



Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of [Student]

DECISION

v.

DHA Case No. DPI-20-0009

DPI Case No. LEA-20-0007

[School District]

The Parties to this proceeding are:

[Student], by

[Parent's Attorney]

[School District], by

[District's Attorney]

PROCEDURAL HISTORY

On September 1, 2020, the Wisconsin Department of Public Instruction (DPI) received a request for a due process hearing under Wis. Stats. Chapter 115 and the federal Individuals with Disabilities Education Act (IDEA) from [Parent's Attorney] on behalf of [Parents] (the "Parents") and [Student] (the "Student") against the [School District] (the "District"). DPI referred the matter to the Wisconsin Division of Hearings and Appeals for hearing.

The due process hearing was held by videoconference on October 29 and 30, 2020. The record closed on December 7, 2020. The decision is due by December 22, 2020.

ISSUES

1. From on or about December 5, 2019 through the end of the 2019-2020 school year, did the District deny the Student a free, appropriate public education by shortening the hours of instruction and/or amount of educational services she received?
2. Does the District's placement of the Student at [Private School] for the 2020-2021 school year deny her a free, appropriate public education in the least restrictive environment?

FINDINGS OF FACT

1. The Student is a XX-year-old (d.o.b. XX/XX/XXXX) child in the 8th grade and a resident of the District. The child was diagnosed with Down's Syndrome [on date]. (Tr. p. 22) The Student's most recent special education reevaluation, dated April 11, 2019, indicated that she continued to need special education and related services, based upon an intellectual disability and a hearing impairment. (Ex. 1, pp. 20-21) In [Summer] 2019, the child was medically diagnosed with autism. (Tr. p. 25)
2. The Student has not received educational instruction in a regular education classroom since the 2017-2018 school year when she was in 5th grade. (Tr. 217) During that school year, staff had difficulty providing services to her in the regular education environment because the Student would refuse to enter a regular education classroom. Although District staff wanted to support the Student in the regular education environment, most of the Student's day was spent in a special education room. (Tr. pp. 347-348)
3. In the 6th grade, during the 2018-2019 school year, the Student increasingly engaged in behavior that affected her learning and the learning of others, including aggressive behavior that was physically harmful to others and impacted the Student's ability to develop and maintain peer relationships. The District tried several interventions to respond to and redirect the Student's behaviors, including using seclusion in a small room setting, suspension, and restraint. In spring 2019, the District contracted with private educational and behavioral consultants to conduct a functional behavioral assessment and an independent educational evaluation of the Student, and a functional behavior plan was developed for the Student. (Ex. 6 and 7)
4. On April 17, 2019, the Parents filed an IDEA complaint with DPI against the District. One of the allegations raised by the Parents was that the District improperly shortened the length of the Student's school day during the 2018-2019 school year. (Ex. 5)
5. On April 29, 2019, because of their concern about "behavioral events" occurring with the Student and "current hostilities" at school, the Student's mother emailed the District to request that the Student attend school for only 90 minutes per day for the remainder of

the school year and that a behavioral specialist be brought in to support the Student in school. (Ex. 3, Tr. p. 39)

6. On May 2, 2019, the District convened an IEP team to review and develop the annual IEP and to determine continuing placement. The Parents attended the IEP team meeting, as did the director of [Private School], which is a therapeutic private school that serves as an alternative placement for students struggling in public schools. (Ex. 2, Tr. 2, p. 239)¹ [Private School] is located in [City 1], Wisconsin, which is an approximately 40 to 45 minute drive from [City 2], Wisconsin. The IEP team revised the Student's IEP and developed an IEP for the upcoming school year. The IEP also included the functional behavior plan that had been developed for the Student. Per the Parents' request, the IEP team agreed that, for the remainder of the 2018-2019 school year, the Student would receive 90 minutes per day of special education instruction. In addition to instruction in the special education resource room at the District middle school, the IEP called for 15 hours of behavioral consultation provided by [Private School], as well as various related services including educational audiology, transportation, occupational therapy, physical therapy, and speech and language therapy. The IEP stated that the Student would not participate with non-disabled peers in the regular education environment because, due to her "anxiety and behaviors, she benefits from extra support, monitoring of behavior and work, and assistance with daily tasks." For the 2019-2020 school year, the Student would be placed at [Private School], and the IEP would be implemented there. The IEP stated that the Student would start out at [Private School] for the same amount of time she was attending school at the end of the 2018-2019 school year and would build up to a full day and that the IEP team would hold regular meetings to receive progress updates and determine when the Student would be ready to transition back to the District middle school. (Ex. 2)
7. On June 14, 2019, DPI issued a decision on the IDEA complaint filed by the Parents in April 2019. DPI concluded, among other things, that the District had not properly shortened the Student's school day in accordance with federal regulations. DPI directed the District to reconvene the IEP team to ensure the IEP included a plan for the Student to return to school for a full day, along with a plan to meet more frequently to review student data and determine whether the student was able to return to school full-time, not dependent upon earning back time. (Ex. 5)
8. On July 26, 2019, the Parents and the District engaged in jointly-requested mediation with the Wisconsin Special Education Mediation System. Both parties were represented by legal counsel during the mediation, and they executed a written mediation agreement. The mediation agreement stated that the Student would begin attending school at [Private School] on September 9, 2019 for 90 minutes per day and that IEP team meetings would be held to discuss increasing the Student's total minutes of daily

