as to G.F.'s comprehension and language skills. On the Woodcock Johnson, which was administered when G.F. was 7.8 years old, his oral language and listening comprehension clusters, along with his score on the oral comprehension subtest, were all below a kindergarten-grade-equivalent level. He was in the low-average range on the understanding directions subtest, which had been a goal throughout his various IEPs. He was below a kindergarten level on the reading comprehension cluster, and the passage comprehension subtest. He was also in the low-average range on the math applied problems and reading vocabulary subtests, which witnesses explained involved comprehension. Although he was in the average range on the reading fluency subtest and the DAB reading comprehension subtest, Barenbaum presented credible testimony addressing these scores. She also explained that G.F.'s Broad Reading score was so high due to the subtests included and his above-grade-level decoding ability, which inflated this score. It is further observed that, although it cannot be ascertained from the record whether the administration of the Woodcock Johnson over four days technically violated the test's instructions, it is reasonable to conclude that this had a capacity of giving G.F. an advantage over other children who took the test on one day. In addition,

some of the District's classroom assessments lend further support for G.F.'s lack of meaningful progress in comprehension. G.F.'s comprehension had not improved between the Reading Grade 1 Placement Tests administered after his first and second years of kindergarten. (R-41; R-42.) Rather, his score remained at 33%. According to the teacher's listing of his comprehension quizzes in first grade, more than half of the sixteen quiz scores were in the range of one to three answers correct out of five, and on six quizzes he had only one or two correct. (R-22.) Although the listing of G.F.'s DRA scores reflects improvement on the tests administered in first and second grade, he remained in the first-grade level on each of the five tests and was at an instructional level in comprehension as of the January 2011 test. (R-39.)

There is no debate between the parties that G.F. has an average to low-average IQ. Petitioners' experts presented persuasive and consistent testimony regarding the type of language-enriched learning environment that is required in order to meet G.F.'s educational needs. Both experts further offered persuasive, consistent and unequivocal testimony that the testing demonstrates a lack of meaningful and significant progress in reading, comprehension and language skills and that, given G.F.'s cognitive ability, he would not be at the 1st percentile or below a kindergarten level had he received appropriate programming and services. As explained by Barenbaum, a learning-disabled child with an average IQ should progress, and should not be two to three levels below grade level or staying at the 1st percentile in many areas. In her view, G.F.'s reading and comprehension should be at a second grade level given his cognitive ability and years of education. Araten had never worked with a child who remained at the 1st percentile after appropriate intervention. Although I find insufficient evidence that G.F.'s scores would have increased to a specific percentile rank, I do find persuasive the opinions of both experts that there would have been progress, which is not evident from the objective testing. While I recognize that other children are also acquiring skills, for a child with an average to low-average IQ to be at the 1st percentile or be at a below-kindergarten level after more than three years of intervention by the District is de minimis progress, and not meaningful educational benefit.

Barenbaum further presented credible testimony regarding her observation of the reading lesson in G.F.'s classroom in March 2010. The program she observed did not

offer instruction tailored to meet G.F.'s individualized needs, and to enable him to meet with success and to derive a meaningful educational benefit in the LLD class. A large portion of the reading lesson was dedicated to word identification and spelling, areas in which G.F. does not require specialized instruction. As explained by Barenbaum, this time should have been used for reading comprehension, and strategy instruction for reading comprehension, memory and writing. The type of techniques and strategies that petitioners' experts indicated were necessary to enhance comprehension were not used during the lesson, and there were no examples of the teacher enriching the lesson with language. There was no discussion about the story prior to reading, no vocabulary discussion, and the Wilson strategy used in one portion of the lesson was not transferred to other portions of the lesson. The record is further devoid of evidence that any new program was introduced before the current IEP specifically designed to meet G.F.'s unique needs in an attempt to tackle his comprehension and language issues. Rather, it appears that the LLD class essentially used class-wide programs and materials. G.F.'s progress prior to the 2010–2011 IEP is pertinent for purposes of judging whether that IEP is reasonably calculated to confer meaningful educational benefit to G.F. since the District does not contend that his needs have changed and, apart from the Visualizing and Verbalizing program listed under materials for speech, the program and placement offered are the same as in earlier years. Although Araten agreed that the Visualizing and Verbalizing program was an appropriate program to use for G.F., the evidence demonstrates that the speech pathologist using this program is not trained in the program, and she is not using it in its entirety. Beyond this, the credible evidence as a whole falls short of establishing that it is also being done in the classroom, which Araten persuasively testified is necessary. After carefully considering the testimonial and documentary evidence presented, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following additional **FACTS**.

