

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS
BUREAU OF SPECIAL EDUCATION APPEALS**

In re: Quentin¹

BSEA #1907460

DECISION

This decision is issued pursuant to the Individuals with Disabilities Education Act (20 USC 1400 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the state special education law (MGL c. 71B), the state Administrative Procedure Act (MGL c. 30A), and the regulations promulgated under these statutes.

A hearing was held on May 23 and 30, 2019 before Hearing Officer Amy Reichbach. Those present for all or part of the proceedings were:

Mother	
Father	
Student	
Randi Brown	Psychologist, Domingos & Associates Neuropsychological Associates/Psychology Department Supervisor, Mystic Valley Regional Charter School (MVRCS)
Stephanie Cohen	Psychologist, Domingos & Associates Neuropsychological Associates
Alexander Dan	Director/Superintendent, MVRCS
Laura Goodrich	Special Education Teacher, MVRCS
Kathy Kinnon	Special Education Director/504 Coordinator, MVRCS
Lisa MacPherson	Supervising Speech Therapist, MVRCS
Kerri Moran	Vocational Rehabilitation Counselor, Massachusetts Rehabilitation Commission
Julie O'Brien	Family Support Clinician, Lurie Center
Nicole Scalfani	Special Education Teacher, MVRCS
George Warren	Chair, Board of Trustees, MVRCS
Christine Goldman	Attorney for MVRCS
Nancy Nevils	Attorney Observer for MVRCS
Beth Tremblay Hall	Advocate for Parents and Student
Anne Bohan	Court Reporter
Carol Kusnitz	Court Reporter
Melanie Howland	BSEA Intern
Megan Resnik	BSEA Intern

¹“Quentin” is a pseudonym chosen by the Hearing Officer to protect the privacy of the Student in documents available to the public.

The official record of the hearing consists of documents submitted by Parents and marked as Exhibits P-1 to P-41; documents submitted by Mystic Valley Regional Charter School and marked as Exhibits S-1 to S-21; and a two-volume transcript produced by a court reporter. At the request of the parties the case was continued to June 19, 2019² and the record held open for submission of closing arguments. Closing arguments were received and the record closed on that date.

INTRODUCTION

On February 27, 2019, Parents and Quentin filed a *Hearing Request* against Mystic Valley Regional Charter School (Mystic Valley or MVRCS) asserting that MVRCS had failed to provide Quentin with a free, appropriate public education (FAPE) by failing to develop or implement an appropriate Individualized Education Plan (IEP) following a Team meeting that occurred on December 20, 2018. They requested a finding that Quentin had been denied a FAPE; an order that Mystic Valley propose an IEP reflecting the decision made by the Team on December 20, 2018; and compensatory services equivalent to missed services as a result of Mystic Valley's failure to propose an IEP reflecting the Team's decision. The hearing was scheduled for March 29, 2019.

After requesting and obtaining an extension, Mystic Valley filed its *Response* to the *Hearing Request* on March 6, 2019. According to MVRCS, at the time of the December 20, 2018 Team meeting Mystic Valley personnel mistakenly believed that a parent's refusal of a diploma automatically required a school district to develop continued programming for a student who was scheduled – and otherwise prepared – to graduate. Prior to the meeting, the Team expected that Quentin would graduate on time with his peers, as he was on track to meet all graduation requirements. When Parent indicated at the meeting that she intended to reject the graduation date, defer the diploma, and thereby obtain a “thirteenth year” of programming, Mystic Valley Team members switched their focus from discussion of the adequacy of proposed transition services to an IEP amendment that would permit Quentin to remain in school for an additional year. They did so without considering or discussing whether Quentin required additional programming. Upon completion of the meeting, Mystic Valley contends, school personnel realized they had erred and determined that they would not develop the amendment. They reached out to Parents several times to express concerns about the “validity and appropriateness” of the Team's decision and asked to reconvene the Team. Parents did not respond to these requests; instead, they indicated that they were seeking a proposed IEP from the December 20, 2018 meeting.

On March 13, 2019 Parents filed an *Objection* to Mystic Valley's *Response* and a *Motion for Clarification*, arguing that MVRCS's *Response* attempted to expand the scope of the hearing. Their claim, they asserted, was limited to whether Mystic Valley “has a procedural obligation to propose an IEP or amendment after a meeting has occurred where there have been agreements to change the IEP.” The following day, MVRCS filed an *Opposition* to Parents' motions, arguing that procedural and substantive violations should be evaluated in light of the school's obligation

²The parties initially requested that closing statements be due June 17, 2019, but on June 14, 2019 I issued an Order allowing Mystic Valley's assented-to request for two additional days.

to provide Quentin with a FAPE, and that Parents would have to establish some underlying substantive harm in order to prevail.³

Pursuant to the parties' joint request, filed March 15, 2019, the hearing was postponed to April 4, 2019 and a pre-hearing conference was scheduled for March 28, 2019 to address discovery and clarify the issues in dispute. On March 25, 2019, Parents requested further postponement, and Mystic Valley assented. The hearing was scheduled for May 13 and 14, 2019.

Following multiple discussions, I issued an Order on May 6, 2019 delineating the issue for hearing as follows:

Whether Mystic Valley Regional Charter School committed procedural errors in connection with a Team meeting that occurred on December 20, 2018 that amounted to a deprivation of FAPE because it impeded [Quentin]'s right to a free appropriate public education (specifically, because he requires additional transition services, such as those discussed at the Team meeting); significantly impeded Parents' opportunity to participate in the decision-making process regarding the provision of FAPE to [Quentin]; or caused a deprivation of educational benefits.⁴

On May 9, 2019 the hearing was continued to May 23, 2019 due to the unavailability of a key Mystic Valley witness. During portions of several witness' testimony, other witnesses were sequestered, at Parents' request.

For the reasons below, I find that although Mystic Valley Regional Charter School committed procedural errors in connection with the December 20, 2018 Team meeting, Parents have not established that these errors, taken together, amounted to a denial of FAPE.

FINDINGS OF FACT

1. Quentin
is a 19 year-old resident of Melrose, Massachusetts. (S-1; Student, I: 38-39) He attends Mystic Valley and has done so since kindergarten, when he began receiving special education services. (Student, I: 38; Mother, I: 157, 177) Quentin shares educational decision-making with his parents and is in their permanent guardianship through the Massachusetts Probate and Family Court. (S-10; P-39)
2. Quentin
has a great memory, a willingness to work hard, and a desire to succeed. He has taken drumming lessons for eight years and is a talented drummer. Quentin enjoys movies, music, and video games. He participates in a band, has been a disc jockey at three events, and has served as a manager of Mystic Valley's football team since ninth grade. He is a visual and

³ Between March 13 and May 1, 2019, the parties also filed motions to compel, for protective orders, to sequester, and for a written order delineating the issues to be decided.

