

COMMONWEALTH OF MASSACHUSETTS

Division of Administrative Law Appeals

Bureau of Special Education Appeals

DECISION

BSEA # 1904490

BEFORE

**RAYMOND OLIVER
HEARING OFFICER**

**SEAN GOGUEN, ATTORNEY FOR PARENTS
BETTINA TONER, ATTORNEY FOR PENTUCKET REGIONAL SCHOOL DISTRICT**

DECISION

This decision is rendered pursuant to M.G.L. Chapters 30A and 71B; 20 U.S.C. §1400 et seq.; 29 U.S.C. § 794; and the regulations promulgated under these statutes.

A hearing in the above-entitled matter was held on June 10 and 11, 2019 at the BSEA. The record remained open for the receipt of written transcripts and written final arguments until July 25, 2019.

Those in attendance for all or part of the hearing were:

Father	Parent/Guardian
Mother	Parent/Guardian
Karen Kiley-Brabeck, Ph.D.	Licensed Psychologist/Neuropsychologist
Karl Pulkkinen	Public School Liaison, Landmark School
Sean T. Goguen	Attorney for Parents
Michael Jarvis	Director of Student Services, PRSD
Jennifer DiBiase	Team Coordinator, PRSD
Hilary Gordon	Special Education Teacher, PRSD
Julia Segalla	Special Education Teacher, PRSD
Lisa Sanford	School Counselor, PRSD
Bettina Toner	Attorney, PRSD
Caitlin Leach Mulrooney	Attorney, PRSD
Alexander Loos	Court Reporter
Jane Williamson	Court Reporter
Megan Resnik	Legal Intern, Bureau of Special Education Appeals
Raymond Oliver	Hearing Officer, Bureau of Special Education Appeals

The record consisted of Parents' Exhibits labelled P-1 through P-17; Pentucket Regional School District's Exhibits labelled S-1 through S-19; and approximately 8 hours of oral testimony.

STATEMENT OF THE CASE

Student is an eleven-year-old girl who resides with her family in West Newbury, Massachusetts. She has attended Bagnall Elementary School (Bagnall), part of the Pentucket Regional School District (PRSD), since January 2017. Student recently completed the fifth grade.

Student spent kindergarten through the beginning of third grade at the Page School in PRSD. Student has been a special education student with an Individualized Education Program (IEP) since the first grade at the Page School. Since the summer of 2016 Student has received periodic cognitive-behavioral therapy from Susan Beliveau, a Licensed Mental Health Clinician (LMHC.) (See P-9; S-12).

PRSD suggested as early as the second grade (the 2015-2016 school year) that Student would benefit from placement in a substantially-separate language-based classroom. (P-14). Parents were reluctant to move Student from the Page School to the Bagnall substantially separate program as she was socially

happy there. Parents were also confused over discrepancies between Page and Bagnall IEPs. (Tr I 20-21, P-14). Parents submitted an application to the Landmark School (Landmark) at some point in time prior to fall 2016. (Tr I 47, Mother; P-14). However, Student did transfer to the Bagnall School in January 2017, in the middle of the third grade school year, to take part in Bagnall's language-based program. (P-4). Student received special education services pursuant to an accepted IEP from December 2016 to January 2018. (See S-1d; S-1e; S-1i). Student underwent a private neuropsychological evaluation by Karen Kiley-Brabeck in April and May 2017. (P-4). Dr. Kiley-Brabeck observed Student at school in June 2017. (P-4).

In the third grade at Bagnall, Student was mainstreamed for science and social studies classes, but participated in a language-based program for all other academic subjects, including math and reading. Student's language-based classes consisted of three other students, two of whom were boys. ((S-1i; P-4).

In fourth grade, the 2017-2018 school year, all of Student's academic courses took place within Bagnall's language-based program. Student's peers consisted of two other students, both of whom were boys. (P-3).

PRSD performed educational, speech-language and occupational evaluations on Student during late 2017 (S-4, 5, 6).

In January 2018, midway through the fourth grade school year, the IEP Team met and proposed an IEP for the period January 2018 to January 2019. The IEP called for Team and Occupational Therapy consults, and placement in the substantially separate language based program for Math (5x70), Reading (1:1 tutorial, 5x45), Reading (5x60), Writing (5x45), Science and Social Studies (each, 5 x30). Speech 2x30, and Counseling 1x30 were also proposed, as was Extended Year Programming for summer 2018. (S-1e). Parents signed and fully accepted this IEP in March 2018.

