**COMMONWEALTH OF MASSACHUSETTS**

**DIVISION OF ADMINISTRATIVE LAW APPEALS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

**In Re**: Chuck[[1]](#footnote-1) v. **BSEA#** 2503347

 Sudbury Public Schools

**DECISION**

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

Parents filed a Request for Hearing in the above-referenced matter on September 13, 2024. Following two requests for postponement of the Hearing, granted for good cause, the Parties agreed to Hearing dates beginning on January 31, 2025. Additional dates of Hearing through February 28, 2025, were added at the request of the Parties in order to complete the testimony of all the witnesses.

The Hearing was held at the BSEA Office in Malden, MA on January 31 and February 28, 2025, and remotely on February 3, 4 and 12, 2025, before Hearing Officer Rosa Figueroa. Those present for all or part of the proceedings were:

Parents

Chuck

Lillian E. Wong, Esq. Parents’ Attorney

Angela Gowans Parents’ Educational Advocate

Paige Tobin, Esq. Attorney for Sudbury Public Schools (Sudbury or District)

Stephanie Juriansz Director of Student Services, Sudbury

Rachel Baldwin, Ph.D. Neuropsychologist

Cathy Mason, M.Ed. Special Education Specialist

Lauren Karlsson, M.S.Ed Director, Wolf School

Rachel Frady, MS CCC-SLP, Speech and Language Pathologist, Wolf School

Nadine Eckstrom, Ph.D. Educational Consultant, Academic Discoveries

Amanda Benner 6th & 7th Grade Special Education Teacher, LAB Program, Curtis Middle School, Sudbury

Nicole Coman, Ed.S. Education Specialist

Lindsey Carapezza Speech and Language Pathologist, Team Chairperson, Curtis Middle School, Sudbury

Allison Risser, MA, CAGS, NCSP School Psychologist, Curtis Middle School, Sudbury

Annya Pedreschi, M.Ed., CAGS Administrator of Special Education, Team Chairperson, Curtis Middle School, Sudbury

Lauren Lewis Speech and Language Pathologist, Peter Noyes Elementary School, Sudbury

Elizabeth Clark Psychologist, Peter Noyes Elementary School, Sudbury

Melinda LeBlanc O’Neill School Counselor, Peter Noyes Elementary School, Sudbury

Stephanie Cohen-Mongeon 5th Grade Classroom Teacher, Peter Noyes Elementary

 School, Sudbury

Margaret Shelley Physical Therapist, Peter Noyes Elementary School,

Sudbury

Alissa Jacobson Occupational Therapist, Peter Noyes Elementary School,

Sudbury

Susan Venturoso Physical Therapist, Curtis Middle School, Sudbury

Therese H. Adams Occupational Therapist, Curtis Middle School, Sudbury

Rhonda Dion Reading/ Literacy Specialist, Curtis Middle School, Sudbury

Nancy Sharon TVI/ O&M Carroll Center for the Blind

Katie Feldman 6th Grade Special Education Teacher, Curtis Middle School,

Sudbury

Jordan Ciampa Special Education Teacher, Peter Noyes Elementary School,

Sudbury

Kristen Pierce LEAP Teacher/ Higher Level, Curtis Middle School, Sudbury

Catherine McCullough Special Education Teacher/ Evaluator, Curtis Middle School, Sudbury

Carol Kusintz Stenographer, Veritext Court Reporting

The official record of the hearing consists of documents submitted by Parents and marked as exhibits PE-1 to PE-75[[2]](#footnote-2), exhibits submitted by Sudbury and marked as exhibits SE-1 to SE-11[[3]](#footnote-3) and SE-13 to SE-29[[4]](#footnote-4) and recorded oral testimony of 24 witnesses.

On February 3, 2025, at the conclusion of Parents’ presentation of the case, Sudbury moved for a Directed Verdict, arguing that Parents failed to present evidence that Chuck had made effective academic progress at the Wolf School and had presented no evidence regarding the appropriateness of the cohort. The motion for a Directed Verdict was denied verbally on the same date, as it was premature to dismiss the case without an opportunity for careful consideration of the voluminous documentary record (7 volumes) admitted into evidence, and the testimony of eight witnesses.[[5]](#footnote-5)

On February 28, 2025, a joint request for a postponement of the Hearing was made orally and later memorialized in writing on March 3, 2025. The request sought to postpone the Hearing until April 21, 2025, to submit written closing arguments. This request was granted orally on February 28, 2025, and on March 4, 2025, a *Nunc Pro Tunc* Order was issued reflecting the initial oral order, granting the postponement through April 21, 2025. Thereafter, on April 18, 2025, with Parents’ assent, Sudbury requested a one-day postponement through April 22, 2025, as April 21, 2025, was a Massachusetts state holiday. The request was granted as to both parties. The record closed on April 22, 2025, when written closing arguments were received.

**ISSUES FOR HEARING[[6]](#footnote-6):**

1. Whether [Sudbury’s] proposed IEP for Chuck for the 2023-2024 school year at the time of Chuck’s unilateral placement was reasonably calculated to provide Chuck with a free appropriate public education in the least restrictive environment; and if not,
2. Whether placement at the Wolf School was appropriate, thus entitling Parents to reimbursement.
3. Whether [Sudbury’s] proposed IEP for Chuck for the 2024-2025 school year at the time of Chuck’s unilateral placement was reasonably calculated to provide Chuck with a free appropriate public education in the least restrictive environment; and if not,
4. Whether placement at the Wolf School was appropriate, thus entitling Parents to reimbursement.
5. Whether the currently proposed IEP (dated 12/2024- 12/2025) provides Chuck with a free appropriate public education in the least restrictive environment; and if not,
6. Whether Chuck requires continued placement at the Wolf School in order to receive a free appropriate public education in the least restrictive environment?

**POSITIONS OF THE PARTIES:**

**Parents’ Position:**

While the parties largely agree on Chuck’s deficits, overall presentation and areas of need, they disagree as to whether he can be appropriately educated in Sudbury. Parents assert that Sudbury’s program is inappropriate because Chuck failed to make academic, executive functioning and social/emotional progress in the District’s program, justifying their unilateral placement of Chuck at Wolf for the 2023-2024 and 2024-2025 school years. Asserting that Wolf provides the highly intensive, cohesive and individualized program Chuck requires to make effective progress, Parents now seek reimbursement for their unilateral placement and transportation for the aforementioned years, and further seek prospective placement through December of 2025, that is, the end of the 2024-2025 IEP period. Parents also seek reimbursement for their unilateral placement of Chuck at Wolf’s summer program, also known as Wolf Camp.

**Sudbury ’s Position:**

Sudbury disputes Parents allegations. asserting that at all times it has offered Chuck highly individualized programming delivered by highly skilled and properly certified teachers and service providers, through which Chuck has made effective progress in light of his unique presentation and numerous deficits. Sudbury asserts that Chuck’s needs can, and could at all times, be appropriately met through the LAB and/ or LEAP programs at the Curtis Middled School. LAB and LEAP are language-based programs, specifically designed to meet the needs of complex learners. The high level of coordination within and among these programs and service providers allow for flexibility to modify Chuck’s program as needed. Sudbury further asserts that its program constitutes the least restrictive placement for Chuck, within a District where he made lasting friendships with individuals whom he still considers friends. More importantly, in contrast to the Wolf School, Sudbury can deliver direct and consultation occupational therapy (OT)/ assistive technology, physical therapy (PT), teacher of the visually impaired (TVI), audiology, speech and language, and reading services by a certified reading specialist.

As such, Sudbury asserts that it is not responsible to fund Chuck’s placement at Wolf, starting in the summer of 2023.