⁴ See 20 U.S.C. §1415(f)(3)(E)(ii); 34 CFR 300.513(a)(2).

auditory learner who benefits from use of examples, repetition, and the breakdown of complex assignments. (S-1; Student, I: 44, 78-79, 81-82; Mother, I: 157, 158, 161, 176; Scalfani, II: 94-95)

3. Quentin
’s most recent evaluations, conducted in May 2018, confirmed his diagnoses of Autism, an Emotional Impairment, and a Pragmatic Language Impairment.⁵ In April 2019, Quentin was also diagnosed with a mild Intellectual Disability. (S-1; S-5; P-36)

4. Quentin
has difficulty in the areas of problem-solving, basic reasoning, and integration of material into abstract concepts and deep understanding. He also demonstrates rigidity, difficulty with transitions and new situations, annoyance with peers, and variable mood. Although he is socially interested and has learned many skills, the awkward, unusual nature in which Quentin interacts, as well as his tendency to focus on his own behaviors, can lead to difficulty in sustaining typical social interactions. Moreover, as part of his disability, Quentin will claim that he understands something when he does not, especially in stressful situations, because he knows that response is expected of him. (S-1)

5. In
connection with his Pragmatic Language Impairment, Quentin has difficulty interpreting non-literal language, understanding others’ perspectives, and responding appropriately to unexpected situations. He presents with significantly below average abilities interpreting non-literal language and moderately below average skills in understanding information that is ambiguous or has multiple meanings. (S-1)

6. Quentin
participates in counseling at school and weekly group therapy at the Triumph Center. (S-1; S-6)

7. Quentin
has been involved with the Massachusetts Rehabilitation Commission (Mass Rehab) since the age of sixteen, through a Chapter 688 referral. (Kinnon, I: 124) In connection with the agency’s focus on transitional services, Mass Rehab assists students in preparing to leave high school and in making decisions as to next steps (college, vocational training, work, etc.). Quentin has accessed various services, including pre-employment transitional programs that build soft skills such as interpersonal and communication skills, resume writing, and market reviewing. Representatives of Mass Rehab have participated in Quentin’s Team meetings over the last two years. (Kinnon, I: 124, 130; Moran, II: 21-22)

⁵ In the course of Quentin’s previous three-year reevaluation, in May 2015, Noreen Donovan, Ph.D. of Domingos & Associates Neuropsychological Services noted diagnoses of autism spectrum disorder (ASD) and an unspecified depressive disorder. (P-16) Quentin’s most recent IEP references a speech and language evaluation conducted in May 2018 by Lisa MacPherson, MS, CCC-SLP, which concluded that he continues to have a Pragmatic Language Impairment. (S-1)

8. Lurie Center Family Support Clinician Julie O'Brien has been working with Quentin and his family to provide resources, information, and referrals to community services and supports since August or September 2018, when Quentin began seeing a psychiatrist at the Lurie Center. Ms. O'Brien has a Master's degree in education and is a Licensed Mental Health Counselor. She is not a case manager, but in her role she works with Lurie Center clients as a liaison across various domains, including special education, public benefits, financial and legal resources and supports, housing, social and recreational activities, and vocational and transportation needs. Specifically, Ms. O'Brien has consulted with Quentin and his mother regarding a Department of Developmental Services application, legal and financial issues around guardianship and alternatives, special education and transition-related concerns, activities of daily living, etc. Ms. O'Brien has participated by telephone in IEP meetings for Quentin, though she has never observed him at school, at home, or in the community. She has not spoken with Mystic Valley staff outside of an IEP meeting, nor has she read Quentin's IEP. She will continue working with Quentin and his family as long as he receives his care at the Lurie Center. (O'Brien, I: 139-44, 149-52)

9. On the first day of hearing in May 2019, Quentin testified that he still did not know whether he wanted to go to college or get a job after high school. He was concerned that he had not learned everything he needs to know in order to be successful. (Student, I: 40; 60-61)

10. Quentin first received transition skills testing in December 2016, when he was in tenth grade, at the request of his parents and his advocate. (P-18; Kinnon, I: 137; Mother, I: 162) Laura Goodrich, M.Ed., who had been Quentin's special education teacher in seventh and eighth grade, conducted this testing. She utilized the Brigance Skills Inventory, which involves interview, observation, written response, and oral response. Ms. Goodrich has never received specialized training in Brigance administration, nor has she administered the measure to anyone other than Quentin. (P-15; S-11; Goodrich, II: 69-72, 84-85, 89)

11. At the time of this testing in 2016, Quentin was unable to define any post-secondary goals and had little understanding of what would be involved in his chosen career of drummer. He had difficulty completing a job application, understanding a payroll statement, and writing a check. He was able to read relevant vocabulary and could define some of the words; he read and comprehended food items in a grocery store, but could not fully explain directions for a recipe. Quentin's scores on a self-assessment of speaking and listening skills; self-concept (general and job-related); responsibility and self-discipline; job interview preparation; and health practices and attitudes, indicated that he perceived himself as acceptable in those areas. Ms. Goodrich concluded that Quentin needed improvement in the following transition skills areas: post-secondary options and agencies; completing applications that need more detailed information; finances: payroll and writing checks; cooking skills: food preparation, following a recipe, and the food pyramid; clothing sizes, shopping, and laundry; road signs; and reading and understanding an employee handbook. She also noted that he needs help

understanding his disability, and determining with what he needs assistance and what he is capable of doing independently. (P-15; S-11)

12. Mystic Valley has used the Brigrance Curriculum with Quentin for transition planning and skill-building. Specifically, Quentin’s special education teacher Nicole Scalfani worked with him through this curriculum on postsecondary, functional, writing, study skills, and math goals, and she kept logs to document his progress in these areas. (Kinnon, I: 118-119; Goodrich, II: 71-72; Scalfani, II: 104-05, 125)

13. Quentin passed Massachusetts Comprehensive Assessment System (MCAS) examinations in math and English the first time he took them, in tenth grade. (Scalfani, II: 106)

14. Mystic Valley conducted Quentin’s most recent three-year evaluation on May 10, 2018, after which Kaitlyn Switalski, Ph.D. of Domingos & Associates, produced a report entitled “Neuropsychological, Psychoeducational, Attentional, Social-Emotional and Neurodevelopmental Evaluation.” Testing consisted of interviews of Quentin, his teachers, a counselor, and a parent; behavioral observation; the Weschler Adult Intelligence Scale, Fourth Edition (WAIS-IV); the Weschler Individual Achievement Test, Third Edition (WIAT-III); the California Verbal Learning Test, Third Edition (CVLT-3); the Rey Complex Figure Test and Recognition Trial (RCFT); the Delis-Kaplan Executive Function System (D-KEFS); the Conners 3rd Edition (Conners 3) – Self, Parent, and Teacher Report forms; the Behavioral Assessment System for Children – Third Edition (BASC-3) – Self, Parent, and Teacher Report forms; Sentence Completion Task; Three Wishes Projective Task; and Autism Diagnostic Observation Schedule, Second Edition (ADOS-2) – Mod 4. During testing, Quentin engaged fully with strong motivation, though he appeared to consistently think he was performing well, even when he was making many errors.

On the WAIS-IV, Quentin’s general cognitive function ranged from borderline (verbal comprehension, perceptual reasoning, visual-spatial reasoning, and working memory) to low average (processing speed). His academic achievement, tested with the WIAT-III, was in the average range for reading, with low average scores in reading comprehension as he struggled with inferential questions; below average in mathematics; and average in written expression. He scored in the impaired and borderline range on the RCFT test of visual-spatial skills, and impaired to average range on memory skills, showing that “despite poor organization and free recall performance, [his] ability to encode and recall visual information was generally age-appropriate.” One of Quentin’s teachers indicated an at-risk elevation on the hyperactivity/impulsivity subscale of the Connors 3, but no rater indicated clinically significant concerns on this measure or on the BASC-3. Quentin scored within the low average to average range on the motor-sequencing portion of the D-KEFS, but showed significant difficulty with verbal switching abilities on the verbal fluency portion. On the Connors 3, Quentin only endorsed difficulty on the “attitude toward school” subscale, but his teachers and his mother indicated significant emotional symptoms, including significant elevation on the “depression” subscale, clinically significant elevation on the “anxiety” scale,

at-risk elevation on the “adaptability” subscale, and clinically significant elevation on the “aggression” subscale. Raters also indicated significant difficulty with social development, including the “atypicality” and “withdrawal” subscales. Results of the ADOS-2 suggest that Quentin meets the criteria for an ASD diagnosis. Quentin “communicated in an unusual manner with reduced eye contact, overly formal tone and use of language. He was able to provide accounts of his own life easily, but was not interested in others as much.” Dr. Switalski noted that Quentin had limited insight into situations in which he needed to consider the feelings or positions of others and how his behavior may affect the way they may treat him, such as negative interactions with peers or co-workers.