¹ The transcript of the first day of hearing is paginated 1 through 266. The transcript of the second day of hearing begins with page 195. Because both transcripts contain pages numbered 195 through 266, any reference to pages 195 through 266 from the second day's transcript will be identified in this decision as "Tr. 2" plus the page number. If "Tr. 2" is not listed, then the citation refers to the first day's transcript.

education. The parties agreed to the following schedule for IEP team meetings: September 15-19, 2019; September 30-October 4, 2019; October 28-November 1, 2019; December 2-6, 2019; and January 6-10, 2020. The agreement stated that the IEP meetings would include the director of [Private School] as part of the IEP team and that the director would be “treated as a reliable source of feedback as to the appropriate pace at which the Student’s school day should be lengthened.” The agreement further stated that the Parents agreed “not to file any claim, complaint or other action of any kind relating to the issues identified in this Agreement ...” but that the release did not apply to any alleged breach of the agreement. The parties acknowledged that the agreement was enforceable in any state court of competent jurisdiction or in a U.S. District Court. (Ex. 8)

9. On September 5, 2019, the District held an IEP meeting to review and revise the Student’s IEP, and the Parents attended and participated in the meeting. The IEP team revised the IEP to provide that the Student would start the 2019-2020 school year receiving 180 minutes per day of special education services at [Private School], with the IEP team meeting on a regular basis, per the mediated schedule, to discuss her progress and consider increasing her school day. (Ex. 10, Tr. p. 40)
10. The Student injured her foot prior to the start of school, so the Parents requested that she be medically excused until September 23, 2019. The District agreed to medically excuse the Student and also agreed to provide the equivalent of 11 days of educational services to the Student at the end of the 2019-2020 school year to make up for the days she was excused from attendance between September 9 and 23, 2019. (Ex. 12)
11. Because the Student did not start school until September 24, 2019, the September and early October IEP team meetings that the parties had agreed upon in mediation were rescheduled to October 23, 2019. On that date, the District held an IEP meeting for the IEP team to discuss the Student’s progress and consider extending her school day. The Parents attended the IEP meeting, as did [Director], who was the director of [Private School] at that time. (Ex. 13, p. 2) In her first month at [Private School], the Student had made slow progress integrating into programming with peers and often refusing to go where she needed to be, instead eloping to a different part of the building or outside. (Ex 13, p. 8) From September 24 through October 11, 2019, the Student followed her schedule half of the time and did not independently change between activities. (Ex. 13, pp. 8-9; Ex. 101) The Student continued to need 2:1 staff support. After discussion of the Student’s progress and needs, the IEP team determined that extension of the Student’s school day was not appropriate at that time. (Ex. 13, p. 29)
12. The Parents received weekly written updates from [Private School] that reported on how the Student was doing in specific areas at school, such as following her schedule and independently moving between activities. (Ex. 101, Tr. p. 41) The Parents also received quarterly progress reports from [Private School] that provided more detailed information on the Student’s progress towards goals and objectives. (Exs. 102-104)