**FINDINGS OF FACT:**

1. Chuck is a thirteen-year-old resident of Sudbury, Massachusetts, whose entitlement to special education services is not in dispute. Chuck enjoyed attending elementary school in Sudbury and retains friendships formed during that period (Baldwin; Chuck). Chuck has been described as a kind, cooperative, amiable, and complex learner. He possesses a “solidly developed ability to express himself and information that he has learned” and is self-aware of his positive traits and social-emotional skills, despite his limitations with social awareness (SE-2G; Risser; Baldwin).

1. Chuck has been diagnosed with borderline intellectual functioning, unspecified neurodevelopmental disorder, developmental coordination disorder, social pragmatic disorder, Attention Deficit Hyperactivity Disorder (ADHD), speech and language disorder (SLD), some hearing loss, visual impairment and migraines. (SE-1A; SE-27). He also has been diagnosed with Cerebral Palsy and suffered bone/ joint malformation shortly following birth, as a result of complications from multiple illnesses (including jaundice, septicemia, and breathing, cardiac and gastrointestinal issues). Over the years he has undergone numerous surgeries, including orthopedic surgeries (Parent).
2. Chuck enjoys watching TV, video gaming and imaginary games. He considers himself very social and reports having friends in Sudbury and at Wolf (SE-21; Chuck).
3. Chuck attended school in Sudbury through the 2022-2023 school year. Parents unilaterally placed him at the Wolf School in the summer of 2023, and for the 2023-2024 and 2024-2025 school years (PE-27; Parent).
4. During the COVID health emergency, Chuck participated in his educational program remotely between March of 2020 and the end of that school year, as well as for most of the 2020-2021 school year. In 2021 Chuck began attending in person once per week through the remainder of the 2020-2021 school year (Parent).
5. Between November and December of 2020, while Chuck was in third grade, Sudbury conducted a comprehensive school-based re-evaluation,[[7]](#footnote-7) inclusive of a speech and language evaluation by Lauren Lewis, M.A., CCC-SLP, on November 4, 2020 (PE-1). Ms. Lewis’ evaluation results showed that Chuck had strengths in pragmatic spoken language, but significant weaknesses in all areas of social language development, with his scores ranging from below average to borderline impaired in all related subtests (PE-1).
6. An occupational therapy evaluation was performed by Alyssa Sullivan, OTR/L & Heidi Strauss, OTR/L, on November 18, 2020. Weaknesses were noted in midline integration of some fine motor skills. (The evaluators cautioned that test results could have been impacted by Chuck’s reduced visual perceptual skills and issues with attention and focus) (PE-2).
7. Margaret Shelley, MS, PT, performed a physical therapy evaluation which revealed significant improvements in Chuck’s functional mobility. Consultation services to address adaptive physical education support were recommended (PE-3).
8. Elizabeth Clark, Ph.D., Sudbury School Psychologist, conducted Chuck’s psychological evaluation on December 2 and 9, 2020 (PE-4; SE-2N). Her evaluation included a record review, a Developmental History Form, the Wechsler Intelligence Scale for Children-V (WISC-V), selected subtests of the Developmental NeruoPsychological Assessment (NEPSY-2), Rapid Automatized Naming and Rapid Alternating Stimulus Test (RAN/RAS), Conners Continuous Performance Test- 3rd Edition (CPT-3), Wide Range Assessment of Memory and Learning- 2nd Edition (WRAML-2), Conners Rating Scale – 3rd Edition (Parent and Teacher), and an individual interview. Dr. Clark found Chuck’s cognitive skills to fall within the solidly average range, except for processing speed which negatively impacted his reading progress. Dr. Clark further found that Chuck’s auditory attention had improved significantly when compared to testing performed two years earlier, but he continued to show significant distractibility for which she recommended instruction in executive functioning strategies and self-monitoring for accuracy. Her evaluation report notes Chuck’s struggles with fine motor strength and control. Dr. Clark noted that “the method of presenting information to [Chuck] is critical in how well he will be able to take it in and process it to his long-term memory” (PE-4; SE-2N). She recommended that “verbal material be supplemented by pictures” and language broken down and repeated with scaffolding of concepts so that Chuck may master conceptual information. Work with peer interactions and social skills in the context of a social group was recommended as were numerous classroom accommodations. Dr. Clark made additional home-based recommendations including counseling services, in response to Parents’ reports of Chuck’s emotional dysregulation at home. (PE-4; SE-2N).

1. Alexis Strauss, M.Ed., special education teacher, completed an Academic Assessment- Part A on December 2, 9 and 11, 2020, which included classroom observations and the Wechsler Individual Achievement Test- Fourth Edition (WIAT-IV) Reading, Writing and Math subtests to assess academic functioning (PE-5; PE-6; SE-2O). Overall reading skills were in the extremely low range in comparison to same-grade peers, writing skills were in the low average range, and math scores fell between the average and extremely low range. Ms. Strauss recommended explicit instruction in reading with a focus on encoding, decoding and fluency, as well as instruction in writing and math (PE-5; PE-6; SE-2O).