Among other things, Dr. Switalski recommended that if Quentin pursues college immediately after the 2018-2019 school year, he attend a college designed for students with special needs, at least initially “as he has not yet appeared to achieve the independent living skills necessary for a traditional college.” In the alternative, she suggested that he consider a “gap” year in which to continue to develop his adaptive skills. (P-14; S-5)

15. On or about June 5, 2018, Quentin’s Team met to develop a new IEP based on the results of his three-year reevaluation. The IEP lists Quentin’s date of graduation as June 7, 2019. At that time, the Team realized that Mystic Valley had not conducted transition assessments as part of the reevaluation. Parent subsequently made a formal request for such assessments. (S-1; P-30; Mother, I: 164-65, 181)

16. On or about July 11, 2018, Quentin and Parent partially accepted the proposed IEP and placement, requesting changes to the ways in which several goals were written.⁶ (P-31; Mother, I: 179)

17. The Team met in September 2018 to discuss Parents’ partial rejection of the IEP. At this meeting, the Team updated the IEP and discussed Quentin’s progress toward his goals. Afterward, on or about October 1, 2018, Mystic Valley proposed a revised IEP. Parents and Quentin accepted this IEP on or about October 10, 2018. (S-1; Mother, I: 181-82)

18. In the meantime, on or about September 21, 2018, Mystic Valley proposed a comprehensive transition assessment of Quentin to provide information related to life skills, safety, self-determination and employment readiness. Parent and Quentin signed the consent form for this evaluation on October 11, 2018. (P-17)

19. On October 23 and November 1, 2018, Ms. Goodrich evaluated Quentin’s transition skills utilizing the Brigance. She did not consult a transition specialist in the course of her evaluation. In her report, Ms. Goodrich noted that Quentin “does not understand the current post-secondary goals in his IEP,” and although he knows that he will need support and

⁶ Parent referred to this document as a partially rejected IEP, but the document itself reflects acceptance of both the IEP and the placement. (P-31)

assistance regarding plans after high school, he “could not specifically identify what he would need help with.” Quentin indicated that he wanted to work in the film industry as an actor or in the music industry as a drummer, singer, or songwriter. During a mock interview, most of his answers were vague; some of them were “not correct or reasonable.” Quentin was able to complete written forms relating to employment neatly and accurately, though he had some difficulty with more complex forms and understanding some of the language. Quentin was able to complete all tasks related to telephone, computer, and everyday technology skills. He was also able to read and comprehend food times in a grocery store, but could not explain some words or phrases related to food preparation and recipes. He was able to double an original recipe but had difficulty cutting it in half. Quentin was able to report his clothing sizes and stated he had been taught to do laundry and fold it, though he does not usually do it himself. Quentin was able to complete tasks related to housing and travel and transportation. He had difficulty on only one task related to money and finance. He was able to read words related to health and the human body, but was only able to understand and explain 27 of 51 words. Quentin was able to complete tasks related to community participation. Quentin’s scores on a self-assessment of his skills increased from 2016 to 2018, indicating that his confidence had improved. His understanding of vocabulary had also improved since the first test administration. (P-13; S-3; Goodrich, II: 72-75, 83-84, 89)

Overall, Ms. Goodrich concluded that Quentin possessed a number of transition strengths. However, she noted weaknesses in four distinct areas: post-secondary options and agencies; interview skills: answering questions thoroughly; completing applications that need more detailed information; and cooking skills: food preparation, following a recipe, and the food pyramid. He needed further assistance with planning his path after high school. She believed that these areas could be improved between the time of her assessment and the end of the school year, such that Quentin did not need a thirteenth year of programming. (P-13; S-3; Goodrich, II; 86)

20. Quentin
’s most recently proposed IEP, which places him in a full inclusion setting, is dated June 5, 2018 to June 4, 2019 (2018-2019 IEP). It provides for Speech and Language delivered by speech and language personnel (2 x 30); Social Skills (1 x 30) and Counseling (1 x 30), both delivered by psychology personnel; Study Skills (2 x 30), Writing Support (1 x 30), Mathematics Support (1 x 30), Post-Secondary Transition (1 x 30), and Functional Skills (1 x 30), all delivered by the special education teacher; and Team consultation (1 x 15).⁷ The IEP includes goals in language, study skills, social skills, counseling, writing, mathematics, post-secondary transition, and functional skills. Accommodations include test modifications, such that Quentin answers only concrete questions and writing prompts, and is responsible for fewer essay questions. (P-30; S-1; Scalfani, II: 98-99)

21. The
Post-Secondary Measurable Annual Goal in Quentin’s 2018-2019 IEP states that Quentin “will learn and practice the necessary skills to facilitate a successful transition to college or full-time employment.” Brigrance Transition Skills activities, informal/formal transition

⁷The 2018-2019 IEP also calls for Extended School Year Services to be delivered by the special education teacher (9 hours/week) between July 9 and August 10, 2018. (S-1)

activities, quarterly progress reports, and teacher reports will be used to monitor Quentin's progress toward this goal. Benchmarks/Objectives include engaging in discussions about how his disability impacts newly acquired skills at least four times per quarter; meeting with his college counselor and/or special education teacher to discuss and "lay out in writing his academic requirements of pursuing an associates or bachelor's degree at least three times per quarter;" working with his special education teacher to accomplish the requirements "towards pursuing secondary education or full-time employment at least three times per quarter;" being able to identify his current accommodations and modifications in order to understand how to advocate for himself in the post-secondary setting, three times per quarter; practicing completion of job applications at least four times per quarter, as measured by special education teacher observations and weekly assignments; and practicing completion of work-related job interview questions at least three times per quarter, as measured by special education teacher observations and weekly assignments. (S-1)

22. The Functional Skills Measurable Annual Goal in Quentin's 2018-2019 IEP states that Quentin "will acquire the necessary daily living skills to allow for independent functioning in a variety of environments such as home, vocational, and community." This goal is to be monitored in the same way as his Post-Secondary goal. Benchmarks/Objectives are as follows: Quentin will read and follow directions, maps, signs, and transportation schedules at least three times per quarter; learn the skills to access public transportation at least three times per quarter; learn how to solve a variety of functional life skills math problems including banking skills such as balancing a checkbook and writing out a check at least four times per quarter, as measured by teacher observations and daily assignments; when in the community, use money to pay for a purchase or order by handing the clerk an appropriate amount to cover the purchase at least three times per quarter, as measured by the special education teacher's observations; and when paying for a purchase or order, "calculate the (sales tax, discount, tip) at least three times per quarter, as measured by the special education teacher's observations and weekly assignments." (S-1)

TEAM MEETING DECEMBER 20, 2018 AND IMMEDIATE AFTERMATH

23. On or about November 29, 2018, Mystic Valley sent a meeting invitation to Parents and Quentin proposing a meeting on December 20, 2018 for "Eligibility Reevaluation, IEP 3 Year Reevaluation, Transition."