13. On December 5, 2019, the District held another IEP meeting for the IEP team to discuss and consider extending the Student's school day. The Parents attended and participated in the IEP meeting. [Director], the [Private School] director, reported to the IEP team regarding the Student's lack of progress. (Ex. 14; Tr. pp. 228, 230) The Student had a difficult time at [Private School] for the 180 minutes that she was there. (Tr. 2, p. 252) The IEP team determined that it was not appropriate to increase the Student's school day due to her lack of progress at [Private School] up to that point and discussed the possibility of another alternative school placement. (Tr. 45, 229)
14. On December 18, 2019, [Private School] staff observed a significant change in the Student's progress in that she began engaging with people and engaging in activities enough to be able to answer questions. (Tr. 2, pp. 246-247)
15. The District scheduled another IEP team meeting for January 21, 2020 to discuss the Student's progress and placement after a psychologist appointment that was scheduled for the Student on January 7, 2020. (Tr. pp. 293-295) Due to a conflicting dental appointment, the Parents rescheduled the Student's psychologist appointment to January 21, 2020 and indicated they would not be at an IEP meeting on that date. The District then made plans to reschedule the IEP meeting to January 30, 2020, so the Parents could attend. (Ex. 16; Tr. p. 127) Because [Director] from [Private School] was unavailable on January 30, the IEP meeting was rescheduled to February 3, 2020. (Tr. 233)
16. At the February 3, 2020 IEP meeting, [Private School] staff reported that the Student had been making progress and recommended that her school day be lengthened. (Tr. p. 234) The IEP team made the decision to increase the Student's instructional minutes to 240 per day. (Ex. 15)
17. The District convened another IEP team meeting on February 18, 2020 to address the Parent's request that the Student transition out of [Private School] and begin receiving all her services from the [Center]. However, [Center] is not a school and provides behavior therapy and intervention but not educational instruction. (Tr. 61) The IEP team agreed to add 120 minutes per day (10 hours per week) of in-home behavioral therapy services from [Center] to the Student's IEP, in addition to the 240 minutes per day of instruction she was receiving from [Private School]. (Ex. 17)
18. The next IEP team meeting for the Student was held on March 3, 2020. Based upon the reported progress that the Student had continued to make, the IEP team made the decision to increase her educational instruction from [Private School] to 300 minutes per day and continue the 120 minutes per day of behavioral therapy from [Center], which constituted a full school day of programming. (Ex. 18, Tr. 297)
19. As a result of the COVID-19 pandemic, Wisconsin schools were ordered to close in mid-March. As a result, [Private School] provided online, virtual educational instruction to the Student for the remainder of the 2019-2020 school year. On April 2, 2020, the Parents informed the District that they did not intend to have the Student receive the full 300

minutes per day of online instruction from [Private School] for the remainder of the school year. (Exs. 19 and 26, Tr. 298)

20. On April 16, 2020, the District held an IEP meeting for the annual review and development of the Student's IEP. The IEP meeting was continued on April 29, 2020. The IEP developed for the 2020-2021 school year continued the Student's placement at [Private School] for 300 minutes per day of special education instruction, as well as 10 hours per week of behavioral therapy from [Center]. (Ex. 20)
21. Prior to the start of the 2020-2021 school year, the District's middle school provided information to students' families about how instruction would be provided during the ongoing pandemic. Families were informed they could choose a 100% online, virtual instructional program for their students or an in-person instructional program in which students attended school in-person Tuesday through Friday, with online instruction on Monday. (Ex. 24, Tr. 2, pp. 203-204)
22. On August 25, 2020, another IEP meeting was held to review and revise the Student's IEP and continuing placement. The Parents did not want the Student to continue to receive special education instruction from [Private School]. Instead, the Parents wanted continued behavioral therapy provided by [Center] and virtual special education instruction provided by the District. However, the District staff members of the IEP team believed that [Private School]'s virtual online instruction was appropriate to meet the Student's needs and that the District's virtual online instruction would not meet the Student's individual needs. The IEP team revised the Student's IEP to provide a full school day of services comprised of three hours of virtual instruction from [Private School] and six hours per day (three hours of which will overlap with the three hours of [Private School] instruction) of behavioral therapy provided by [Center]. (Ex. 21)
23. On September 1, 2020, the Parents, by counsel, filed a request with DPI for a due process hearing.

DISCUSSION

Burden of Proof

The U.S. Supreme Court has ruled that the burden of proof in an administrative hearing challenging an IEP is on the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005). As the complainants in this matter, the burden of proof is on the Parents. The Parents must "cite credible evidence that the choice[s] the school district made cannot be justified." *Sch. Dist. v. Z.S.*, 184 F.Supp.2d 860, 884 (W.D. Wis. 2001), *aff'd* 295 F.3d 671 (7th Cir. 2002).

Shortened School Day

The IDEA requires that all children with disabilities are offered a free, appropriate public education (FAPE) that meets their individual needs. 20 USC § 1400 (d); 34 CFR § 300.1. The U.S. Supreme Court has ruled that the IDEA requires a school district to offer an IEP that is reasonably calculated to enable a child to make progress appropriate in light of the child's unique circumstances. *Andrew F. v. Douglas Co. Sch. Dist. RE-1*, 137 S.Ct. 988 (2017).