1. In 2021, Parents began to consider a change of placement for Chuck. Parents engaged Dr. Rachel Baldwin, an experienced neuropsychologist (CV at PE-8), to better understand his needs (Parent). Dr. Baldwin performed her evaluation on October 28 and November 5, 2021, while Chuck was a fourth-grade student at Noyes Elementary School in Sudbury (PE-7; Baldwin).
2. As part of Dr. Baldwin’s evaluation, Parents completed a Child History Form on August 11, 2021 (SE-27). It notes that Chuck “makes friends easily; has a best friend; is kind to others; [and can get] into frequent arguments.” Parents had no concerns with Chuck’s development of play skills, turn taking, imaginary play or losing in competitive games. Parents noted Chuck’s numerous strengths including good manners, resilience, creative imagination, persistence, ability to read people and social situations, ability to learn and use new vocabulary in the correct context, and he noted that Chuck was a good audio learner. In this Form Parents also noted that Chuck had attention issues (SE-27).
3. Dr. Baldwin noted that during the evaluation, Chuck was friendly, engaging with her easily. His mood was positive when discussing areas of interest to him (such as discussing superheroes), and negative when he was required to perform tasks challenging to him, such as those academic in nature (PE-7; Baldwin). He was disorganized and distracted by his own internal thoughts but was easily redirected (Baldwin). Chuck talked about wanting to be a small child again and displayed magical thinking such as retreating into fantasy about superheroes (Baldwin).
4. Dr. Baldwin measured intellectual functioning using the WISC-V; motor functioning with the Grooved Pegboard Test; language and related functions with the EVT2, PPVT4 and NEPSY-2; learning and memory functions with the WRAML-2; visual-spatial processing and visual-motor integration with the VMI; adaptive functions with the Vineland-3; academic functions (reading, written expression and mathematics) with the WIAT-4; emotional and behavioral functioning with the CBCL and TRF; and executive functions through various other measures (PE-7; Baldwin).
5. The Parent and Teacher rating scales (CBCL and TRF) reflected that Chuck’s overall scores for social, emotional and behavioral functioning were typical (PE-7; Baldwin; Risser). Neither the Parent or the teacher raised any anxiety, somatic, or depression concerns for Chuck. They also reported no social, rule-breaking, aggressive or attention issues (PE-7; Parent). However, adaptive functioning scales indicated that Chuck experienced greater difficulty than same-age peers (PE-7; Baldwin). Cathy Mason’s 2022 evaluation report describes Chuck as a “cheerful, upbeat kid” (Mason).
6. Dr. Baldwin found that Chuck’s complex early medical history left him with vision, hearing, speech and motor system deficits (PE-7). She scored Chuck’s cognitive abilities within the borderline range, noting “patterns of greater difficulty with higher order cognitive tasks that require integration of skills”, causing him difficulty with generalization of skills, inference, and integration and consolidation of new information (PE-7; Baldwin). Dr. Baldwin explained that children with the type of brain insult suffered by Chuck during infancy, are at higher risk for brain white matter damage, and that white matter is responsible for integration of systems, that is, how we connect body and brain functions (Baldwin). She noted that the brain functions that help integrate and reach higher levels of abstraction were impacted by the early brain insults, and while Chuck does not present extensive deficits in one area, the added insults make everything harder for him to adapt (Baldwin). Chuck’s brain insults impacted visual, auditory, motor functions, language, regulation and integration of those systems (*Id*.).
7. Dr. Baldwin opined that Chuck’s attentional deficits were consistent with an Unspecified Neurodevelopmental Disorder (Cerebral Palsy), attributable to Chuck’s very preterm birth and periventricular leukomalacia, rather than Attention-Deficit/ Hyperactivity Disorder (ADHD) (PE-7). She found deficits in fine and gross motor control, strength and coordination (worse on the right hand), and diagnosed him with Developmental Coordination Disorder. By history, Chuck also met the criteria for bilateral hearing loss and visual impairment (strabismus) (PE-7). Further, Dr. Baldwin found that he also met the criteria for a Specific Learning Disorder with impairments in Mathematics, Written Expression and Reading (PE-7).
8. Dr. Baldwin indicated that collaboration across disciplines was essential in meeting Chuck’s educational needs, but cautioning that pushing him past exhaustion would be detrimental to his growth and acquisition of knowledge (PE-7).
9. Dr. Baldwin explained that Chuck’s profile was unique in that his attention improved when information was presented with simultaneous auditory and visual stimuli (Baldwin). She recommended ongoing consultation and communication among members of Chuck’s medical team, therapeutic intervention providers and assistive technology professionals, occupational therapy services, physical therapy consultation, individual and family therapy or parenting guidance. Dr. Baldwin also recommended provision of specialized instruction and related services, specifically designed to meet Chuck’s medically and neurodevelopmentally complex deficits.[[8]](#footnote-8) She cautioned against setting developmental expectations too high across all domains and recommended modified academic instruction in small, sub-separate settings with sound absorbing materials and reduced sensory stressors. She further recommended modified multi-sensory instruction, chunking, access to assistive technology, positive reinforcement and additional school-related accommodations (PE-7; Baldwin). Dr. Baldwin also recommended consultation and or services by a special education teacher, speech and language pathologist, an assistive technology expert, a teacher of the visually impaired and a teacher of the deaf and hard of hearing, further noting that an occupational therapist should be part of his classroom team to determine optimal seating support and establish a system for “brain breaks” (PE-7; Baldwin). Work on pragmatic language development and integration of higher order language skills with a speech and language pathologist continued to be necessary, as was Chuck’s participation in extended school year services (ESY) (PE-7; Baldwin). Lastly, Dr. Baldwin recommended follow-up testing within two years (PE-7).
10. Dr. Baldwin’s report describes Chuck’s weaknesses, but not his strengths (PE-7). Dr. Baldwin performed the WISC-V within ten months of it having been administered by the school psychologist, which is contrary to the Pearson’s (test creators) recommendation that at least 12 months be allowed between usage (Risser; Baldwin). Dr. Baldwin also used incorrect table descriptors when discussing Chuck’s WISC-V cognitive results, noting that Chuck’s abilities were “borderline”, despite his score falling within the low, to low average range (Risser).
11. Parent testified that in 2021 Dr. Baldwin mentioned that the Wolf School would be a good match for Chuck (SE-15; Parent). Dr. Baldwin has observed the program at Wolf on numerous occasions and in the past has testified for families seeking to place children at Wolf (Baldwin).

1. Shortly after Dr. Baldwin completed her evaluation, while Chuck was still in fourth-grade, Parents retained Angela Gowans, a special education advocate (CV at PE-70). Ms. Gowans has no explicit education or work experience in teaching or special education. Her role as advocate included helping the family through the IEP process, including placement, and helping select an attorney. Ms. Gowans met with Parents and later with Chuck who shared numerous positive experiences about the Noyes Elementary School (Gowans). She testified that when she first started working with the family, vision and/ or hearing impairments did not appear as a category in Chuck’s IEP (Gowans).
2. Chuck participated in numerous evaluations between 2021 and 2022 including an Assistive Technology Evaluation on November 2, 2021 by Kristi Voelkerding of *EasterSeals* Massachusetts, recommending use of a Chromebook and continued use of handwriting when appropriate (SE-2A); a Cortical/ Cerebral Visual Impairment (CVI) Assessment by Lacey Smith, M.Ed., TVI, Marguerite Tibaudo, M.Ed., TVI, Deafblind Specialist and Lisa Miller, M.Ed., TVI, COMS, CLVT of Perkins School for the Blind (Perkins) in July of 2021 noting issues with visual closure and recommending TVI services, accommodations and a learning media assessment (SE-2B).