24. The Team met for approximately two hours on December 20, 2018, chaired by Mystic Valley Special Education Director Kathy Kinnon. Quentin, his mother, their advocate, Laura Goodrich, Nicole Scalfani, Catherine Durand (English teacher), Randi Brown, Stephanie Cohen, Lisa MacPherson, and Kerri Moran of Mass Rehab attended, and Julie O'Brien of the Lurie Center participated by telephone. At the time of the meeting, Quentin's 2018-2019 IEP had been fully accepted and Ms. Kinnon had not considered the possibility that Quentin would not graduate on time with his peers. The only potential barrier at that time was the Biology MCAS examination. (P-7; Kinnon, I: 121, 125)

25. Educati
onal assessments submitted by several teachers in connection with this meeting indicate that Quentin is making progress in the general curriculum, similar to that of his peers; for the most part demonstrates age-appropriate participation in classroom activities but sometimes, in one class, becomes unresponsive and needs reminders to stay on task; and demonstrates age-appropriate communication and interpersonal skills in most classes but in one, has difficulty communicating when he is agitated or disagrees with his peers. (P-7; Kinnon, I: 102) At the meeting, the Team discussed Ms. Goodrich's transition assessment and flagged several areas for Quentin to work on, including cooking, self-advocacy, and interview skills. Quentin and his mother shared their concerns, and Quentin read a statement he had prepared. His mother was particularly concerned that Quentin would not be ready to take a college course or function in a job setting, and that he experienced difficulty generalizing skills he had learned.⁸ Testimony was inconsistent as to what happened next, but at some point it became clear that the Team was anticipating an additional year for Quentin, in light of Parent's desire to defer his diploma,⁹ and discussion turned to what the Team could suggest to "fill a year of a plan for him." (P-7; Kinnon, I: 103-06) Among other things, the Team discussed the possibility of a referral to a collaborative, and possibly reaching out to Melrose Public Schools. (P-7; Goodrich, II: 79-80) Quentin began to seem anxious, at which point he was asked for his input. He stated that he did not want to do any more academics, but wanted to graduate, and he mentioned a job he was interested in. He appeared to be concerned about whether he would be allowed to walk with his peers at graduation, and he was reassured that he would be allowed to participate. (Kinnon, I: 107-08; Mother, I: 167, 171-72; Goodrich, II: 79) The Team then turned to the IEP itself to focus on changes that would need to be made to the goals to accommodate a later graduation date. (Mother, I: 174; Goodrich, II: 79-80)

26. The
Special Education Summary Sheet developed in connection with this meeting indicates that the Team determined that Quentin would proceed with a thirteenth year to address transition skills related to life skills and college/work decisions; made no determination as to whether Quentin was making effective progress; and proposed as a placement that he continue with transition services. Notes regarding his internship at Melrose TV, which had occurred in the spring of 2018, indicate that he still needed to work to understand other people's perspectives. Other notes were also written on a draft of Quentin's IEP, suggesting that both Quentin and the Team requested that transition services continue beyond June of 2019, to focus on helping him determine next steps (i.e. college or work force), become more comfortable understanding his disability, adjust to unexpected situations through speech and language and travel training, and practice interview skills, among other goals. (P-7) By the

⁸Quentin's mother testified that at the meeting, Ms. Goodrich indicated that she believed Quentin was not prepared for the next step, and that Ms. Brown whispered to her, "We were just waiting for you to take the lead on this." (Mother, I: 168) This assertion is contradicted by other evidence, including sworn testimony, and as such I do not credit it.

⁹Quentin's mother testified that neither she nor her advocate stated at the meeting that they would refuse the diploma, and that no discussion of a diploma took place until after the Team had decided to pursue a thirteenth year. (Mother, I: 173) This testimony is contradicted by the testimony of other attendees at the meeting, including Ms. MacPherson and Ms. Goodrich. (MacPherson, II: 63; Goodrich, II: 87; Dan, II: 169)

close of the meeting, Team members understood that Quentin would receive an additional year of programming focused on transition skills. (P-7; Kinnon, I: 96; O'Brien, I: 145; Mother, I: 174-75; Moran, II: 26; Goorich, II: 79)

27. After the meeting, Parent received a copy of these documents. She signed the Meeting Summary Sheet. (Goodrich, II: 79; Scalfani, II: 115)

28. Ms. Kinnon did not, at the time of the meeting or at the time of the hearing, believe that Quentin requires additional time to meet his IEP goals. The areas highlighted in the transition assessment as in need of additional work, such as cooking and interview skills, could have been addressed adequately between December 2018 and Quentin's scheduled graduation in June 2019. Until Parent indicated that she would reject Quentin's diploma, Ms. Kinnon believed the Team would potentially amend his IEP to focus on the areas of need between January and June, and reconvene the Team in June to consider next steps based on his progress and whether he had passed the Biology MCAS. (Kinnon, I: 126, 132-33)

29. Shortly after the December 20th meeting, Ms. Kinnon realized that she had erred in assuming, at the meeting, that once Parent indicated that she wanted an additional year for Quentin to work on transition skills before graduation, the Team was obligated to plan for that additional year. She reviewed an advisory on the subject she had read the previous spring and approached Mystic Valley Director Alexander Dan to inform him that she had made a mistake by giving Parent the option to continue services beyond graduation by rejecting the diploma, even in the event that Quentin met graduation requirements by passing the Biology MCAS. After she met with Mr. Dan, he asked her to write a summary of what had transpired at the meeting, without speaking to anyone about it. (Kinnon, I: 98-99, 116-17, 129; Dan, II: 163-64)

30. On the evening of December 20, 2018, Ms. Kinnon sent an email to Shawn Leonard, Mystic Valley Special Education Coordinator, Grades 9-12; Laura Goodrich; and Matthew Stone, Mystic Valley Assistant Director, Grades 9-12; copied to Mr. Dan. She indicated that Mr. Dan had asked her to coordinate a meeting to review the information discussed at the Team meeting earlier that day about Quentin requiring an additional year of transition services "and parent/advocate stating that they would defer graduation/diploma for 1 year." Several people responded with their availability. Although Ms. Kinnon did not recall whether this meeting ever occurred, the individuals listed in the email chain and Mystic Valley Director of Finance and Operations Mr. Veilleux attended a meeting sometime in early January. At that meeting, Mr. Dan – who has not evaluated Quentin or provided direct services for him – asked Ms. Goodrich to review and explain his transition testing. By the end of the meeting, Mr. Dan believed an additional year was not necessary for Quentin to achieve his goals and objectives, and he wanted to bring this to the Team's attention. (P-11; Kinnon, 100-102; Goodrich, II: 81-83; Dan, II: 164-66)

31. At some point between this time and early January, Mr. Dan also asked other faculty members who had attended the December 20th meeting to provide written summaries of the meeting without talking to their colleagues about the request. (P-9; Goodrich, II: 78; Dan, II: 167-69)

SPRING 2019: MYSTIC VALLEY ATTEMPTS TO RECOVENE TEAM

32. Ms. Kinnon returned from winter break on January 2, 2019. On or about January 9, 2019 she reached out to Parent by telephone to try to reconvene the Team to discuss transition services, essentially as a “re-do” of the December 20th meeting. (Kinnon, I: 127) Mystic Valley made several additional overtures by telephone, email, and formal letters to attempt to reconvene the Team. (Dan, II: 166-67)

33. On or about January 17, 2019, Parent and Student sent a memorandum to Mystic Valley requesting that an IEP be proposed and the actions to which they had agreed at the meeting be carried out. This memo included a statement that Quentin and his mother were “ACCEPTING the TEAMS (*sic*) decision that [Quentin] continue his education.” (P-3)