Student experienced increased anxiety after transferring to the language-based program at Bagnall, particularly once she reached fourth grade. (Tr I 25). On April 26, 2018 and May 3, 2018, Dr. Karen Kiley-Brabeck, evaluated Student in both academic and neuropsychological assessments and noted the development of anxiety and other emotional issues regarding school. (P-2, P-3). Dr. Kiley-Brabeck found that "current observations revealed increased anxiety, reduced self-esteem, less task persistence, and greater emotional/behavioral fragility. ...[Student] needs to be educated in an environment that supports her social and emotional well-being." (P-3).

On May 2, 2018, in response to academic testing done by the school district as well as input from Student's teachers, guidance counselor, and therapists, the IEP Team met and proposed an IEP amendment for May 2018 to January 2019. (S-1d). It is unclear whether the district was aware of Student's ongoing neuropsychological evaluation prior to the May 2 meeting; however, the evaluation was not complete at the time of the meeting and was not a factor in PRSD's May 2018 IEP proposal. (S-1d, P-3, Tr II 29-30). The IEP amendment included adjustments to the decoding benchmark goals and performance, as well as a service delivery grid correction to writing and social studies times for the 2018-2019 school year. (S-1d). Parents rejected this IEP and placement in June 2018. (S-1d).

In October 2018, the beginning of Student's fifth grade school year, the IEP Team met to consider Dr. Kiley-Brabeck's evaluation and developed a new IEP for the period October 2018 to January 2019. (Tr II 28, S-1c). Relevant factors considered in implementing IEP adjustments included Student's anxiety and negative self-talk. (S-1c). The IEP services provided under a social-emotional goal in the previous IEP were developed into a counseling goal focusing on coping strategies. (S-1c). Parents accepted the IEP but rejected the placement in October 2018. (S-1c). Placement continued to be in the language-based program at Bagnall, where Student was placed with two boys. (Testimony, DiBiase; Gordon; Segalla)

Dr. Kiley-Brabeck observed Student in her office and the Bagnall classroom in November 2018, during Student's fifth grade year (2018-2019 school year). Dr. Kiley-Brabeck did not observe Student displaying increased emotional distress in the classroom, but during the counseling session Student discussed feeling isolated, stated she at times felt like she "wanted to die," and appeared emotionally fatigued. (P-1; Tr. I 103). Parent also described text messages and drawings discussing suicidal ideation and panic attacks upon arrival at school. (Tr. I 43, 44, P-10, P-12).

The IEP Team convened in December 2018 for Student's annual review. The Team proposed a new IEP from December 2018 to December 2019. (S-1b, P-5). The proposed placement continued to be in the substantially-separate language-based program at Bagnall, and another girl had joined the program at this time. Parents rejected the IEP proposal and placement via a document issued by Parents' attorney. (S-1b, P-5, S-1a).

In February 2019, Parents, through counsel, filed a Request for Hearing before the BSEA. PRSD made a motion to continue the original hearing date of April 1, 2019. The then current hearing officer granted the request to postpone and rescheduled the hearing to June 10 and 11, 2019.

Student remained in the Bagnall language-based program during this time and continued to struggle with emotional issues. (See S-19). Student saw Dr. Kiley-Brabeck in March 2019 for a 90-minute counseling session. Dr. Kiley-Brabeck, Student, and Parent discussed a video Parent discovered on Student's phone earlier that month, in which Student confirmed she has had suicidal thoughts. (S-19, Tr I 70-72, 104). Parent was unable to determine when the video was created, but Dr. Kiley-Brabeck's testimony and notes suggest the video was discovered prior to the March 2019 counseling session with an unknown but somewhat recent creation date. (S-19, Tr I 104). (Dr. Kiley-Brabeck also saw the student for additional counseling about a week prior to this hearing, in late May or early June 2019. (Tr. I 98).)

Later in March 2019, the IEP Team amended Student's IEP to include the use of spell-check. (S-1a). Parents rejected the IEP. (S-1a)

On June 7, 2019, this case was reassigned to Hearing Officer Raymond Oliver who presided over the matter on the scheduled dates of June 10 and 11.

ISSUES IN DISPUTE

1. Did the IEPs proposed by PRSD for the period from May 2018 to date provide Student a free and appropriate public education (FAPE) in the least restrictive educational environment (LRE)?
2. If not, will placement at Landmark provide Student with a FAPE in the LRE?