1. Chuck’s Team reconvened on May 27, 2022, to discuss Parent’s rejection of the proposed placement for the remainder of the February 2, 2022 to January 24, 2023 IEP period (PE-9; SE-1F). The Team proposed that Chuck participate in a hybrid program of Foundations and LAB (a program new to fifth grade at the Noyes) through a partial inclusion program (PE-9; SE-1F). The Service Delivery Grid (Grid) in this IEP outlined a robust program which provided weekly 15 minute consultation to the Team; audiology consultation 4 x 60 minutes per school year; 5 minutes monthly physical therapy consult to the staff by the physical therapist (PTT); 20 minutes monthly consult to the physical education class by the PTT; 15 minutes weekly consultation to the staff by the counselor/ psychologist; and 30 minutes per trimester consultation to Parent by the special education teacher, the speech and language pathologist (SLP), the occupational therapist (OTT) and the PTT. The Grid further offered Chuck the following push in services: 30 minutes weekly social skills by the SLP; 30 minutes twice per week occupational therapy by the OTT; and 840 minutes weekly classroom support by the special education teacher/ TA. Under the C section of the Grid, delineating direct services, Chuck would receive 25 minutes weekly social skills by the SLP; 30 minutes daily English Language Arts (ELA) reading and writing by the special education Teacher; one hour daily each mathematics and reading by the special education teacher; 10 minutes daily adaptive physical education (APE); and 30 minutes daily counseling with the guidance counselor (PE-9; SE-1F). The IEP also offered Chuck participation in the District’s month long extended school year (ESY) program as follows: 30 minutes three times per week ELA; 30 minutes daily math; and 45 minutes daily reading (PE-9; SE-1F). Ms. Gowans, Parents’ advocate helped draft the first paragraph, the Parent Concerns Statement (Gowans).
2. Melinda O’Neill, an experienced school guidance counselor in Sudbury, offered Chuck direct counseling services, as he was relating to his parents experiences he had during recess that were different than what the staff in Sudbury was observing. Ms. O’Neill used cognitive behavioral therapy to help Chuck process his feelings (SE-1F; O’Neill).
3. Lauren Lewis, a speech and language pathologist in Sudbury, who offered services to Chuck twice per week, reported that he was “eager to talk about social topics, but his perspective was different than the reality of the situations”. Ms. Lewis noted that other students were experiencing similar social challenges attributable to COVID and she was working on social issues with the whole class and on perspective taking with Chuck. Ms. Lewis noted that Chuck’s social pragmatic skills were consistent with those of a younger child (Lewis).
4. On June 16, 2022, Sudbury received Parents’ partial rejection of the Amended IEP, accepting the new services offered and fully rejecting the proposed placement, disputing that Chuck had made effective progress or had received a FAPE, and requesting that Sudbury send out packets for referral to an out of district placement (PE-9; SE-1F).
5. On August 23, 2022, Parents wrote to Sudbury asking numerous questions regarding Chuck’s proposed program, including the rate of pull-out services, peer grouping, daily scheduling, plan for determining appropriateness and noting that Chuck was very excited to be in Ms. Mongeon’s class (PE-10). Stephanie Juriansz, Sudbury’s Director of Student Services, responded to Parents’ email on August 24, 2022, acknowledging his participation in a customized partial inclusion hybrid Foundations and Language Achievement and Beyond (LAB) programs, and stating that the rest of their questions would be addressed by Chuck’s Team leader. Ms. Juriansz inquired about the status of Chuck’s vision and audiology evaluations, and she sought to meet with Parents soon after school started. Ms. Juriansz attached descriptions of the Foundations and LAB programs (PE-10).
6. The elementary school’s Foundations program serves students with cognitive processing/ social pragmatic language deficits, autism and communication disorders through highly specialized instruction and support for social communication. Such services are provided in the context of the sub-separate and general education settings so that students may access the general education curriculum to the extent possible. Methodology, pace and content is tailored to the students’ individual needs. Consultation and direct related services are offered by the Speech and Language Pathologist (SLP), PT, OT, Counselor, BCBA, mental health provider and assistive technology; staff may also consult with outside providers. Students in Foundations have access to assistive technology staff and numerous other methodologies per the students’ individual needs (PE-10; SE-3C).
7. The LAB program is offered at Loring, Noyes and Curtis Schools in Sudbury. The program offers language-based services to students that require a more intensive program across all academic areas (SE-3C). All the students in this program have a history of reading and writing difficulties despite having received previous interventions, and they present with specific learning disabilities (dyslexia, dysgraphia, dyscalculia), deficits in receptive and/ or expressive language, language processing deficits, memory or processing speed deficits and/ or executive functioning challenges. Instruction is delivered in small group or individually focusing on specific areas of literacy and/ or numeracy. The program is tailored to the individual student’s needs so as to support development of oral and written language skills, including reading, and metacognitive skill instruction. Services are delivered in a pull-out or push-in model using a multi-sensory approach. OT, PT and counseling are offered as dictated by the students’ needs and a speech pathologist consults regularly to the program. All of the preceding related services providers offer direct services. The program staff includes a special education teacher, a general education teacher and one or two teaching assistants, and a speech and language pathologist consultant all of whom have language-based training. The staff, inclusive of teachers, service providers and experts in assistive technology, work together engaging in a high level of coordination with flexibility to work in conjunction with other program structures to create a hybrid program. The Landmark School Outreach Partnership (Landmark) provides professional development and ongoing consultation to the staff on language-based strategies across the curriculum. Assistive Technology, including ChromBooks for Lexia, Read/Write/Google, iReady, and Learning Ally, are available to all program participants as is Language Live literacy resource. Additionally, programming such as “Orton-Gillingham, Wilson Reading System, Read Naturally, Story Grammar Marker, Linda Mood-Bell: Visualizing Verbalizing, Seeing Stars, [and] LIPs” and other are available as needed by the student (PE-10; SE-3A). Progress review meetings occur regularly with the parents (PE-10; SE-3A).
8. Consistent with her 2020 evaluation, Ms. Lewis provided speech and language services to Chuck at Noyes since he was in the third grade to address his deficits in foundational pragmatic language skills (necessary for successful social interactions). During fifth grade she offered a great deal of consultation and coordinated with Chuck’s teachers to support him in his school life experience (Lewis).
9. Sudbury and Parents had frequent, ongoing email communication since at least 2021 and through the end of the 2022-2023 school year (PE-54; PE-55; PE-56; PE-57; PE-58; PE-59; PE-60; PE-61; PE-62; PE-63; PE-64; PE-65). Additionally, Sudbury implemented a home-school communication log through which service providers and Parents could communicate with each other (SE-9). The log provided regular, detailed information on Chuck’s school activities, performance, contributions and questions across settings and indicated the name of the individual making the entry. One of the concerns reflected in the log addressed Chuck’s desire to be a small child and receive a lot of help from adults. Sudbury responded by promoting independence and use of the same language regarding independence in school and at home. Additionally, in response to Parents’ concerns on how Chuck was doing during recess, Sudbury implemented a recess log to share information regarding Chuck’s daily recess participation with Parents, and developed a plan to help bolster Chuck’s self-image and self-esteem by having him help with preschool children (SE-9; SE-25; Parent). The March 26, 2023, home-school log entry reflects Parent’s satisfaction with this opportunity for Chuck as a great example of an activity that helps a student like him (SE-9). The only social issue mentioned by Parent in the home-school communication log involved a girl having a crush on Chuck and how he should handle it (SE-13; SE-26; Parent).
10. Email communication between Sudbury staff and Parents during the 2022-2023 school year reflect the District’s timely responsiveness to Parents’ concerns and openness in their communication (SE-13).
11. Email communication between October 19 and October 22, 2022, between Parents and Joel Berger, Clinical Coach at Riser & Thread (Chuck’s therapist), discuss Parents’ concerns on how to handle Chuck’s resistance to seeing the therapist, wanting to do things other than what Parents’ wanted him to do (including selection of fun activities), detesting doing school work and only wanting to “play beyblades, imaginary games, videos [and watch] TV” (PE-59). Mr. Berger suggested several approaches and explained that

Developmentally speaking, it’s pretty common for many 11-year-old boys to go through a phase where they are oppositional towards homework/school in general. I’m guessing this is heightened given his past challenges with school, COVID, etc. In sessions I have been breaking it down… My goal is to reinforce to him that not all school is negative. There is a certain trend with a lot of clients I’m working with, where school is an absolute bear, because they remember a period of time (COVID) where it was put on the back burner (PE-59).

Mr. Berger warned Parents to stay alert to behavioral changes such as not eating or caring for himself, as those could indicate a move towards a depressive phase. He noted that Chuck “may be falling into the trap of using his disabilities as a reason why he shouldn’t do anything new”, instead escaping to things he was good at and enjoyed. Mr. Berger stressed the importance of reminding Chuck that he was “good at a lot of things” (PE-59).

1. On November 10, 2022, Rhonda Dion, Reading Specialist in Sudbury (CV at SE-20), conducted a reading evaluation of Chuck’s “knowledge of phonics to decode and encode words” involving the WIST[[9]](#footnote-9) and behavioral observations (PE-11; SE-2C). Ms. Dion holds certifications in Orton-Gillingham, Wilson, Rave-O, Lips, and Seeing Stars (Dion).
2. Ms. Dion observed Chuck’s fifth grade reading teacher delivering him reading services using *Seeing Stars*, a reading methodology recommended by Dr. Melissa Orkin, a well-renowned reading consultant, (Dion). Ms. Dion opined that it was a good lesson and that since Chuck’s phonological awareness was strong and his phonological memory weak, Seeing Stars was a better reading methodology than Wilson for him (Dion).
3. Ms. Dion’s evaluation noted a gap between Chuck and his neurotypical peers due to his complex learning profile and presentation. Learning to read was different for Chuck due to “limited mental stamina for retrieval from long-term memory and motor planning tasks such as handwriting”. She recommended one-to-one reading instruction using *Seeing Stars*, a short chapter book, and letter tiles. She noted that Chuck should “practice reading words composed of learned letter patterns and learned high-frequency words in connected text and in controlled passages”. Ms. Dion recommended that reading instruction should follow a “consistent approach with a systematic sequence of skills, measured with evidence-based tools” (PE-11; SE-2C).