34. Progress reports issued January 25, 2019 indicate that Quentin was making sufficient progress toward his language goal; progress toward his study skills and writing goals; significant progress toward his social skills goal; adequate progress toward his counseling goal; and effective progress toward his mathematics and post-secondary transition goals. As to functional skills, his teacher noted that Quentin had made progress but still needed some assistance with following directions and using public transportation schedules. (P-19; S-2)

35. On or about February 6, 2019, Parent sent an email to Ms. Kinnon requesting a status update on the proposed IEP and transition packets. (P-4)

Counsel for Mystic Valley sent a letter to Quentin’s advocate the same day indicating that the school was attempting to schedule a meeting with Parents to further discuss Quentin’s transition services and graduation, but that Parents had not responded with dates that would work for them. Counsel explained that the IEP Team had expressed, at the meeting on December 20, 2018, that Quentin had made effective progress but when Parent had stated that she wanted a thirteenth year for him and intended to defer or reject the diploma, school staff mistakenly believed that this automatically entitled him to an additional year of services. As such, the Team had spent the remainder of the meeting discussing steps to begin planning for that additional year, rather than reviewing the the transition skills assessment. She stated that Team members had since recognized that the Department of Elementary and Secondary Education Special Education Administrative Advisory SPED 2018-2 dated March 26, 2018 clarifies that neither a parent nor a student can unilaterally “refuse” a diploma when

graduation requirements have been met.¹⁰ As a result, the Team would be scheduling a meeting to readdress the issues of transition planning and graduation and discuss whether Quentin requires additional transition services beyond June 2019. (S-12; P-5)

36. On or about February 14, 2019, Quentin’s advocate responded by asserting that Parent has accepted the services developed and agreed to during the December meeting and looks forward to receiving a proposed IEP reflecting the decision made by the Team that day. (S-13)

37. Several times between February and May 2019, Mystic Valley reached out to Parents and/or their advocate to attempt to convene a Team meeting. Quentin’s mother did not see the need to reconvene the Team, and continued to request that an IEP be developed to reflect the December 20th meeting. The meeting was ultimately rescheduled for May 14, 2019. (Kinnon, I: 127-28; Mother, I: 188-90; Dan, II: 166-67)

38. Progress reports issued April 5, 2019 indicate that Quentin was making sufficient progress toward all goal areas. (P-40; Scalfani, II: 99)

39. After failing science MCAS exams twice, Quentin passed the Biology MCAS in the spring of 2019. (Scalfani, II: 105-06)

40. At the Team meeting that occurred on May 14, 2019, the Team discussed Ms. Goodrich’s transition assessment from the fall of 2018 and reported on progress Quentin had made in the areas identified during the December 20, 2018 Team meeting as needing improvement, such as interviewing, cooking, and banking skills. Some of Quentin’s goals were updated further. Mother remained concerned that although Quentin had made progress toward his IEP goals, he was still not prepared sufficiently to take the next step into the world. (Mother, I: 191-93; MacPherson, II: 61-62; Goodrich, II: 87-91)

41. At the end of the Team meeting, Parent provided Mystic Valley with a written rejection of Quentin’s 2018-2019 IEP on the basis that it lacked a full year of transition programming for the following year to focus on life skills, college readiness skills, and job-related skills. She also rejected the graduation date of June 7, 2019, though she did not reject any of the goals or benchmarks. (Mother, I: 194-95)

QUENTIN’S PREPARATION AND READINESS FOR POST-SECONDARY LIFE

¹⁰In accordance with the advisory, Parents may, however, “reject the final IEP on the basis that the student did not receive FAPE” and invoke stay-put. DESE Administrative Advisory SPED 2018-2: Secondary Transition Services with a High School Diploma (March 26, 2018) (*DESE Advisory*).

42. Quentin
participated in a paid internship program through Mass Rehab during the spring of 2018. Before the internship began, he attended a weeklong “soft skills” boot camp. Quentin was then placed at a public television station in Melrose for six weeks (two days a week, two hours per shift). His regular duties consisted of cleaning the station, though he was also exposed to public television and had the opportunity to make a public service announcement. Quentin was assigned a job coach through the program, who worked with him initially and checked in regularly with both Quentin and his employer. Quentin had some difficulties with a co-intern about his own age who was also a Mass Rehab student, which highlighted his difficulty understanding social cues and other workplace communication. (P-7; Student, I: 71-73, 87; Moran, II: 22-23, 36)

43. Quentin
has completed a number of other career assessment and job-readiness activities through Mass Rehab, including the “COPS CAPS COPEs” inventory, which assesses his interests, abilities, and aptitudes to help determine an appropriate job match and job goals. The highest match for him was in clerical work. Following the assessment, he explored careers in that sector with Ms. Moran and discussed both short- and long-term goals. They also worked together on an application for a possible summer job at a movie theater. (Student: I, 41-44; Moran, II: 33-35)

44. Quentin
has also participated in job-readiness activities through school. He completed an assessment of his strengths, weaknesses, and interests online in connection with the Brigance curriculum and a career research project in his English class. Quentin filled out job applications and federal forms, including the I-9, with his special education teacher. They also worked together on interview skills and discussed workplace habits and behaviors. Among other things, Ms. Scalfani discussed with Quentin the difficulties he had with his co-worker during his internship with Melrose TV and processed how he handled the situation. Furthermore, at some time after the December 2018 meeting, Quentin shared with Ms. Scalfani that he was interested in working part-time at Shaw’s because it is closer to his house. (Student, I: 65-66; 78; Scalfani, II: 108, 126-27, 131-32) This reflects a more realistic approach to work, as had previously expressed a desire to go to Hollywood to be in the movies. (Kinnon, I: 122-23) Although Quentin submitted an application to Shaw’s at some point, there has been no follow-up to that application. (Scalfani, II: 146)

45. Although
h he has made progress toward job readiness, Quentin may well require job coaching and repetition in order to maintain a part-time job successfully. He demonstrates improved self-control, but is concrete in his thinking and has demonstrated difficulty transferring skills and knowledge to new situations. A job coach could help Quentin when he feels agitated, is uncomfortable speaking to a manager, or struggles without the accommodations that were available to him at school or in supported pre-employment training. (Kinnon, I: 123; Moran, II: 37-38, 42-43)

46. Ms. Scalfani, who has worked most closely with Quentin on transition skills, believes, based on the work she has done with him since his internship at Melrose TV, that with appropriate training he could be successful as a cashier or bagger at a grocery store, even without a job coach. (Scalfani, II: 130-31, 153) Ms. Scalfani has not, however, visited Quentin on a work site and he has not participated in any internships through Mystic Valley. (Scalfani, II: 145)

47. Quentin has also visited several colleges. He visited Bunker Hill Community College (Bunker Hill) with Ms. Scalfani, which he identified as a good option because it is close to his home. He also visited Landmark, Berklee, and St. Rose. (Student, I: 50, 66-67) Quentin completed other college preparatory activities with Ms. Scalfani and with a college counselor at Mystic Valley. They discussed the FAFSA, reviewed the accommodations he would need at the college level, and drafted a college essay. (Scalfani, II: 108-11)

48. Quentin participated in a program at Berklee College during the summer between eleventh and twelfth grades. He stayed in the dormitory with a roommate and played drums while he was there. (Student, I: 70-71)

49. When Quentin visited Bunker Hill with Ms. Scalfani in February 2019, he navigated public transportation, which included purchasing his own ticket and figuring out which train to board, with her assistance. He toured the school and learned about programs and classes offered; he was particularly excited about the music program. He also met with an admissions officer and visited the student support/disability office, though he did not have the opportunity to speak with anyone there. (Student, I: 50-52; Scalfani, II: 112, 132-34, 144-45) Quentin is aware of next steps to take in order to apply to college. (Scalfani, II: 146)