The District is staffed by skilled, able and devoted professionals. Although G.F. has made gains in certain skill areas, the District's program failed to elicit meaningful and significant progress by G.F., and failed to provide personalized instruction with sufficient support services to permit him to derive a meaningful educational benefit from the instruction, in his areas of need, i.e., reading and listening comprehension, and

language. The testing reflects that he is essentially at the 1st%ile, or at a below-kindergarten level, in these areas after more than three years of intervention by the District. The program provided to G.F., as observed by Barenbaum and as offered in the 2010–2011 IEP, fails to address G.F.'s individualized needs and fails to provide the type of language-enriched and multi-sensory learning environment that is necessary for him to progress in these areas and to benefit educationally from the instruction. The program and placement delineated in the IEP are not appropriate to meet G.F.'s individualized needs and are not reasonably calculated to confer a meaningful educational benefit in his areas of need. G.F. requires a different environment from that provided by the District. He is in need of a language-enriched learning environment with specialized instruction, including sufficient supports and appropriate strategies, to assist him to learn at a rate commensurate with his cognitive ability. This specialized instruction is particularly imperative, in that language and comprehension demands will increase as he continues in elementary school. In order to address these issues and G.F.'s educational needs, he requires the type of small, language-enriched environment that utilizes the meta-cognitive strategies and other strategies described by Barenbaum and Araten. He also needs an environment different from the District's self-contained class, which is too restrictive, in order to practice and improve his social skills. Due to his attention issues, he has not yet acquired the skills to successfully participate in mainstream classes.

The District's IEP not only fails to provide the type of program needed to address G.F.'s individualized needs, but fails to include measurable goals and objectives to address these areas. The reading comprehension goals are very general, do not indicate what is going to be done to help him develop the skills addressed, and do not list any specialized program under the reading goals that will be used to address comprehension. The listed instructional strategies are also very general and do not lend much guidance as to the particular strategies that will be used for comprehension. Although the reading goals list an evaluation criteria, due to the lack of baselines, age equivalents or the like in the present levels or earlier present levels addressing G.F.'s level as to the particular skills listed, there is no objective way to measure progress. The goals for speech/language do not address matters such as articulation, pragmatics and other areas that were in prior IEPs, which the evidence plainly supports are

necessary. Although the 2010 speech/language evaluation indicated that fluency goals would be incorporated into the IEP, no such goals exist. Rather, only one goal is listed under this area (i.e., G.F. will develop expressive and receptive language skills, as well as comprehension skills) and two objectives (i.e., G.F. will describe pictures and will create/choose pictures that are described to him). Similar to the reading goals, the speech goals are very general and are not measurable. They further fail to include goals related to the Visualizing and Verbalizing program. Although Conboy testified that the District was waiting for the results of the private evaluations and it was anticipated that an IEP meeting would occur after receipt of the evaluations, the District had ample information at that time from which it should have developed appropriate goals and objectives, including Kushner's testing, which was specifically incorporated in the District's functional assessment report, the Woodcock Johnson results, the psychological assessment, and working with G.F. for years. And, the pertinent focus is on the IEP actually offered, not one the school board could have provided if it had been so inclined. Lascari, supra, 116 N.J. at 46. Finally, no goals or objectives exist addressing issues listed in the school questionnaire that G.F.'s first-grade teacher completed or matters reported by the teacher as part of the psychologist's assessment.

Based on the foregoing, I **CONCLUDE** that the District has failed to provide G.F. with a FAPE. Its program and the IEP for the 2010–2011 school year failed to provide personalized instruction with sufficient support services to permit G.F. to benefit educationally from the instruction, and the IEP is not reasonably calculated to confer a meaningful educational benefit and significant learning in the least restrictive environment. In view of this conclusion, the remaining issue is whether the Craig School is an appropriate placement. I have carefully considered the competing testimony regarding this issue, and make the following additional findings of **FACT**.