1. Nancy Sharon, TVI, COMS, with 28 years-experience at Carroll School for the Blind, has provided consultation services to Sudbury for visual impairments (SE-29; Sharon). On December 2 and 7, 2022, she performed an Orientation and Mobility Assessment after reviewing the 2021 CVI assessment previously completed by Perkins School for the Blind (Perkins) (SE-2D). The Perkins evaluation recommended accommodations because despite having strong visual attention and recognition, Chuck had difficulty with visual closure (SE-2B). Ms. Sharon observed Chuck navigate the Noyes school building, including the stairs, cafeteria and gymnasium, reporting that he displayed good physical stamina. Finding that Chuck demonstrated safe and independent travel skills in a familiar indoor setting, she did not recommend orientation and mobility services but supported provision of OT, PT and Adaptive PE consultation (SE-2D).

1. In the fall of 2022, Cathy Mason, M.Ed. (CV at PE-13), evaluated Chuck at Parents’ request (SE-12; Mason).[[10]](#footnote-10) Ms. Mason is an educational specialist who holds Massachusetts DESE certification as a teacher of children with moderate special needs (PE-12; Mason).

1. Ms. Mason administered the Kaufman Test of Educational Achievement- Third Edition (KTEA-3), the Comprehensive Test of Phonological Processing- Second Edition (CTOPP-2) and the Gray Oral Reading Test- Fifth Edition (GORT-5). She reviewed Chuck’s medical, family and school histories with Parents, Sudbury’s 2020 re-evaluation reports, and Dr. Baldwin’s 2021 neuropsychological evaluation. She chose to adopt Dr. Baldwin’s WISC-V results (placing Chuck’s cognitive abilities in the borderline range), despite having reviewed Sudbury’s evaluation performed ten months prior to Dr. Baldwin’s, placing Chuck’s cognitive abilities in the average range (PE-12; PE-7; PE-1; SE-2G; Mason).
2. Chuck’s performance on the CTOPP-2 demonstrated weaknesses in areas impacting phonological processing and rapid naming, consistent with a diagnosis of Double Deficit Dyslexia (PE-12). Low range scores in the KTEA-3 supported decoding reading deficits, and Chuck’s very poor range scores on the GORT-5 further demonstrated fluency and comprehension deficits. Chuck’s math skills per the KTEA-3 fell between the low range and below average range of abilities. Chuck also demonstrated poor written language skills. Ms. Mason concluded that Chuck’s literacy skills fell at a 1st to 2nd grade level, math skills at a 2nd to early 3rd grade level, and writing was challenging because of his graphomotor weaknesses and low literacy level (PE-12). Ms. Mason noted that her 2023 evaluation results concurred with Dr. Baldwin’s 2021 findings (PE-12; Mason).
3. Ms. Mason also observed Chuck during homeroom, recess, a reading and comprehension/ social studies lesson inclusive of writing, social studies, math, and science classes at his LAB program at Noyes (PE-12). She recommended multisensory, specialized, language-based small group instruction/ programming with daily instruction in reading and executive functioning support. She opined that the Noyes program did not meet Chuck’s needs (PE-12).
4. Chuck’s Team convened on December 13 and 20, 2022, to conduct the annual IEP review and to discuss the results of the Mobility Assessment conducted by the Carroll School for the Blind, a Cortical/ Cerebral Visual Impairment assessment performed by the Perkins School for the Blind, a reading assessment by Sudbury and an independent reading assessment submitted by Parents. Parents raised concerns with the rate of progress Chuck was making socially, academically, emotionally and in reading. The Team meeting notes provide detailed information regarding the Team’s discussions, including documented data on Chuck’s progress in all areas and how he benefitted from his program and placement at Noyes, where he received,

… intensive one to one and small group, highly specialized instruction for reading and math. This instruction modality has been confirmed by both the outside and internal evaluations as well as by a high level of outside consultations, and [Chuck] is currently making meaningful growth that is expected with his learning profile. [Chuck’s] disability impacts his processing skills, visual-motor skills, fine motor skills, social pragmatics and across all academic skills… when engaged in non-preferred tasks… he requires adult prompting… [Chuck’s] stamina is reduced and his rate of work is slower than peers in the whole group and sub-separate program… (SE-1E).

1. The Team meeting notes further reference Chuck’s ongoing challenges, including fine motor skills and their impact on writing and use of assistive technology, and the impact his pragmatic language deficits have on interactions with peers. The notes further reference Chuck’s rapid naming and phonological awareness deficits that impact development of decoding skills, and his need for classroom support to complete classroom activities. They also reference Chuck’s difficulties with visual closure (SE-1E). The school team further reported that,

… he is connecting socially with his peers… is participating in and is engaged in the general education classroom settings as reported by his general education and special education teachers (SE-1E).

Progress was further reported in gross motor skills (noting his full participation in physical education (PE) and adaptive PE class (where he rejects support).[[11]](#footnote-11)

1. In addition to serving as the annual review, the December 2022 Team discussed the IEP services for the remainder of the 2022-2023 school year at Noyes and the IEP with which Chuck would transition into sixth grade at Sudbury’s Curtis Middle School (Curtis), a fully accessible, ADA compliant school. (PE-14; SE-1D; SE-7A). Recognizing that Chuck would benefit from a smaller setting to better handle the complexities of the sixth-grade curriculum, the Team recommended his participation in the LEAP/ LAB programs (Lewis). In making this recommendation Sudbury considered Chuck’s success in his elementary school hybrid Foundations/ LAB programs (SE-1E). The Team also recommended that Chuck participate in a Learning and Media Assessment in addition to the visual and orientation and mobility assessments he had just undergone. Further, Parents would have an opportunity to visit Curtis (PE-14).
2. The LAB program at Curtis functions similarly to the one at Noyes, whereas the LEAP program serves students with neurological and/ or communication disabilities and intellectual impairments who require significant curriculum modification. Related services including speech and language, OT, PT and additional consultation from the BCBA, psychologist/school adjustment counselor, Literacy Specialist, Assistive Technology is available. Specialized language-based instruction in reading, writing and math is offered through highly modified content aligned to the Massachusetts Curriculum and Common Core Frameworks and instruction is tailored to each student’s needs (SE-3B). Opportunities for inclusion are highly encouraged, and students are fully supported in the general education setting by LEAP program staff. Community outings are designed to provide functional learning opportunities, and all students participate in lunch, recess, specials, home-room activities, and they may also participate in science and social studies as appropriate. Instruction in math, reading, and writing is provided on an individual, or small group basis and the program can also offer completely sub-separate instruction across all content areas. CASE/ ACCEPT Collaborative or Cotting School provide assistance to the LEAP staff throughout the year “to ensure high quality instructional strategies across all curricular areas” (SE-3B). As with LAB, assistive technology is available to all students as are numerous types of programs such as Read Naturally, Story Grammar Marker, Zones of Regulation and other reading methodologies (SE-3B).
3. Throughout the 2022-2023 school year, the Noyes’ staff supported Chuck’s participation in school activities. On or about May of 2023, Chuck participated in a school talent show telling jokes (Parent; Lewis). He also participated in a field trip that involved a ropes course which he was able to fully access with pre-planning and accommodations provided by the staff (Parent).
4. Parents and their advocate visited the Curtis Middle School on January 13, 2023 (PE-15). They observed an ELA and a LAB social studies class and also toured the building, becoming concerned about the physical space (PE-15; Parent, Gowans). There is only one elevator in the building, the LEAP ELA[[12]](#footnote-12) class and LAB programs were located on the second floor and the APE class, gym and the cafeteria were located on the first floor. Ms. Gowans explained that Parents thought that Chuck would not be able to navigate the building independently. They were concerned about the high-top desks and stools in the engineering room, despite Sudbury’s assurances that the staff would be able to accommodate Chuck’s needs, including in the engineering classroom[[13]](#footnote-13) (Gowans). Parents were also concerned about the outdoor space at Curtis, given that in the past, Chuck had suffered a concussion while playing during the after-school program (Parent). Parent testified that Ms. Gowans recommended Wolf School and Cotting School as potential placements for Chuck, and the Wolf School application notes that the family was referred by Ms. Gowans (SE-8; Parent). In late April of 2023, Chuck visited Curtis together with other elementary school students that would be transitioning there for middle school (PE-75).