STATEMENT OF POSITIONS

Parents' position is that PRSD did not provide Student with a FAPE from May 2018 to present. Parents contend that Student has made little to no academic progress, and has been experiencing increased emotional distress as a result of insufficient services, further impacting Student's academics. Parents also contend that PRSD has failed to adequately address the emotional component. Parents seek prospective placement and related services at Landmark.

PRSD's position is that it provided Student with a FAPE during the 2018-2019 school year and that Student has made progress academically and socially. PRSD also contends that it has consistently and

continuously monitored the student and adjusted IEPs accordingly when necessary. Finally, PRSD contends that Student's academic and social/emotional needs can be met within the substantially-separate program at Bagnall, and as such the current placement is appropriate. Further, PRSD argues that the Landmark School lacks the supports and services to address Parents' concerns regarding Student's emotional issues. (Tr. I-12).

PROFILE OF STUDENT

Student has been diagnosed with a language-based learning disability/dyslexia, a specific learning disability in mathematics, and an Anxiety Disorder. Co-morbid executive functioning difficulties were also identified. (P-3, P-4).

In her April 2017 neuropsychological evaluation, Dr. Kiley-Brabeck administered the Wechsler Intelligence Scale for Children – 5th Edition (WISC-V). Student achieved the following scores: Verbal Comprehension IQ 108; Visual Spatial IQ 105; Fluid Reasoning IQ 94; Working Memory Index 91; Processing Speed Index 98. A full-scale IQ was not computed in Student's case because, as an aggregate measure, it would fail to capture Student's diversity in her cognitive profile. (P-4). These scores place Student within the average to upper end of average range of cognitive functioning. (See testimony Kiley-Brabeck, P-4).

Also administered in this evaluation were the Wechsler Individual Achievement Test – 3rd Edition (WIAT-III), the Gray Oral Reading Test – 5th Edition (GORT-5), the California Verbal Learning Test for Children (CVLT-C), the Comprehensive Test of Phonological Processing – 2nd Edition (CTOPP-2), and NEPSY-II. (P-4). An updated evaluation was performed by Dr. Kiley-Brabeck in April 2018, at which time Student was re-administered the WIAT-III and also given the Feifer Assessment of Reading (FAR). (P-3).

Student was also evaluated by PRSD staff members. She was administered the Comprehensive Assessment of Spoken Language – 2nd Edition (CASL), Test of Narrative Language (TNL), Word Test – 2nd Edition, and the Goldman Fristoe Test of Articulation – 2nd Edition (GFTA-2), by Kathryn Boilard, M.S., CCC-SLP in November and December 2017. (S-6). In October and November 2017 or January and February 2018, Hilary Gordon, M.S. CCC-SLP administered to the student the CTOPP-2, Lindamood Auditory Conceptualization Test – Form 3 (LAC-3), and the GORT-5 evaluation. (S-4, Tr II 80 (stating the GORT-5 was done in November 2017).

Landmark Examiner Frances Bolla Larkin also administered the GORT-5 to Student on November 21, 2016, and July 3, 2018 as part of the Landmark Admission Screening Test. (S-15). Ms. Larkin's qualifications are unknown (S-15). Landmark states at the top of the testing results page that the "screening process is prescriptive in nature and is not an independent neuropsychological or psychoeducational evaluation for the purpose of a diagnosis. The battery of tests is designed to confirm previous, independent evaluation results, determine specific program placement, and provide an opportunity for initial impressions of the nature of the applicant's learning disability..." (S-15).

A comparison of results from the WIAT-III, CTOPP-2, and GORT-5 tests is set out below.

WIAT-III Subtest Areas	April/May 2017		April 2018	
	Composite	Percentile	Composite	Percentile
Word Reading	64	1	75	5
Pseudoword Decoding	84	14	83	13
Basic Reading Composite	74	4	79	8
Oral Reading Fluency	70	2	75	5
Oral Reading Accuracy	67	1	72	3
Oral Reading Rate	72	3	77	6
Spelling	84	14	83	13
Essay Composition	83	13	78	7
Numerical Operations	78	7	74	4
Math Problem Solving	70	2	71	3
Math Composite	73	4	72	3
Math Fact Fluency: Addition	88	21	96	39
Math Fact Fluency: Subtraction	61	.5	74	4
Math Fact Fluency: Multiplication	71	3	70	2
Math Fluency Composite	71	3	78	7