The Craig School has an organized program and offers the type of language-enriched environment that petitioners' experts both agree is necessary to meet G.F.'s educational needs. It is a small school and it utilizes the various strategies and multi-sensory techniques to facilitate comprehension and language skills as recommended by Barenbaum and Araten. It uses scaffolding; works on vocabulary in the context of reading; and uses personalization techniques. It uses visual, tactile, auditory and

authentic activities, such as in the math class, along with the other recommended strategies to enhance learning. The record is bereft of any evidence disputing that the teachers at the school are appropriately qualified for purposes of educating learning-disabled students. The school proactively adjusted G.F.'s schedule shortly after his enrollment to add more time for reading comprehension, and only minimal time to reinforce his strong decoding skills. The school uses various programs that were highly endorsed by Barenbaum and Araten to address G.F.'s specific needs. The classrooms observed were equipped with an FM system to tune out extraneous noise to help G.F. process, and the school has a school-wide behavior program in place. Although the school technically begins at third grade, G.F.'s ability to do the work, and the appropriateness of the level of instruction offered, is supported by his participation during Barenbaum's observation and Mrs. F.'s testimony as to homework completion. This is also corroborated by the parent's testimony as to the reports relayed by his teachers. Although the Craig School does not have a social-skills group, this feature was also not present at the District. While the Craig School does not offer the frequency of speech services offered by the District, the tradeoff with the language-enriched-environment component is more important at this stage and more likely to confer the meaningful educational benefit that the District cannot provide. I further view the support being provided to G.F. as a positive feature to assist him to attain his goals and to adjust to the new environment, which he had only been in less than four months at the time of the observations.

Based on the foregoing, I **CONCLUDE** that the Craig School is an appropriate placement for G.F. I **CONCLUDE** that it was reasonable for petitioners to unilaterally place G.F. at the Craig School as of February 14, 2011. I **CONCLUDE** that no basis exists to deny or reduce reimbursement. Additionally, inasmuch as there is no evidence that the District proposed an alternate plan for the 2011–2012 school year, I **CONCLUDE** that G.F. should be placed at the Craig School for the 2011–2012 school year and that the District should be responsible for the costs associated with this placement. I **CONCLUDE** that the District should reimburse petitioners for the costs attributed to G.F.'s placement at the Craig School as of February 14, 2011. In light of the foregoing, I further **CONCLUDE** that the parties should meet within thirty days of

this Decision to create a new IEP to reflect G.F.'s placement at the Craig School for the 2011–2012 school year.

ORDER

I **ORDER** that petitioners and the District shall meet within thirty days of this Decision to create a new IEP for G.F. to reflect his placement at the Craig School for the 2011–2012 school year.


I further **ORDER** that the District shall reimburse petitioners for all charges attributable to G.F.'s placement at the Craig School, including tuition and costs of transportation, from February 14, 2011, and shall be responsible for all charges attributed to his placement for the 2011–2012 school year.

This decision is final pursuant to 20 U.S.C.A. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2010) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C.A. § 1415(i)(2); 34 C.F.R. § 300.516 (2010).

September 22, 2011

DATE

jb



MARGARET M. MONACO, ALJ

APPENDIX

List of Witnesses

For Petitioner:

Edna M. Barenbaum
Lori Araten
Mrs. F.

For Respondent:

Elizabeth Skinner
Elise Edelstein
Maryann Bifulco
Jean Sapienza
Jennifer Stier
Dana Garcia
Vasiliki Givas
Diane Conboy
Monica Millin
Cathleen Wrobel
Thomas Valente

List of Exhibits in Evidence

For Petitioners:

P-1 Note by Elise Edelstein dated July 1, 2055
P-2 to P-18 Not in evidence
P-19 Speech and Language Evaluation on May 23, 2007
P-20 to P-25 Not in evidence
P-26 Letter from Pediatric Ophthalmology of NJ dated November 5, 2007
P-27 Not in evidence
P-28 Oral-Motor Speech Evaluation on April 21, 2008

P-29 to P-31 Not in evidence

P-32 Speech and Language Evaluation by Karen Golding-Kushner, Ph.D. on July 23, 2008

P-33 Letter to parents from Karen Golding-Kushner, Ph.D. dated August 28, 2008

P-34 to P-43 Not in evidence

P-44 Language Evaluation and Speech Progress Note by Karen Golding-Kushner, Ph.D. dated July 9, 2009