1. The Curtis playground was improved through an Outdoor Health and Wellness Space Proposal submitted in September of 2022; the project was completed in the spring of 2024 (SE-7B; SE-7C; PE-52; PE-53; Juriansz).
2. On January 16, 2023, Parents applied to the Wolf School (Wolf) for the 2023-2024 school year (SE-8).
3. In January of 2023, Parents reported that Chuck was depressed. Melinda O’Neill, Guidance Counselor at Sudbury (SE-20), worked proactively with Parents to address their concerns. Ms. O’Neill testified that Parents did not report any incident of self-harm; had there been, Sudbury has developed protocols on how to address such related issues. Chuck also never expressed any suicidal ideation to Ms. O’Neill or Ms. Mongeon, with whom he had a positive connection. Ms. O’Neill reported that Chuck had strong connections with peers and adults in Sudbury (O’Neill). He did not like when the teacher assistant made him do work, and she explained to him that sometimes they had to do difficult things to move forward (O’Neill). In February of 2023, Chuck informed Ms. O’Neill that his parents were looking at transferring him to Wolf the following year (O’Neill).
4. On March 22, 2023, Sudbury received Parents’ partial rejection of Chuck’s proposed IEP, and full rejection of the proposed placements for the remainder of the 2022-2023 school year and the 2023-2024 school year (PE-14).
5. Chuck underwent an Audiology Assessment at Children’s Hospital on April 20, 2023, performed by Ghabril Awdeh, AuD, PASC. The evaluation revealed that Chuck had a moderate rising sensorineural hearing loss in the right ear and slight/ mild sensorineural hearing loss rising to normal in the left. The audiologist found that Chuck was receiving the expected and appropriate benefit from amplification and recommended that he “wear both hearing aids throughout every day to maximize benefits of binaural amplification”, accommodations, and a personal remote microphone hearing assistive technology (SE-E; SE-2L).

1. On April 13, 27 and May 4 and 11, 2023, Lily McDonagh, TVI at Carroll, performed a functional vision and learning media assessment to evaluate Chuck with respect to access to the general and expanded core curriculums (PE-17; SE-2F). Ms. McDonagh’s report, dated May 19, 2023, indicates that Chuck did well in all aspects of the testing and that his primary learning channel was both auditory and visual, as he relied heavily on both. She also noted that print larger than a13 point font was his primary literacy medium. She recommended numerous accommodations for Chuck to access visual and auditory input, consultation by a teacher of visual impairments and a Functional Hearing Assessment (PE-17; SE-2F).

1. At Parents’ request, on May 31, 2023, Ms. Mason observed the Curtis program proposed for Chuck (PE-18). Prior to observing the Curtis program, Ms. Mason reviewed Ms. Dion’s December 2022 WIST reading test, but she had no updated information regarding Chuck’s then current academic abilities. She testified that she did not observe Chuck at Wolf, did not participate in any of Chuck’s Team meeting discussions and last saw Chuck over two years prior to the Hearing (Mason).

1. Ms. Mason’s report notes that between December of 2022 and May of 2023, Chuck’s social-emotional health continued to decline, and he had remarked on feeling dumb and not wanting to live (PE-18). At Curtis, Ms. Mason observed a math class with two sixth grade students and found it to be a good class. She described it as explicit, slow-paced and with ongoing teacher-student interaction. She also found a Reading class with two students to be good as was the language arts class in which she noted the teacher paying close attention to the students and checking for understanding (PE-18; Mason). Overall, she found that the classes were well- structured, multisensory, slow-paced, had low student-teacher ratios, and that ongoing interaction between the students and the teacher occurred (PE-18; Mason).[[14]](#footnote-14) Nevertheless, Ms. Mason opined that Curtis would not meet Chuck’s needs, because it was not a cohesive, coordinated, fully, language-based program (PE-18; SE-16; Mason).