CTOPP-2 Subtest Areas	April 2017		Oct/Nov17 Jan/Feb 18	
	Composite	Percentile	Composite	Percentile
Phonological Awareness	75	5		
Phonological Memory	92	30	98	45 (avg)
Rapid Naming	85	16	98	45 (avg)
Elision	6	Below avg	107	68 (avg)
Blending Words	6	Below avg	9	37 (avg)
Phoneme Isolation	6	Below avg	8	25 (avg)
Memory for Digits	8	Low end avg	12	75 (avg)
Nonword Repetition	9	Average	11	63 (avg)
Rapid Digit Naming	8	Low end avg	8	25 (avg)
Rapid Letter Naming	7	Below avg	11	63 (avg)
			11	63 (avg)

GORT-5 Subtest Areas	Nov 2016		April 2017		Nov 2017		July 2018	
	Composite	%ile	Composite	%ile	Composite	%ile	Composite	%ile
Rate	2	<1	5	5	5	5	7	16
Accuracy	3	1	3	1	6	9	7	16
Fluency	3	1	4	2	5	5	7	16
Comprehension	n/a	n/a	4	2	6	9	n/a	n/a
Quotient	n/a	n/a	n/a	n/a	76	5	n/a	n/a

Student's evaluations, including evaluations only given once and not charted above, such as the LAC-3 and the FAR, find that Student remains significantly below average for her age and grade level, although some progress has been noted overall in reading and language performance. (S-9, P-1, P-2, S-6, P-3). And, despite some progress in certain mathematical areas, most notably addition and subtraction, in many math-related areas Student made little to no progress, or regressed marginally.

No further academic assessments of Student have been administered since July 2018.

Beginning in summer 2018, Parents noticed a further deterioration of Student's emotional state. (Tr. I 43, 44, P-12). Student struggled to attend summer school classes and became emotional at the thought of returning to classes each day. (P-1). She created drawings depicting her hatred of school and indicated suicidal ideation through text messages sent to her mother. (P-10, P-12, Tr I 104).

Student underwent a psychological assessment by PRSD school psychologist Kathleen Parker, M.Ed., Ed.S in September and November 2018. (S-3). PRSD staff used the Behavior Assessment System for Children, 3rd Edition Parent and Teacher Rating Scale (BASC-3-PRS, TRS). PRSD evaluated questionnaires filled out by teachers, Parents, and Student herself. The school psychologist found that although Student's results were primarily within the average range and was not exhibiting symptoms of social stress, depression, or disruptive behaviors, Student did report a "negative self-image, both in terms of personal and physical attributes." (S-3). Overall, the BASC-3 indicated that Student dislikes school and can also feel "anxious, worry, nervousness, and has difficulty relaxing." (S-3).

Dr. Kiley-Brabeck, also assessed Student's emotional state during a counseling session at the end of November, 2018. (P-1). She observed that the Student "cried, intermittently sat in her mother's lap and appeared emotionally fatigued." (P-1). Student reported that she "has more bad days than good," and Dr. Kiley-Brabeck noted that Student's emotional distress appears linked to academic struggles that render her "panic-stricken, anxious, emotionally and behaviorally fragile and increasingly resistant to attending school." (P-1).

During the 2018-2019 school year, Student experienced difficulty leaving her mother's car and going into school in the morning. (Tr. I 22-25). Mother drives Student to school each day, rather than place Student on the bus. (Tr. I 67). PRSD staff has provided assistance to Student by having a paraeducator, with whom Student has formed a nice relationship, regularly greet Student in the morning and walk with her into the building. (Tr. I 22-25, Tr. II 155). School counselor Lisa Sanford testified that she has at times been called to the office to provide assistance to Student as well. (Tr. II 156). All parties agree that the paraeducator's assistance has been very helpful for Student. (Tr. I 22-25, Tr. II 155).¹

Student started taking Prozac for anxiety and depressive issues in December 2018. (Tr. I 22.) Parents did not notify PRSD of this medication until May 2019. (Tr. II 55-56). Student continued to struggle with emotional issues, as per Dr. Kiley-Brabeck's aforementioned notes from the March 2019 counseling session, which included discussing the video Student created that involved suicidal ideation. (S-19, Tr. I 104). Student also engaged in two instances of cutting behavior in the winter/spring of 2019 (testimony, Mother; Sandford; Kiley-Brabeck).

Student's special education teacher, Julia Segalla, however, observed a positive change in Student's social-emotional presentation after returning from winter break in January 2019. (Tr. II 108-109). Ms.