50. Quentin has also worked on transportation in other contexts, both with Mystic Valley staff and without. He knows how to use the Uber application and has taken an Uber and a bus by himself. (Student, I: 67-68; Scalfani, II: 112-14, 136) He obtained his driver's license after sitting for the permit test multiple times and taking the test for his license twice. He can drive about three routes independently, and usually drives to school with his sister. (Student, I: 70, 81, 84-85; Mother, I: 158-59)

51. Quentin has worked with Ms. Scalfani on money skills. He practiced using paper money and his debit card while shopping for gifts and clothing. He has had both credit and debit cards though he could not explain the difference between the two at hearing. (Student, I: 68-69, 88-90; Scalfani, II: 136-37)

52. Quentin has practiced shopping and cooking skills with Ms. Scalfani as well, particularly since cooking was identified at the December 20th meeting as an area in need of work. For

example, he shopped for ingredients and used a recipe to make pancakes. (Student, I: 69; Scalfani, II: 140) Although he needed modeling and some assistance, with practice he became comfortable cooking at the pancake breakfast. (MacPherson, II: 59-60, 65-66)

53. Quentin
's ability to advocate for himself, and to recognize contexts in which this may be necessary, has improved markedly over the past two years. He has become better able to recognize situations and his role in them, with less prompting and guiding, and to talk about different people's perspectives. (Student, I: 69-70; Cohen, II: 10; MacPherson, II: 58-59) For example, at hearing he discussed a situation in which his sister took over a task he wanted to complete himself (making pancakes for Mother's Day). He was able to reflect on what had happened and determine how he might handle a similar situation on the future, which demonstrates his growing awareness of how he may perceive a situation, compared to how others may do so. (Student, I: 69-70; Cohen, II: 10)

54. Quentin
has improved in his ability to make eye contact; use appropriate body language; identify age-appropriate topics of conversation; approach people, initiate conversations; interact with other students in the hallways and classrooms; understand personal space and others' facial expressions; sustain attention in class; and stay focused and regulated for longer periods of time. (Kinnon, I: 122; MacPherson, II: 67-68; Scalfani, II: 102-04, 127-29) He is also able to reframe his negative thoughts independently. (Cohen, II: 10)

55. In
connection with learning to advocate for himself in job and/or college contexts, Quentin worked with Ms. Scalfani to develop a personal statement about his disability. This statement will assist him in highlighting his strengths and weaknesses and explaining who he is and how his disability affects him. (Student, I: 74; Scalfani, II: 138-39)

56. Quentin
's ability to manage his frustration in class has also improved. He is now able to recognize that he is becoming frustrated, and he knows what to do. Specifically, he gets up, leaves the classroom, and takes a break, then returns to class a few minutes later when he is calm. This occurs only about once every other week, generally because he feels like someone is bothering him or he just needs to clear his head. (Student, I: 75-76, 90-91)

57. This
growth aligns with Quentin's general progress in social skills, including increased awareness and comfort in discussing challenging situations; follow-through with plans; more flexible thinking; and "an overall stronger ability to reframe negative situations and have a more positive grasp on situations" such that he is able to move forward more easily. (Cohen, II: 10-11; Scalfani, II: 140-41)

58. At
home, Quentin folds laundry, rinses and loads dishes into the dishwasher, and takes out the garbage. (Student, I: 77-78, 86-87)

59. At and before the Team meeting in June 2018, Parents expressed concerns that Quentin would not be ready to receive his high school diploma because he might not be ready for college, trade school, or a job, and might not have sufficient independent living skills. (S-1; Kinnon, I: 134-36) Quentin's mother is concerned that he is unable to write a paper independently. (Mother, I: 160-61) However, at no point prior to filing for hearing had Quentin or his parents expressed to Ms. Kinnon any concerns that Quentin was not making effective progress on his IEP goals, nor had they expressed concerns regarding the content of any evaluations. Neither Quentin nor his parents requested any independent evaluations or additional transition assessments. (Kinnon, I: 119-21; Mother, I: 185; Goodrich, II: 92)

60. At the present time, Quentin has met all academic requirements to graduate from high school, as he has completed his coursework and passed state tests. He also completed community service. (Kinnon, I: 125; Dan, II: 169-70) He appears to have made progress toward all of his IEP goals during the 2018-2019 school year. (Scalfani, II: 143)

61. At the present time, Quentin's mother remains concerned that "he hasn't made enough progress to go out into the world," because he is unable to generalize skills necessary for independent living. She would like to see him work further on interviewing and workplace skills; practice self-advocacy, navigating both transportation and work situations more independently; learn additional money skills; and become more independent in working toward his goals. (Mother, I: 186-88, 196-99)

62. It is unclear whether Quentin will meet the financial eligibility requirements to continue receiving employment-focused Mass Rehab services, including workplace readiness and other pre-employment transition programming and job-driven training, after high school graduation. (Moran, II: 30-31, 37-38)

DISCUSSION

It is not disputed that Quentin is a student with a disability who is entitled to special education services under state and federal law. At issue here is whether Mystic Valley Regional Charter School deprived Quentin of his right to a FAPE through the commission of procedural errors and, if so, whether Quentin is entitled to compensatory services up to and including an additional year of transition-focused services.

A. Parents Bear the Burden of Proof

As the moving party in this matter, Parents bear the burden of proof.¹¹ To prevail, they must prove – by a preponderance of the evidence – that the District committed one or more procedural violations that amounted to a violation of Quentin’s right to a FAPE.¹²

B. Procedural Errors May Constitute a Deprivation of FAPE

The Individuals with Disabilities Education Act (IDEA) contains both substantive and procedural protections for children with disabilities. Procedural protections serve a dual purpose; they ensure that each eligible child receives a FAPE, and they provide for meaningful parental participation.¹³ They are so important that the IDEA recognizes that even if no substantive irregularities have occurred, procedural errors may amount to a deprivation of a FAPE: “In matters alleging a procedural violation, a hearing officer may find that a child did not receive a free appropriate public education only if the procedural inadequacies – (I) impeded the child’s right to a free appropriate public education; (II) significantly impeded the parents’ opportunity to participate in the decision-making process regarding the provision of a free appropriate public education to the parents’ child; or (III) caused a deprivation of educational benefits.”¹⁴ The First Circuit Court of Appeals has articulated this analysis as follows: “Before an IEP is set aside, there must be some rational basis to believe that procedural inadequacies compromised the pupil’s right to an appropriate education, seriously hampered the parents’ opportunity to participate in the formulation process, or caused a deprivation of educational benefits.”¹⁵

Parents have alleged, essentially, that Mystic Valley’s failure to produce an IEP following the December 20th Team meeting reflecting the Team’s determination to provide an additional year of transition-focused services for Quentin deprived him of a FAPE. My analysis follows.

C. Mystic Valley Committed Procedural Errors When It Failed to Produce Either an IEP or an N-1 Following the December 20th Team Meeting

According to Mystic Valley, with the exception of Quentin, his mother, and their advocate, participants in the meeting that occurred on December 20, 2018 all believed that Quentin was making effective progress toward his IEP goals and would be prepared to graduate on time. Team members do not deny that they agreed, by the end of the meeting, that Quentin would defer graduation and receive transition-focused services for an additional year. Testimony and

¹¹ See *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62 (2008); see also *Roland M. v. Concord Sch. Comm.*, 910 F.2d 983, 995 (1st Cir. 1990) (party allegedly aggrieved bears burden of persuasion for procedural violations).