1. Chuck’s Team reconvened on May 2 and June 7, 2023, to review the rejected portions of his December 20, 2022 to December 19, 2023 IEP (SE-1D). The Team discussed the complexities of science and social studies in the general education setting as topics in those courses “require[d] a deeper level of thinking and inferring” with which Chuck was struggling. The Team recommended adjustments to the service delivery grid to provide more flexibility as to the units of study, and pull-out services in social studies and science for preview and review of new concepts in those courses (SE-1D). The team also discussed providing Chuck with a longer ESY program.
2. Sudbury amended Chuck’s 2022-2023 IEP, incorporating the changes discussed, including addition of consultation by a Teacher of the Visually Impaired (TVI) 4 x 60 minutes per year, and the need to focus on different visual input when Chuck reports headache, hearing aids are out or is experiencing sensory input fatigue. The IEP proposed that Chuck continue receiving services through the LAB/ Foundations programs at Noyes through the end of the school year and receive his education through the LAB/ LEAP programs at Curtis the following school year. The IEP contained a robust service delivery grid that addressed goals and objectives for social communication, written language, mathematics, reading and emotional support (SE-1D). On September 18, 2023, Sudbury received Parents’ full rejection of the proposed IEP (SE-1D).
3. Curtis is a Unified Champion School offering sents in sixth, seventh and eighth grades participation in special Olympics, unified sports (basketball and Bocce), inclusive youth leadership (unified cougars club), and whole school engagement activities (inclusion week) (SE-3D).
4. A 2022 independent Review of Sudbury Middle School’s Language-Based Program (LAB) was conducted by Nadine Eckstrom, Ph.D., of Academic Discoveries, LLC. (SE-10A). Dr. Eckstrom is an educational researcher, consultant and professor who is considered a nationwide expert in special education. Her review consisted of observations, interviews, surveys, focus groups, and peer-reviewed articles. (SE-10A; Eckstrom).
5. Dr. Eckstrom’s report concluded that Sudbury created comprehensive language-based programs with highly qualified special educators, counselors, speech and language pathologists and consultants, including content experts (SE-10A). She noted that the staff had received literacy instruction and remarked on the extensive training, observation, feedback and coaching provided by Landmark to Sudbury staff over the previous six years. Dr. Eckstrom made recommendations for continued staff development and program enhancements (SE-10A; Eckstrom).
6. All middle school students in Sudbury are provided a Chromebook for individual use, with built-in features that include: keyboard accessibility, closed captions, text-to-speech, speech-to-text, high contrast mode, magnifier, and highlight cursor. Students also have access to additional assistive technology tools including Google Read & Write, Schoology (a learning management system), Kami, Clicker 8 (an accessibility literacy tool), and the students on IEPs have access to Typing Club (SE-3E). Chuck had access to many of these assistive technology tools, including the Chromebook since he was in elementary school.
7. Chuck was seen by Dr. Gena Heidary at Children’s Hospital Pediatric Ophthalmology on June 2, 2023, for a consultation regarding his cortical visual impairment. Dr. Heidary recommended that Chuck have a functional vision assessment by a TVI knowledgeable about cortical visual impairments (PE-19).
8. Chuck’s June 8, 2023, IEP Progress reports for the 2022-2023 school year reflect that Chuck had achieved/ fully met or was progressing toward meeting his social communication, mathematics, reading, emotional, social communication, and written language goals (PE-20; SE-4). While making gains, at times significant, his literacy gains were erratic (SE-5). Chuck had also fully met his physical education and motor skills goal by January of 2022 (PE-20; SE-4).
9. Stephanie Cohen Mongeon was Chuck’s fifth grade LAB class teacher at Noyes (CV at SE-20). She described the class as “amazing”, noting that it was like a family, and one in which Chuck had friends. She spoke about the ongoing consultation and coordination with service providers including special education, the speech and language pathologist, the OT, the PT and the counselor. Ms. Mongeon had no concerns about Chuck’s ability to successfully participate in the hybrid LAB/ LEAP program at Curtis in sixth grade (Mongeon).
10. Margaret Shelley is a Physical Therapist in Sudbury (CV at SE-20). She has known Chuck since he was three years old. Ms. Shelley reported that Chuck accessed adaptive physical education at Noyes and would have access to it at Curtis (Shelley). She described the Noyes building in which Chuck was educated for several years as a three-level structure with four flights of stairs, noting that Chuck was functionally independent maneuvering the building. She observed him ascending and descending stairs to access the recess structures and other areas of the building (Shelley). Ms. Shelley testified that she and other members of Chuck’s Team implemented accommodations, such as alternative seating and mental and movement breaks (Shelley).
11. Alyssa Jacobson, Occupational Therapist at Noyes (CV at SE-20), provided direct occupational therapy services to Chuck when he was in third grade, and consulted to the Team once per week to ensure that Chuck’s curriculum and classroom work were modified in a manner that he could access. Ms. Jacobson also assisted Chuck with a variety of technologies recommended by the assistive technologist. She shared no concerns regarding Chuck’s ability to access Curtis, opining that the proposed program was a good fit for him (Jacobson). Ms. Jacobson testified that as of May 2023 Chuck did not require full-day occupational therapy support services (Jacobson).
12. On or about June 22, 2023, Ms. Gowans drafted a letter, signed by Parents, rejecting the proposed placement at the LAB/ LEAP Curtis program for Chuck’s sixth grade year (PE-20). Although she relied on Dr. Baldwin’s evaluation report, Ms. Gowans referenced Chuck’s “average cognitive ability”, despite Dr. Baldwin’s report stating that Chuck had “borderline intellectual functioning”. Parents also notified Sudbury of their intention to place Chuck at Wolf’s summer program, and requested District funding inclusive of transportation (PE-20; Gowans).
13. Via letter dated June 26, 2023, Ms. Juriansz denied Parents’ request for funding of Chuck’s unilateral placement at Wolf’s ESY with transportation, and she offered to meet with Parents to ascertain how to best support Chuck in Sudbury’s ESY program (PE-21; SE-6A). Amanda Benner, a LAB special education teacher at Curtis, and former LEAP teacher, was the special education teacher in the 2023 ESY program, proposed for Chuck. Ms. Benner testified that during the fifth to sixth grade transition summer program, ESY students met staff and the cohort with whom they would later interact in sixth grade. The summer was also an opportunity for the students to familiarize themselves with the Curtis building (Benner).
14. The Wolf School (Wolf) is a private special education school located in Rhode Island, approved by both the Massachusetts and Rhode Island Departments of Education (PE-22). It serves approximately 70 students Kindergarten to eighth grade, with complex learning presentation. The students have typically been unsuccessful in other educational settings and present with a wide range of profiles including ADHD, anxiety, communication disorders, speech and language deficits, social communication disorders and developmental coordination disorders (PE- 22; PE-24; Karlsson).
15. The ESY program at Wolf, “Camp Confidence”, is a five-week program that uses Wolf’s immersion mode. Each week the students engage in thematic experiential learning. Students are offered sensory movement breaks (Karlsson).
16. On July 9, 2023, Parent wrote to Dr. Baldwin expressing her appreciation for the Wolf suggestion she made in 2021, and noting that Chuck would have his first day at Wolf Camp the following day. Parent further expressed her interest in having Dr. Baldwin re-evaluate Chuck (SE-15).

1. Parent testified that during the time Chuck was participating in Wolf Camp, he regained his learning confidence, disengaged from school refusal and his anxiety was reduced. Parents further noted that Chuck participated in outdoors activities, field trips and physical education, and was able to navigate the school “with dignity and respect” (PE-27; Parent).
2. On August 12, 2023, Parents wrote to Sudbury informing the District of their decision to unilaterally place Chuck at the Wolf for the 2023-2024 school year, Chuck’s sixth grade, and requesting reimbursement for tuition, transportation and attorney’s fees (PE-27; Parent). Parents reasoned that Chuck had been denied a FAPE because the District had recognized his vision impairment and bilateral hearing loss on or about 2020, but had failed to evaluate and service Chuck in those areas until the most recent IEP. Furthermore, while the District’s cognitive testing indicated average cognitive abilities Chuck’s performance was below average. According to Parents, Chuck was gaining awareness of his limitations and did not think that the staff in Sudbury understood him. Chuck participated in Wolf’s 2023-2024 and 2024-2025 school year programs (Parent).
3. Lauren Karlsson, Director of Special Education at Wolf (CV at PE-68), explained that Wolf has created its own service delivery grid to address Massachusetts IEPs because they do not implement Massachusetts IEPs as written. Instead, Wolf revises the grids to reflect their program model which does not offer pull-out related services; instead, Wolf offers an immersion model through which a multidisciplinary team provides language-based instruction and all related services are interwoven (PE-23; PE-27; Karlsson). If a student were to require continuous pull-out counseling, occupational therapy, physical therapy, speech and language, or TVI services, Wolf would recommend that the parents look for a different school (PE-23; Karlsson). Wolf also does not provide individualized programming for just one student, nor does it offer mental health therapeutic support or ABA services. It does not serve students with a primary diagnosis of (or significant) behavioral or mental health issues, substance abuse, self-harm or other maladaptive behaviors (PE-24).
4. Ms. Karlsson is responsible for supervising the IEP process. She is not engaged in direct teaching. She explained that not all students at Wolf are on IEPs. For instance, Chuck’s 6th and 7th grade cohort includes three students on IEPs and six or seven other students who are not (Karlsson). No other information regarding Chuck’s cohort at Wolf was presented at Hearing.
5. Ms. Karlsson explained that Chuck does not receive a specific amount of occupational therapy, speech and language therapy or physical therapy, because that is not their model. She testified that Wolf does not have a counselor or a teacher of the visually impaired (TVI) on staff, and Chuck did not have a TVI consultant during the 2023-2024 school year. In the fall of 2024, Wolf brought in a TVI consultant who consulted twice (Karlsson).
6. During the 2023-2024 and the 2024-2025 school years, Chuck received science, social studies, and health, each for one semester as opposed to the full year (PE-39; PE-44). Consistent with Wolf’s model, Chuck’s Learning Plans are not structured nor do they include the same services that are in Chuck’s IEPs (PE-31; PE-40).
7. During the 2023-2024 school year Chuck was in a class of approximately 8 students, taught by a special education teacher, two teacher assistants. An occupational therapist and a speech and language pathologist also worked with students in the classroom (Frady). Chuck did not receive any one-to-one services at Wolf.
8. Rachel Frady, speech and language pathologist at Wolf, administered the CELF-5 to Chuck in September of 2023 (PE-31). Ms. Frady worked daily in Chuck’s sixth grade classroom during the 2023-2024 school year. She testified that at first, Chuck presented as shy and quiet. He displayed very low confidence, often cried and sought a great deal of support from her and his teachers to process his feelings (Frady). The staff implemented a rating scale for Chuck to identify how large a problem was before seeking support to process his social-emotional needs. Chuck however, did not require or seek additional academic support (Frady).
9. Ms. Frady testified that it was not necessary for her to consult with a hearing specialist, assistive technology specialist or teacher of the visually impaired (TVI) during the 2023-2024 school year despite Chuck’s sensory-neural hearing loss and visual deficits (Frady).
10. At Wolf, Chuck continued to struggle with perspective-taking and he did not meet his social-pragmatic goal during the 2023-2024 school year. His difficulties were also noted during unstructured times as he reported that nobody wanted to play with him at recess. Wolf responded to this concern by having teachers provide support with social interactions during recess. This was written into his Learning Plan (PE-40; Frady). Ms. Frady did not work with Chuck during the 2024-2025 school year (seventh grade) (Frady).
11. Margaret Silva, a Learning Specialist at Wolf, is Chuck’s reading teacher. She lacks any reading certifications and does not have specific reading training (Karlsson). Chuck receives reading services three times per week, although there is no evidence as to what reading methodology is being provided (SE-22; Karlsson). Chuck also receives English Language Arts three times per week, Science half a year and Social Studies the other half or the school year (SE-22; PE-43; Karlsson). None of Chuck’s teachers or Ms. Silva testified at Hearing.