Here, there is no dispute that, on April 29, 2019, the Parents asked the District to shorten the Student's school day to 90 minutes. In light of the Parent's request and behavioral issues that the Student had been having at school, the IEP team revised the Student's IEP on May 2, 2019 to provide that the Student would receive 90 minutes per day of special education services for the remainder of the 2019-2020 school year.

Although the Parents requested that the Student's school day be shortened on April 29, they had filed an IDEA complaint with DPI on April 17, 2019, in which they alleged, among other things, that the Student's school day had been improperly shortened. On June 14, 2019, DPI determined that, while an IEP team may shorten a child's school day if it is required to address the child's individual, disability-related needs, the District had improperly shortened the Student's school day because the language in the Student's IEP indicated the Student essentially needed to earn back a longer school day through positive behavior and because the IEP did not contain a plan for the Student to return to a full day of school or a plan for the IEP team to meet more frequently to review Student data to determine whether the Student would be able to return to school full-time. (Ex. 5)

Consequently, the District and the Parents jointly requested mediation and entered into a written mediation agreement on July 26, 2019. Per the agreement, the parties agreed that the Student would begin the 2019-2020 school year at [Private School], receiving 90 minutes of instruction per day. The mediation agreement set forth a plan and schedule for the IEP team to meet regularly from September 2019 through January 2020 to discuss increasing the Student's minutes of education. The agreement specifically stated that the director of [Private School] would be a part of the IEP team and would be "treated as a reliable source of feedback as to the appropriate pace at which the Student's school day should be lengthened." (Ex. 8) The mediation agreement also stated, consistent with 34 CFR § 300.506(b)(7), that the agreement was enforceable in state court or U.S. District Court and that the Parents agreed to not file any claim, complaint, or other action of any kind relating to the issues identified in the agreement. *Id.*

Nevertheless, despite the language in the mediation agreement, the Parent filed a request for a due process hearing claiming that the District denied the Student FAPE by impermissibly shortening her hours of instruction from December 5, 2019 through the end of the 2019-2020 school year. The Parents' claim fails for several reasons.

First, the Parents voluntarily, with legal representation, entered into a mediation agreement whereby they agreed to a plan for the IEP team to meet and discuss increasing the Student's minutes of instruction through January 13, 2020. Yet they now claim that the District improperly failed to increase the Student's hours of instruction as of December 5, 2019. At least for the period of time from December 5, 2019 to January 13, 2020, the Parents should be bound by the mediation agreement and not be allowed to bring a claim related to the issue of a shortened school day covered by the agreement. If the Parents believe the District violated or breached the mediation agreement, their remedy is to seek enforcement in court. This tribunal does not have jurisdiction to enforce the terms of the mediation agreement.

Second, the District did not shorten the Student's hours of instruction or amount of educational services from December 5, 2019 through the end of the school year. In fact, just the opposite occurred. After the Student began making progress at [Private School] in the latter half of December, the IEP team met to discuss the progress and determined it was appropriate to increase the Student's school day. The District attempted to schedule IEP team meetings for this purpose in January 2020, but due to various conflicts, most of which were related to the Student and the Parents, the IEP meeting was rescheduled to February 3, 2020. On February 3, 2020, the IEP team revised the Student's IEP and lengthened her minutes of instruction from 180 minutes to 240 minutes per day. On February 18, 2020, the IEP team further revised the Student's IEP to include 120 minutes per day of behavioral therapy from [Center]. On March 3, 2020, the IEP team again met and, based upon the Student's continued progress, increased her minutes of instruction to 300 per day, meaning that she was at a full school day.

Finally, even if the Parents are allowed to proceed on the merits and essentially reframe this issue to whether the District improperly failed to increase the Student's school day on December 5, 2019 and thereafter (rather than improperly shortened the Student's school day), they still have failed to meet their burden of proof. The Parents' argued that the IEP team improperly relied upon "subjective conclusions" and information from [Private School] staff and not upon "objective data" about the Student when determining that her school day should not be increased as of December 5, 2019. Again, however, the Parents are seemingly ignoring the fact that they entered into a binding mediation agreement in which they agreed that the director of [Private School] would be a member of the IEP team and would be a reliable source of information about the Student when the IEP team considered whether the Student's hours of instruction could appropriately be increased.