¹² See *Roland M.*, 910 F.2d at 994 (Districts are liable for procedural violations if parents prove both that a violation occurred and that the procedural inadequacies “compromised the pupil’s right to an appropriate education, seriously hampered the parents’ opportunity to participate in the formulation process, or caused a deprivation of educational benefits.”)

¹³ See *Honig v. Doe*, 484 U.S. 305, 311 (1998); see also *Amanda J. v. Clark County Sch. Dist.* 267 F.3d 877, 891-92 (9th Cir. 2001) (“Procedural compliance is essential to ensuring that every eligible child receives a FAPE”).

¹⁴ 20 U.S.C. §1415(f)(3)(E)(ii); 34 CFR 300.513(a)(2).

¹⁵ *Roland M.*, 910 F.2d at 994.

contemporaneous notes confirm that this occurred. Mystic Valley asserts, however, that it was only a legal error – Ms. Kinnon’s erroneous belief that a parent could unilaterally refuse a diploma, and thereby obligate a school district to provide an additional year of services – that caused the Team to even consider revising Quentin’s IEP.¹⁶ Parent, on the other hand, contends that she never indicated at the meeting that she would refuse Quentin’s diploma, and that the decision to continue Quentin’s services was based on his lack of progress, and/or a need for additional supports beyond the end of the school year.

Parent’s account of the December 20th meeting was contradicted by multiple witnesses who recalled that Parent and/or her advocate stated that Parents would not accept Quentin’s diploma. Whatever the precipitating event, all members left the Team meeting with the understanding that although Quentin would participate in graduation, he would defer receipt of his diploma and therefore receive an additional year of transition services. As such, Mystic Valley was obligated to reduce this agreement to writing through a new IEP and/or amendment to the 2018-2019 IEP, which included a graduation date in June 2019. MVRCS never did so.

When Ms. Kinnon recognized that she had erred, she spoke with Mr. Dan, who convened a meeting to review the transition assessment that was the intended subject of the December 20th meeting. It is unclear whether the individuals at this meeting made a determination as to whether Quentin did, in fact, require additional transition services in order to receive FAPE. If they did, in fact, make this determination, it occurred outside of the Team process and constitutes an additional procedural error.

Once Mystic Valley personnel decided that rather than issue a new IEP and/or IEP amendment the Team would reconvene to review Ms. Goodrich’s assessment and reconsider whether Quentin required transition services beyond June in order to receive a FAPE, a prior written notice (N1) should have been issued.¹⁷ This document would have notified Parents that MVRCS declined to act.

D. Mystic Valley’s Procedural Errors Did Not Impede Quentin’s Right to a FAPE

To conclude that Mystic Valley’s procedural errors impeded Quentin’s right to FAPE, I must find that Quentin did not, in fact, receive a FAPE because of the violations highlighted above: that the Team did not issue a new or amended IEP providing for an additional year of transition services; met outside of the Team process; and/or failed to issue an N1 after Mystic Valley decided not to provide the additional year.¹⁸ This determination requires an examination of substantive FAPE standards.

¹⁶ Mystic Valley Director of Special Education Kathy Kinnon testified that she had misremembered a Massachusetts Department of Elementary and Secondary Education [DESE] Advisory issued in March 2018. Pursuant to this *DESE Advisory*, a “parent or student with decision-making authority may not unilaterally ‘refuse’ a diploma for which all requirements have been met. They may, however, reject the final IEP on the basis that the student did not receive FAPE. If this occurs, the student and district have opportunities to resolve the disagreement through mediation or formal dispute resolution procedures under the IDEA.”

¹⁷ See 20 U.S.C. § 1415(c) (parents have the right to receive prior written notice when a school district proposes or refuses to initiate a change in a student’s educational program).

The IDEA was enacted “to ensure that all children with disabilities have available to them a free appropriate public education.”¹⁹ FAPE is delivered primarily through a child’s individualized education program (IEP), which must be tailored to meet a child’s unique needs after careful consideration of the child’s present levels of achievement, disability, and potential for growth.²⁰ “To meet its substantive obligation under the IDEA, a [district] must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”²¹ Similarly, Massachusetts FAPE standards require that an IEP be “reasonably calculated to confer a meaningful educational benefit in light of the child’s circumstances,”²² and designed to permit the student to make “effective progress.”²³ Under state and federal special education law, a school district has an obligation to provide the services that comprise FAPE in the “least restrictive environment.”²⁴ For most children, a FAPE “will involve integration in the regular classroom and individualized special education calculated to achieve advancement from grade to grade.”²⁵

Because Parents’ argument is limited to transition skills – specifically the adequacy of, and/or the need for additional, services – I review the relevant provisions of the IDEA and state law. IEPs must set “appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills.”²⁶ To accomplish these goals, school districts must provide for students, beginning at the age of 16, “a coordinated set of activities that for students –

- (A) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the

¹⁸At hearing, Parents emphasized that Mystic Valley conducted transition assessments only at Parents’ request, and that Ms. Goodrich was not trained or experienced in administering the Brigance. There is no requirement that school districts utilize specific tools, specially train test administrators, or conduct transition assessments at particular points in time, as long as the assessments chosen are age-appropriate and measure relevant skills. See 34 CFR § 300.320(b)(1); *Dracut Sch. Comm. v. Bureau of Special Educ. Appeals*, 737 F. Supp. 2d 35, 49 (D. Mass. 2010). Moreover Parents did not challenge the adequacy or accuracy of transition assessments at any point prior to hearing or request independent evaluations in this area. As such, I decline to address these arguments.

¹⁹20 U.S.C. § 1400 (d)(1)(A).

²⁰*Andrew F. v. Douglas Cty. Reg’l Sch. Dist.*, 137 S. Ct. 988, 999 (2017); *D.B. ex rel. Elizabeth B. v. Esposito*, 675 F.3d 26, 34 (1st Cir. 2012).

²¹*Andrew F.*, 137 S. Ct. at 999.

²²*C.D. v. Natick Pub. Sch. Dist.*, 2019 U.S. App. LEXIS 15165 at *13, ___ F.3d ___ (1st Cir. 2019).

²³603 CMR 28.05(4)(b) (IEP must be “designed to enable the student to progress effectively in the content areas of the general curriculum”).

²⁴20 USC § 1412(a)(5)(A); 34 CFR 300.114(a)(2)(i); MGL c 71 B, §§ 2, 3; 603 CMR 28.06(2)(c).

²⁵*Andrew F.*, 137 S. Ct. at 1000.

²⁶20 U.S.C. § 1414(d)(1)(A)(i)(VIII)(aaa); *Gibson v. Forest Hills Local Sch. Bd. of Educ.*, 655 Fed.Appx. 423, 426 (6th Cir. 2016) (unpublished).

child's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

- (B) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and
- (C) includes instruction, related services, community experiences, the development of employment and other post-school living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation.²⁷

Massachusetts law regarding transition planning requires that for eligible students beginning at the age of 14, school districts ensure that options such as continuing their education and developing skills to access community services, live independently, manage their own medical needs, and seek, obtain, and maintain jobs, will be available to them when they are between 18 and 21.²⁸

Parent presented limited evidence regarding Quentin's disability and what progress would be appropriate in light of his circumstances. As such, I rely primarily on the evaluations conducted by Mystic Valley and the testimony of individuals who worked with him regularly. Although Mystic Valley could have been more proactive in initiating transition assessments, MVRCS did meet the transition planning obligations outlined above.²⁹ Through three-year and transition evaluations, in addition to regular progress reports, Mystic Valley identified Quentin's strengths and his areas of need. Specifically, evaluators flagged communication (eye contact, limited interest in others); understanding and communicating about his disability and how it impacts him; interviewing and cooking skills; and planning his path after high school. His IEPs addressed those areas of need, particularly through post-secondary and functional skills goals. Documentary and testimonial evidence demonstrates that Mystic Valley offered Quentin a range of activities aligned with both federal and state transition requirements.