¹ Parties differ on when Student's struggle to enter school began and ended, with PRSD staff recalling the biggest difficulty occurring in the fall and becoming a lesser issue by January, and Parent stating that the assistance has been more prevalent this semester, since after winter break. (Tr. I 67, Tr. II 156).

Segalla stated that Student “appears less stressed [than before winter break]...she’s been advocating more for herself...I [Ms. Segalla] feel like she’s hit her groove.” (Tr. II 111).

PRSD’S PROPOSED PROGRAM

Pursuant to its IEP, PRSD proposes that Student be educated in the Language Based Program at Bagnall. (S-1a). The Language Based Program provides small group specialized, direct instruction in the areas of reading, writing, math, science and social studies for students with language learning disabilities. The objective is to increase each student’s academic skills, while teaching specific strategies, with the goal of integrating back into the general education classroom. Teaching strategies are geared toward the individual learning styles of the class.

There are two certified special education teachers and one instructional assistant for this class as well as a certified reading specialist to provide reading services. (Tr. II 14; Tr II 150-152). Student is in a combined fifth and sixth grade substantially separate program. There are four other students in her fifth grade class, one of whom is female (she joined the class in January 2019). (Tr. II 14-17). Student receives small group instruction for all academic subjects, but she also receives a daily one-to-one reading tutorial. (Tr. II 14). For sixth grade it is anticipated that there will be 7 students – 4 boys and 3 girls.

Student has one 30-minute counseling session with a school counselor each week, as well as access as needed. (S-1a). Student is mainstreamed with regular education students for non-academics, recess and lunch. She participates in a lunch group once per week.

(Refer to testimony, DiBiase; Gordon; Segalla; Sanford.)

PARENTS’ PROPOSED PROGRAM

Parents propose that Student be educated at the Landmark School (Landmark). Landmark is a Massachusetts Department of Elementary and Secondary Education (MDESE) approved private school in Beverly, MA. (Tr. I 173). Landmark has accepted Student for the 2019-2020 academic school year (S-16). Landmark serves children in grades 2-12 who have been diagnosed with dyslexia or another language-based learning disability, as well as executive function weakness. (P-13, S-17). The school does not serve students with social, emotional, or behavioral disorders. (P-13, S-17).

Landmark does not employ instructional assistants in the classrooms. (Tr. I 176-178). Landmark teachers are required to have a four-year college degree with teaching experience preferred, and teachers must have a moderate special needs certification or agree to enroll in the moderate special needs certification program offered at Boston University. (Tr. I 192).

Although Landmark does not yet know its full enrollment for next year, there were 22 students in last year’s fifth grade class. (Tr. I 175). Those students were split into six different class groupings based on similar academic ability. (Tr. I 176). At Landmark, Student would have daily small group classes for science, social studies, and math, as well as a daily small group language arts class focusing on written expression. (Tr. I 178-181). Student would also have a daily one-on-one reading tutorial (Tr. I 180).

Landmark offers on-site small-group and individual counseling through its counseling department. (Tr. I 184, 196).

(Refer testimony, Pulkkinen; P-13; S-16, 17.)

FINDINGS AND CONCLUSIONS

It is undisputed by the parties and confirmed by the evidence presented that Student is a child with special education needs as defined under state and federal statutes and regulations. The fundamental issues presented in this matter are listed under **ISSUES IN DISPUTE**, above.

Pursuant to *Schaffer v. Weast* 126 S.Ct. 528 (2005), the United States Supreme Court has placed the burden of proof in special education administrative hearings upon the party seeking relief. Therefore, in the instant case, Parents bear the burden of proof in demonstrating that: 1) PRSD did not provide Student with a FAPE from May 2018 to present; 2) PRSD is responsible for providing Student with prospective educational services for outside placement; and 3) that placement at Landmark would provide Student with a FAPE in the least restrictive environment.

Based upon the totality of the record and a review of the applicable law, I conclude that PRSD's IEP does not currently provide Student with a FAPE in the LRE. I conclude that placement in a private day school such as Landmark has the best chance of providing Student FAPE in the LRE.

My analysis follows.

Student has been evaluated by both PRSD and private, independent evaluators multiple times over the last three years. These evaluations have been done regularly and document Student's academic and emotional difficulties, as well as recommend educational programming to provide Student with FAPE.

Based on these evaluations performed over time, I find that Student has a language-based learning disability/dyslexia, a specific learning disability in mathematics, and executive functioning weakness. Further, evaluations demonstrate that Student presents with an emotional disability, namely a depression/anxiety disorder.