The Student's IEPs from August 2019 through the school year appropriately contained the IEP team's plan to regularly meet to discuss increasing the Student's hours of instruction and included detailed information related to the Student's individual needs, disability-related challenges, and progress or lack thereof. The plan followed by the IEP team, as set forth in the mediation agreement and the Student's IEPs was appropriate and in accordance with legal requirements. The argument in the Parents' post-hearing brief that 34 CFR § 300.320 requires more specific information in a child's IEP, such as a "clear connection to the growth and progress expected to be achieved by shortening the student's school day," is unpersuasive, at best, and an inaccurate interpretation of the law, at worst.

Several members of the Student's IEP team credibly testified why they believed, based upon the Student's individual disability-related needs, it would not have been appropriate to increase the Student's school day when she was making minimal progress and exhibiting difficulty with the [Private School] programming. These witnesses, who had knowledge of and experience with the Student, included the new director of [Private School] who had previously provided speech and language therapy to the Student, the Student's special education teacher and case manager during 7th grade, the District's speech pathologist, the District's occupational therapist, and the District's middle school principal. (Tr. 2, pp. 216-217, 219-220, 223, 249-252, 268, 289, 291-293, 296-297, 299-300, 318-319, 335-336) There is simply no credible evidence on the record showing that increasing the Student's school day on December 5, 2019 or at a faster rate than the IEP team did so would have been appropriate in light of the Student's individual and disability-related needs and progress.

The Parents failed to meet their burden of showing by a preponderance of the evidence that the District denied the Student FAPE by shortening the hours of instruction or educational services she received from December 5, 2019 through the remainder of the 2019-2020 school year. In addition, I would specifically note that there is no evidence showing that the Student was denied FAPE or meaningful educational benefit during the period of time from January 2020 until February 3, 2020 when the District rescheduled the IEP team meeting due to various conflicts.

Free, Appropriate Public Education in the Least Restrictive Environment

The IDEA and Wisconsin special education law mandate that, to the maximum extent possible, children with disabilities are to be educated in the least restrictive environment (LRE). *See* 20 USC § 1412 (a)(5); Wis. Stat. § 115.79. This means that children with disabilities should be educated with children who are nondisabled to the maximum extent possible. 34 CFR § 300.114 (a)(2)(i). Special classes, separate schooling or other removal of children with disabilities from the regular education environment should occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 34 CFR § 300.114 (a)(2)(ii)

A child may be removed from the regular education environment when the school district has taken reasonable measures to satisfactorily education the child in the regular education setting but the child was unable to receive a satisfactory education in the "mainstream." *See Board of Educ. Township High Sch. Dist. No. 211 v. Ross*, 486 F.3d 267, 47 IDELR 241 (7th Cir. 2007); *Beth B. v. Van Clay*, 282 F.3d 493 (7th Cir. 2002). A student's individual need for a more restrictive placement trumps a purely mechanical approach to the LRE requirements in the IDEA, and a school district is not required to try each placement on the continuum of educational settings for a student. *See Letter to Anonymous*, 53 IDELR 127 (OSEP 2009).

Here, the Parents have alleged that the District's placement of the Student at [Private School] for the 2020-2021 school year has denied her FAPE in the LRE. The Student's IEP dated August 25, 2020 provided that the Student will receive three hours per day of special

education instruction “virtually through [Private School] during the public health emergency from COVID-19” and six hours per day (three of which will overlap with the three hours of [Private School] instruction) of in-home behavioral therapy from [Center] during the COVID-19 public health emergency.

The notice of placement in the IEP stated that the Student would be placed at [Private School], a private therapeutic school that provides “highly specialized instruction designed to address the neurology and needs of students who benefit from comprehensive trans-disciplinary approach to assessment and programming.” It also stated that the Student would receive services from [Center] in a small learning environment to support her behavioral needs. The notice indicated that the IEP team did not reach consensus on placement and that the Parents preferred to have the Student placed in the District’s virtual program that was currently being offered as a result of the COVID-19 public health emergency. The District did not believe that placement in the general education environment would be appropriate to meet the Student’s current needs. (Ex. 21, p. 32) According to the IEP notice of placement and the testimony of several IEP team members, District staff felt that the [Private School] virtual program was more appropriate for the Student because it offered synchronous learning in a small group environment, while the District’s virtual program is primarily asynchronous, meaning that students are not receiving live virtual instruction in real time. (Ex. 21; Tr. pp. 353-354, 363, 392-393, 401)