Progress reports and testimony, particularly that of Ms. Scalfani and Ms. MacPherson, document Quentin's growth in areas required for post-secondary training, education, employment, and independent living. I have before me no expert reports or testimony suggesting that Quentin's progress was not meaningful, or that he should have made more or different progress and could have done so with more or different services. In fact, Parents argue not that Quentin was poorly served by Mystic Valley, but that he would benefit from more time. They may well be correct, particularly in light of the growth Quentin has experienced in his social and independent living skills over time. This does not, however, suggest that MVRCS failed to provide him with adequate transition services.

²⁷20 U.S.C. § 1401(34); see *id.* at § 1414(d)(1)(A)(i)(VIII) (establishing transition services requirement); *Dracut Sch. Comm. v. Bureau of Special Educ. Appeals*, 737 F. Supp. 2d 35, 41-42 (D. Mass. 2010).

²⁸See M.G.L. c. 71B, § 2; 603 CMR 28.06(4).

²⁹At hearing, Parents implied that Ms. Goodrich's lack of formal training in administration of the Brigance Skills Inventory was problematic, but training is not required by state or federal law. See note 18, *supra*.

Parents have not met their burden to prove that Quentin’s 2018-2019 IEP, including transition services and the graduation date of June 2019, was not reasonably calculated to enable him to make progress in light of his circumstances.³⁰ In fact, testimony across the board demonstrates that Quentin received a meaningful educational benefit from his services and made effective progress.³¹ As such, I find that Mystic Valley’s procedural errors – its failure to produce a new or amended IEP providing for an additional year of transition services, or an N1, following the December 20th meeting, and its failure to include Parents and Quentin in a meeting in January that included discussion of a key assessment, did not impede Quentin’s right to a FAPE.³²

E. Mystic Valley’s Procedural Errors Did Not Significantly Impede Parents’ Opportunity to Participate

In *Andrew F. v. Douglas County School District RE-1*, the United States reemphasized its earlier declaration that collaboration between parents and educators is a key component of the IDEA.³³ To the extent Parents contend that Mystic Valley’s procedural errors deprived them of their ability to participate fully in the development and implementation of Quentin’s IEP, and the decision as to whether he would receive additional transition services beyond June 2019, I am guided in my analysis by courts’ focus on the degree to which school districts offer parents the opportunity to play an important participatory role.³⁴

Quentin and his parents participated actively in the December 20th meeting, but it does appear that school personnel made a decision outside of the Team process that differed from the Team’s consensus. That decision may have occurred at the January meeting convened by Ms. Kinnon at Mr. Dan’s request. Had the conversation ended here, Parents’ opportunity to participate may well

³⁰ See *C.D.*, 2019 U.S. App. LEXIS at *13.

³¹ See 603 CMR 28.05(4)(b); *Andrew F.*, 137 S. Ct. at 999.

³² See *Roland M.*, 910 F.2d at 994.

³³ 137 S. Ct. 988, 994 (2017) (“These procedures [set forth in 20 U.S.C. § 1414] emphasize collaboration among parents and educators”); see *Bd. of Educ. v. Rowley*, 458 U.S. 176, 205-06 (1982) (“Congress placed every bit as much emphasis on compliance with procedures giving parents and guardians a large measure of participation in every stage of the administrative process . . . as it did upon the measurement of the resulting IEP against a substantive standard”); see also *C.G. v. Five Town Cmty. Sch. Dist.*, 513 F. 3d 279, 285 (1st Cir. 2008) (“development of an IEP is meant to be a collaborative project”).

³⁴ See, e.g., *Roland M.*, 910 F.2d at 995 (where parents did not cooperate with attempts to create IEP and there was no “indication of procedural bad faith” on school’s part, school district had “fulfilled the essence of its procedural responsibility”); *A.M. v. Monrovia Unified Sch. Dist.*, 627 F.3d 773, 780 (9th Cir 2010) (no procedural violation of parental right to participate meaningfully where parents did not participate in Team meeting but district had taken steps to obtain their presence); *Ms. S. ex rel. G v. Vashon Island Sch. Dist.*, 337 F.3d 1115, 1132-33 (9th Cir. 2003) (superseded by statute on other grounds) (where parent disagreed with receiving district’s temporary placement of her son, upon transfer, pending completion of a “proper evaluation” and alleged that District’s “take it or leave it” position did not allow for meaningful parental participation, court found that where school district’s attempt to schedule several assessments and other IEP meetings, notifying her in advance, “school district ha[d] repeatedly provided the parent with the opportunity to participate meaningfully in the IEP process” and as such, “ha[d] not violated its obligations under 34 CFR §300.345”).

have been impeded by Mystic Valley's procedural errors. MVRCS, however, reached out to Parents multiple times to attempt to reconvene the Team to review Ms. Goodrich's transition assessment. Ms. Kinnon testified credibly that the Team was open to evidence from Parents regarding Quentin's need for additional transition services, and intended to reconvene in the spring to revisit the issue in light of Quentin's progress toward his goals – or lack thereof.

As explained above, Mystic Valley erred in failing to produce an IEP that reflected the Team's decision to provide Quentin with an additional year of transition services, and/or in failing to provide Parents with an N1 once Ms. Kinnon realized her error and requested that the Team reconvene to reconsider whether such services were necessary to provide Quentin with a FAPE. To the extent a decision not to provide additional transition services was made outside of the Team process, and without Parents' input, MVRCS committed an additional procedural error. The Team, however, offered Parents the opportunity to participate in a second Team meeting, and ultimately held that meeting in May 2019. There is no evidence to suggest that Parents' ability to participate in that meeting was compromised, and I credit testimony to the effect that the Team remained open to considering additional information regarding Quentin's transition needs.

As such, Parents have not met their burden to prove that Mystic Valley's procedural errors significantly impeded their opportunity to participate in the decision-making process regarding the provision of a FAPE to Quentin.³⁵

F. Mystic Valley's Procedural Errors Did Not Cause a Deprivation of Educational Benefits

As explained in part (D) above, the evidence establishes that Quentin received meaningful educational benefit from the services provided by Mystic Valley, and Parents failed to prove that Quentin's 2018-2019 IEP, including the graduation date of June 7, 2019, was not reasonably calculated to enable him to enable him to receive a make effective progress in light of his circumstances.³⁶ Although Quentin may well benefit from additional transition services as he enters the next phase of his life, Parents have not demonstrated that such services are the responsibility of Mystic Valley. As such, I find that Mystic Valley's procedural errors did not cause a deprivation of educational benefit.

CONCLUSION

Based on the totality of the record,³⁷ I conclude that although Mystic Valley Regional Charter School committed procedural errors in connection with the December 20th Team meeting, Parents have not met their burden to establish that these errors deprived Quentin of a FAPE.

³⁵See *Roland M.*, 910 F.2d at 994.

³⁶See *Andrew F.*, 137 S. Ct. at 999.

³⁷This decision is limited to the unique facts of this case and should not be interpreted as a broad license for school districts to renege on Team decisions.

ORDER

So ordered.

By the Hearing Officer:

Amy M. Reichbach
Dated: July 26, 2019