Student has evidenced significant deficits in decoding, reading comprehension, written expression and math. Due to anxiety and depression, she is increasingly vulnerable to negative feelings and emotions, specifically regarding her academic difficulties at school. The emotional vulnerability makes it challenging for Student to fully access academic programming. Because Student continues to lag behind her peers academically, her anxiety is amplified, creating a cyclical situation where Student's emotional health is compromised and has a negative effect on her academic success.

I conclude, as agreed upon by both parties, that Student requires a highly structured language-based program with strong emotional supports in order to address her well-documented special needs. Based upon the totality of evidence presented, I further conclude that in order to receive FAPE, Student requires a comprehensive special education program and placement which can address all her disabilities – language, learning, emotional and social – in a coordinated, consistent and cohesive manner. I find, based on the expert opinion of Dr. Kiley-Brabeck, as well as the testimony of school counselor Sanford and Parent, that PRSD'S language-based program does not provide Student FAPE .

My conclusions should not be construed to reflect negatively upon PRSD's proposed placement of Student at the substantially separate Bagnall Language Based Program. I find said program to be a comprehensive, well run program with highly trained/credentialed, experienced teachers and service providers . (Refer to testimony, Gordan; Segulla; Sanford; DiBiase.) PRSD has put forth great effort monitoring and providing special education services to Student during her educational career at PRSD. However, the record reflects that despite PRSD's best efforts, the proposed placement does not provide a free and appropriate public education to this particular student at this time.

Over the last two years Student has made very slow, uneven academic progress while at Bagnall. Academic testing administered over time shows only a marginal overall increase in reading, math and language skills, with many subtest scores moving up very little and others declining. Further, test instruments administered only once (such as the LAC-3 and the FAR) reveal that Student remains significantly below average for her age and grade level. The gap between Student and her grade level peers has widened. The PRSD program similarly does not adequately address Student's deteriorating emotional status, in addition to being an independent concern, also impacts her availability for learning and her academic progress. (See testimony, Kiley-Brabeck).

Other than adding a specific counseling goal (once per week for ½ hour) to Student's IEP, PRSD did not address how continuation of the same program Student has been in for the last two years would appropriately address her emotional issues (frustration with school, comments regarding her hatred of school, anger, panic attacks, depression, negative feelings of self-worth, suicidal ideation, and cutting behaviors, e.g.) (See P-10, 11, 12, 15; testimony Mother; Kiley-Brabeck.) While school witnesses testified that they have not observed such behaviors from Student while in school, the testimony is consistent among both Parent and School witnesses that Student is a "people pleaser" who does not want her peers to know that she is anxious and can hide her anxiety very well (testimony, Mother; Sanford). Further, Mother testified that she has to drive Student to school in order to get her to attend. Both Mother and Ms. Sanford testified that when Mother arrives at Bagnall a school aide needs to greet Student and walk her into the building in order to get her into school and sometimes Ms. Sanford's assistance is also. (testimony, Mother; Sanford.)

I place substantial weight upon the reports and testimony of Dr. Kiley-Brabeck for a number of reasons. Often schools criticize an independent/private evaluator's opinion as limited to a single snapshot in time. Such is not the situation in the instant case. Dr. Kiley-Brabeck has been working with Student since the spring of 2017. She performed an extensive, comprehensive neuropsychological evaluation of Student over four dates in April-May 2017 and observed Student at Bagnall on June 6, 2017 (P-4). She then performed a repeat neuropsychological evaluation and academic evaluation of Student over three dates in April-May 2018 (P-2, 3). She performed a neuropsychological follow-up/therapy session on November 7, 2018 and a second observation of Student at Bagnall on November 26, 2018 (P-1). She has also provided two additional therapy/counseling sessions to Student in March 2019 (S-19) and May 2019 (testimony Kiley-Brabeck; Mother). Thus, Dr. Kiley-Brabeck has, from April 2017 to May 2019, seen Student in her office over eight days for evaluation, three days for therapy/counseling sessions and observed Student in her school placement in both 2017 (4th grade) and 2018 (5th grade). (P-1, 2, 3, 4; testimony, Kiley-Brabeck) Dr. Kiley-Brabeck specializes in pediatric neuropsychological assessments and has performed over 1000 such evaluations in her time as a psychologist. (P-1; testimony, Kiley-Brabeck)

In her recommendations following her second neuropsychological evaluation of Student in May 2018 (P-3) Dr. Kiley-Brabeck states:

The emotional distress observed and reported should concern [Student's] entire team. To this point, she has been a hard-working girl who has worked hard to "hold it together" in front of others, only allowing her strong emotions to surface in her safe, home environment. Current observations revealed increased anxiety, reduced self-esteem, less task persistence and greater emotional/behavioral fragility. [Student's] allowed her emotion and behavior to be seen by this clinician, which indicates that she is experiencing greater emotional distress than she was one year ago and it is starting to pervade across environments and people. This is concerning and speaks to the level of frustration and despair [Student] experiences around academics and learning.