P-45 Pediatric Neuro-Developmental Evaluation dated September 9, 2009

P-46 The ANSER System School Questionnaire

P-47 Emails to and from parent and teachers dated December 2009

P-48 to P-49 Not in evidence

P-50 Speech and Language Progress Report dated January 2010

P-51 Not in evidence

P-52 Emails to and from parent and teachers dated January 2010

P-53 Emails to and from parent and teachers dated February 2010

P-54 to P-55 Not in evidence

P-56 Psycho-Educational Evaluation by Dr. Edna Barenbaum in April 2010

P-57 Language/Functional Auditory Processing/Social Thinking Evaluation by Princeton Speech-Language & Learning Center in April 2010

P-58 Letter from Lenore B. Laracuenta, Esq., to Michael J. Gross, Esq., dated July 12, 2010

P-59 Letter from Lenore B. Laracuenta, Esq., to Gabrielle A. Pettineo, Esq., dated January 24, 2011

P-60 Letter from Gabrielle A. Pettineo, Esq., to Lenore B. Laracuenta, Esq., dated January 25, 2011

P-61 Certification, progress reports and report card

P-62 Observation report by Dr. Edna Barenbaum on April 20, 2011

For Respondent:

R-1 Speech and Language Evaluation on November 7, 2006

R-2 Occupational Therapy Evaluation on November 20, 2006

- R-3 Physical Therapy Evaluation dated November 20, 2006
- R-4 Psychological Assessment on November 22, 2006
- R-5 Social Assessment on November 15, 2006
- R-6 Academic Assessment dated November 10, 2006
- R-7 Eligibility Conference Report (meeting on December 21, 2006)
- R-8 IEP dated December 2006
- R-9 Occupational Therapy Re-Assessment in May 2007
- R-10 Physical Therapy Functional Assessment dated May 29, 2007
- R-11 Psychological Assessment on May 8, 2007
- R-12 Academic Assessment dated June 5, 2007
- R-13 Eligibility Conference Report (meeting on June 14, 2007)
- R-14 IEP dated June 2007
- R-15 Portfolio Assessment Record Sheet (2007/2008)
- R-16 Kindergarten Progress Report (2007/2008)
- R-17 IEP dated December 2007
- R-18 IEP dated June 2008
- R-19 Kindergarten Progress Report (2008/2009)
- R-20 Self-Portraits dated September 2008, February 2009, June 2010
- R-21 Writing Assessment dated April 13, 2009
- R-22 Grade Chart (2009–2010)
- R-23 IEP dated May 2009
- R-24 Speech/Language Functional Assessment dated April 2010
- R-25 Educational Assessment in April 2010
- R-26 Functional Psychological Assessment on April 14, 2010
- R-27 “All About Me”
- R-28 Grade 1 Progress Report (2009/2010)
- R-29 Eligibility Conference Report (meeting on May 5, 2010)
- R-30 IEP dated May 2010
- R-31 Letter from Jennifer Stier to parents dated August 4, 2010
- R-32 Grade 2 Progress Report
- R-33 Progress Report
- R-34 Test dated October 1, 2010
- R-35 Test dated October 15, 2010

R-36	Test
R-37	Test dated October 15, 2010
R-38	Launching Writing Workshop
R-39	DRA2
R-40	DRA (2008–2009)
R-41	Reading Placement Test dated June 2008
R-42	Reading Placement Test dated June 15, 2009
R-43	Reading Benchmark Test dated January 22, 2010
R-44	DRA (June 2010)
R-45	Kindergarten Mathematics End of Year Test dated June 2008
R-46	Kindergarten Mathematics End of Year Test dated June 2009
R-47	Monitoring Student Progress – Kindergarten (2007–2008)
R-48	Monitoring Student Progress – Kindergarten (2008–2009)
R-49	Physical Therapy Progress Report
R-50	Physical Therapy Progress Report
R-51	Physical Therapy Progress Report and progress notes
R-52	Occupational Therapy Progress Report
R-53	Occupational Therapy Progress Report
R-54	Occupational Therapy Progress Report
R-55	Speech and Language Progress Report
R-56	Speech and Language Progress Report
R-57	No exhibit in evidence
R-58	Educational Observation dated May 25, 2011
R-59	School Observation dated June 1, 2011