According to the credible testimony of the Student’s current District case manager, the Student needs consistency, predictability, and interaction, which provides her with feedback. (Tr. p. 354) The virtual instruction provided by [Private School] involves the Student receiving real-time instruction from [Private School] staff and other disabled students in a small group, virtual setting. It allows for peer interaction and feedback. The case manager testified that the District’s virtual instruction provided to regular education students does not provide the type of feedback and interaction that the Student needs. *Id.* District staff also testified that all of the District’s special education middle school students who have IEPs with placement of 50% to 100% of their day in a special education placement chose the in-person option during the COVID-19 related crisis this school year. (Tr. 2, pp. 213-214, 359, 381-382, 388) In other words, the District would not have other disabled peers with whom the Student could receive virtual instruction. Moreover, the District could not require or change another disabled student’s in-person program to include virtual learning with the Student. (Tr. pp. 383-384)

The Parents are correct that the Student’s current IEP does not place her at her neighborhood school and does not provide for her to be “mainstreamed” in a regular education environment. However, the IDEA’s LRE mandate is not absolute. A student must be educated in the LRE to the maximum extent possible. The arguments contained in the Parents’ post-hearing brief constitute a mechanical approach to the LRE requirement and fail to acknowledge that the IEP team determined that the Student was not able to be satisfactorily educated in the District in either the regular education classroom or even in the special education classroom. The Parents did not present credible evidence that the IEP team’s determination was inappropriate and not properly based upon the Student’s individual needs.

While it is undoubtedly true that the District could have a special education teacher provide synchronous virtual instruction to the Student, the Parents failed to meet their burden of proving that placement in the District's virtual program would meet the Student's individual needs and provide her with FAPE. They certainly have presented no evidence that the Student's current needs would appropriately be met through virtual instruction with non-disabled peers in the regular education curriculum and environment. From the 2018-2019 school year until the current IEP, the IEP team has determined and included information in the Student's IEPs explaining why it would not be appropriate for the Student to participate in the regular education environment due to her disability and how her behavior impedes the learning of herself and her peers. Moreover, the Parents failed to show how the Student receiving virtual synchronous instruction from a District special education teacher without other disabled (or non-disabled) peers involved in the instruction would provide the Student with FAPE in the LRE. The District cannot change or force other special education students to change their programming to accommodate the Student.

The Parents also raised concerns about the Student needing to be transported to [Private School] in [City 1] for instruction when the COVID-19 health crisis ends and in-person instruction is reinstated. However, that issue is not ripe for adjudication. The Student's August 2020 IEP provides for virtual instruction provided by [Private School]. If and when virtual instruction ends and in-person instruction returns, the Student's IEP team will need to reconvene to review and revise the Student's IEP. We are not at that point today, and this tribunal will not rule on an IEP and placement that are not currently in effect.

For the reasons set forth above, I find that the District's August 25, 2020 placement of the Student at [Private School] for virtual instruction provided the Student with FAPE in the LRE.

All of the arguments presented by the parties were carefully considered by the undersigned administrative law judge. Any arguments and evidence on the record that were not specifically mentioned were determined to not merit comment in the decision.

CONCLUSIONS OF LAW

1. From on or about December 5, 2019 through the end of the 2019-2020 school year, the District did not deny the Student a free, appropriate public education by shortening the hours of instruction and/or amount of educational services she received.
2. The District's placement of the Student at [Private School] for the 2020-2021 school year provided her with a free, appropriate public education in the least restrictive environment.

ORDER

It is hereby ordered that the due process hearing request in this matter is dismissed.

Dated at Madison, Wisconsin on December 22, 2020.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
4822 Madison Yards Way, 5th Floor North
Madison, Wisconsin 53705
Telephone: (608) 266-7709
Email: Sally.Pederson@Wisconsin.gov

By: _____


Sally J. Pederson
Senior Administrative Law Judge

NOTICE OF APPEAL RIGHTS

APPEAL TO COURT: Within 45 days after the decision of the administrative law judge has been issued, either party may appeal the decision to the circuit court for the county in which the child resides under §115.80(7), Wis. Stats., or to federal district court pursuant to U.S.C. §1415 and 34 C.F.R. §300.512.

A copy of the appeal should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The Division will prepare and file the record with the court only upon receipt of a copy of the appeal. It is the responsibility of the appealing party to send a copy of the appeal to the Division of Hearings and Appeals. The record will be filed with the court within 30 days of the date the Division of Hearings and Appeals receives the appeal.