[Student] needs to be educated in an environment that supports her social and emotional well-being. She needs to be educated in a program where she has female classmates with whom she can socialize, interact and develop meaningful relationships. [Student] is isolated in her current program and does not have authentic opportunities to engage with female peers. She also reports behavioral issues in her small group setting, which are distracting to [Student] and the learning environment. She needs to be educated in an appropriate language-based program with a cohort of female and male peers who share her cognitive potential and significant learning difficulties without behavioral challenges. It is disappointing to review [Student's] report from last year and see that concern was expressed regarding her increasing isolation in the Bagnall School's language-based program. Now, one year later, we are starting to see the social and emotional toll of [Student's] isolation. Continuation in this type of program that lacks an appropriate peer group could be devastating for her emotional well-being and school interest.

In her neuropsychological follow up in November 2018 (P-1) Dr. Kiley-Brabeck's recommendations state:

A number of concerns emerged over the course of the past six months from the time of [Student's] re-assessment through the recent counseling session. These concerns include: [Student's] failure to make effective progress, lack of appropriate peer group, increasing social isolation, and [Student's] anxiety and emotional/behavioral concerns...

Collectively, the academic demands, learning frustrations, lack of appropriate peer group, and social isolation have reached a point where the cumulative experiences and challenges are taking a significant emotional toll on [Student] and her family. Over the past seven months (May-November 2018) [Student's] emotional distress has become more acute. She has made multiple statements and created multiple drawing that depict a hatred for school and, as a result, a desire to die or "kill herself." At present, an assessment of [Student's] pediatrician found no immediate plan or intent for [Student] to harm herself. However, these statements must be taken seriously as they depict the serious emotional distress that [Student] is experiencing due to her educational placement and learning challenges...

In my clinical opinion, [Student] requires an immediate change of placement. In the re-assessment report dated May 2018 it was report that: "she [Student] is not making effective progress in current program. And, in addition, she is exhibiting increased social and emotional distress. She needs an appropriate language-based program that can address her significant learning difficulties while allowing her to be educated and socialize with an appropriate peer group." Creation of an appropriate program has not happened for [Student] and, as a result, she is not making effective progress, she is experiencing greater social difficulties, and her emotional/behavioral presentation (related to school and academics) is alarming.

As described in reports dated 2017 and 5/2018 [Student] requires a highly specialized intensive language-based program. All of the recommendations set forth in the two previous reports remain important and relevant. [Student] requires a language-based program where she has greater access to peers who share her intellectual potential and neuropsychological vulnerabilities. Within the context of specialized programming, she needs access to a larger peer group where she has social opportunities, potential of developing friendships, and opportunities to participate in sports and extra-curricular activities within an environment that supports students with language-based concerns.

While it is always a pleasure to see [Student] and to work with her family, I am notably concerned about her socio-emotional functioning and academic progress. She is a caring,

thoughtful, perceptive girl with many talents and strong attributes. It is disheartening to see the toll that her current educational placement is having on her. While her TEAM is well-intentioned and seemed to genuinely care for [Student], her current placement is not appropriate and she is not making effective academic progress. Further, her emotional presentation has significantly deteriorated in the past 20 months. If her needs cannot be met in her current placement, she needs to transition to a more appropriate placement within an intensive, language-based program where her academic/neuropsychological challenges can be addressed while simultaneously affording her social opportunities within a larger environment with female classmates. Language-based supports need to be infused through all aspects of [Student's] day not just academic instruction.

In her report of her counseling session with Student on March 18, 2019, Dr. Kiley-Brabeck reported about an incident Student experienced with Ms. Segalla in which Student felt belittled, humiliated, embarrassed and angry. She reported about Student's suicide video. She also reported about Student's sleep disturbances and awakenings feeling overwhelmed by her anxiety about school. Dr. Kiley-Brabeck summarized:

[Student] expressed worry, anger and sadness over the fact that she is not making progress. She is upset that she is not understanding material... She is particularly overwhelmed. [Student] reported preferring the nurses office over recess with grade level peers...

[Student] continues to present with heightened anxiety and depressive tendencies. When asked what she worries about, [Student] reported "School." [Student] was asked about other environments on things that may worry her and she denied other concerns. Throughout the session [Student] appeared emotional and continuously on the verge of crying...

It continues to be incredibly concerning the deterioration in Students' well-being that has taken place since I first met her. Her learning issues and inappropriate placement have taken a tremendous toll on her emotional and social health.

Ms. Sanford is the Bagnall school counselor. She is certified as a school guidance counselor and also has her MSW and is a Licensed Independent Clinical Social Worker (LICSW) with a concentration in children and families (S-18d.) She has provided Student counseling services once per week and on an as needed basis during the school year for the 2 ½ years Student has attended Bagnall. Ms. Sanford testified regarding her counseling services to Student and her relationship with Student and her family. In early May 2019 Ms. Sanford reached out to Ms. Belliveau, Student's private therapist (See P-9; S-12 for Ms. Belliveau's treatment records) as well as to Mother because Ms. Sanford had learned about Student's cutting incidents as well as spoke to Student about them. Student admitted to Ms. Sanford two incidents of cutting herself with one incident being in March 2019, as well as texting with other students regarding cutting behavior. Student also told Ms. Sanford about the video (P-15) which she had made. Ms. Belliveau told Ms. Sanford that she had not seen Student since late March but that Mother had made her aware of the suicide video. Reviewing one of Student's drawings from P-10 Ms. Sanford testified that it meant to her that Student will put on a happy face but that inside she may be feeling very sad and that sometimes Student presents herself in this way. Ms. Sanford also testified that she reached out to Ms. Belliveau in December 2018 regarding Student's anxiety level and that Ms. Belliveau stated to her that Ms. Belliveau believed that Student needed to be in a different school. (See testimony, Sandford, Tr II 181-191).

Although PRSD witnesses testified that Student seemed better over the second half of the 2018-2019 school year since she had been put on Prozac in December 2018, the evidence demonstrates that both the cutting incidents and the suicide video happened during the spring of 2019 after Student had been placed on anti-depression medication. Ms. Sanford admitted that such behaviors demonstrate that Student

continues to feel anxiety and aggression around school and learning; that learning is a struggle for Student; and that someone cutting herself over feeling stupid over a problem or issue is not typical. (See testimony, Sanford).

I also place substantial weight on the testimony of Ms. Sanford . She has been a constant and consistent person in Student's life over the past 2 ½ years Student has been at Bagnall, and has had a positive, ongoing professional relationship with both Student and family.

Finally, I found Mother's testimony to be candid and credible. Further, I found her log regarding Student's experiences in school from July 6, 2018 to April 10, 2019 (P-11) to be comprehensive and illustrative of Student's emotional turmoil at her Bagnall placement (testimony, Mother; P-11).

The relief parents seek is a day placement at the Landmark School. Landmark is an established MDESE approved private school placement for students with learning and language based disabilities and executive functioning weakness. It does not serve students with primary emotional or behavioral disabilities but does accept students, who, like Student, experience emotional/social issues secondary to academic problems and language based learning disabilities. (testimony, Pulkkinen; P-13; S-17).

At Landmark Student would have a daily individual reading tutorial, daily small academic classes with 3-5 students who also present with language based learning disabilities and similar academic ability. She would be grouped with language based learning disabled students in her non-academic classes as well (testimony, Pulkkinen; P-13; S-17). A cohort of language based learning disabled students with whom she can interact and be educated throughout her school day should help to alleviate her distress, frustration and anxiety related to feeling isolated in her special education classes and not really a part of her mainstreamed general education classes. In addition, both individual and/or group counseling are available to Student at Landmark.

I therefore find that Student's placement at Landmark would address the academic, emotional, and social concerns and recommendations highlighted by Dr. Kiley-Brabeck, providing Student with a comprehensive language-based academic program, appropriate peers for socialization and emotional support, and enable her to learn and generalize academic skills, and reduce her anxiety and frustration.

ORDER

1. PRSD shall place Student as a day student at Landmark for the 2019-2020 academic year.
2. PRSD shall provide transportation services necessary for Student to attend Landmark for the 2019-2020 academic year.

By the Hearing Officer,

Dated: August 19, 2019