1. Based on her observations of Chuck in the hallways and on campus, and stopping by his classes, Ms. Karlsson opined that Chuck fit well into Wolf and that he was making progress (Karlsson).

1. Chuck travels over one hour each way to attend Wolf (PE-27; Parent). Parent noted that one of the things he likes most at Wolf is that the staff work as a team, they talk and are together in the classroom (Parent).[[15]](#footnote-15)
2. On October 2, 2023, Ms. Juriansz responded to Parents’ August 16, 2023, letter requesting funding for their unilateral placement of Chuck at Wolf for the 2023-2024 school year. She denied the request and disagreed with Parents’ allegations that Chuck had not made effective progress and their reasoning for changing Chuck’s placement (PE-20; PE-28; SE-6B). Ms. Juriansz wrote that

… evaluations of [Chuck] were offered during and after the pandemic and per your request, this process was delayed. After a year of remote learning, delayed evaluation, and a return to school in the fourth grade, health and attendance concerns were additional factors that limited [Chuck’s] consistent access to his educational program. The District responded by offering compensatory services and tutoring to support access to education during the evaluation process. Based on these evaluations and a year of intense services delivery, the Team had a greater understanding of [Chuck’s] learning profile, as a result of which more intensive support was proposed (PE-20; PE-28; SE-6B).

Ms. Juriansz offered to meet with Parents or convene the Team to further discuss their concerns (*Id*.)

1. Chuck’s Sudbury Team convened on October 12, 2023. By then, the family had decided against the Sudbury programs and did not have much to discuss with the Sudbury Team members. According to the advocate, the Parties were at a different stage of their disagreement and viewed the meeting as another process they had to go through (Gowans). At the meeting, Ms. Gowans requested that a specific individual from Perkins School for the Blind conduct a vision evaluation of Chuck. Sudbury acquiesced to Ms. Gowans’ and Parents’ request, but the evaluation took longer than expected and Parents became impatient (Gowans).

1. Between November 7 and November 13, 2023, Parents and Sudbury’s Steve Synan, M.S., CAGS, Team Chairperson at Curtis, discussed the need for Parents’ consent to the District’s three-year re-evaluation via email. Parents provided consent on November 10, 2023, noting that Chuck could be available for testing on December 18 and 19, 2023 (SE-1C). The email chain further discusses Chuck’s IEP expiring in December of 2023 and convening the Team in January of 2024, purportedly to discuss the evaluation results of the December testing. Since it did not make sense for the Team to convene twice in such a short period of time, with Parents’ assent, the Team would only convene in January of 2024 (SE-1C).
2. Alyssa B. Rosenberg, M.A., CCC-SLP, performed Sudbury’s Speech and Language evaluation in December of 2023[[16]](#footnote-16) (PE-33; SE-2L). Chuck wore bilateral hearing aids during the testing and his hearing was within normal limits. Ms. Rosenberg reviewed Chuck’s file, performed informal observations, and administered the Social Language Development Test- Adolescent: Normative Update (SLDT-A:NU) to assess his pragmatic language and the Pragmatic Language subtest of the Comprehensive Assessment of Spoken Language- Second Edition (CASL-2). All Chuck’s test scores fell in the average to below average range. While observing Chuck converse with a peer, Chuck’s

… speech was noted for a hoarse vocal quality and decreased vocal volume, which decreased his intelligibility at times… his conversation skills were noted for weaknesses in his ability to change topics, turn-take appropriately, initiate and maintain conversations at times… lacked consistency in his ability to keep up with the natural flow of conversation as many long pauses were noted… a strength for [Chuck] was his ability to request clarification… (PE-33; SE-2L).

Chuck demonstrated a strong desire to communicate with peers and staff despite pragmatic language challenges, and he also evidenced a strength in his knowledge of social interactions and his ability to draw inferences. He struggled with conversation in more complex social scenarios, with weaknesses understanding non-literal language, requesting and providing information, expressing regret, greeting others appropriately, turn-taking in conversation, showing support for a peer, relaying information and considering someone’s feelings when giving feedback. Ms. Rosenberg recommended continuation of speech and language therapy that focused on pragmatic language, previewing and reviewing social situations and working on how to solve real-life social problems. Frequent check-ins and numerous other interventions and accommodations, including the audiology accommodation plan, were also made (PE-33; SE-2L).

1. Kristen Pierce was the teacher in the LEAP program at Curtis during the 2023-2024 school year (CV at SE-20). Ms. Pierce trained with Chris Wood, and she received consultation from CASE Collaborative and Landmark. She testified that Chuck would have been in her ELA class with a cohort of four additional students, whom she opined would have been appropriate peers (SE-17). She explained that during the 2023-2024 school year, there were several students with hybrid IEPs for LEAP and LAB. The ELA curriculum at LEAP was STARI, which contained language-based components. She testified that the daily agenda was posted in the classroom, and that she used visuals, graphic organizers, writing templates, writing checklists, and audio books with the students. She also previewed vocabulary, scaffolded writing and used sentence starters when teaching (Pierce). Ms. Pierce opined that the LEAP ELA class would have been appropriate for Chuck (Pierce).
2. Alisson Risser, MA CAGS (SE-20), licensed school psychologist, Sudbury, Sudbury (CV at SE-20), is responsible for conducting psychoeducational testing, offering counseling support to students and running the community outing programs at Curtis (including those in which Chuck would have participated). She explained that the outings, which include fun events, offer students opportunities to practice social skills and build their adaptive skills. Ms. Risser has experience working with medically complex learners (Risser).

1. On December 18, 2023, Ms. Risser performed a psychological evaluation as part of Chuck’s three-year reevaluation (SE-2G). She administered the Wechsler Intelligence Scale for Children-V (WISC-V), the Behavior Assessment System for Children, 3rd Edition (BASC) student self-report inventory, and the Piers-Harris Self Concept Scale 3rd Edition (Piers-Harris) to assess Chuck’s self-concept (PE=32; SE-2G).
2. On the WISC, Chuck’s Visual Comprehension and Visual Spatial scores fell in the low average range, as did his Working Memory scores, in which he performed better in visual rather than auditory tasks. His Fluid Reasoning skills remained a relative strength, but his Processing Speed was an area of weakness. Processing speed, which impacts his ability to remember information, was significantly less developed than other areas contributing to lowering his Full Scale IQ score (78) (PE-32; SE-2G). Ms. Risser testified that deficits in Processing Skills could also be attributed to the tasks requiring a bit more fine-motor output (Risser).
3. Ms. Risser noted that both the BASC and Piers-Harris should be interpreted with caution as Chuck was more likely to respond yes to items independent of the meaning of the question and due to elevations in the Consistency index of the BASC. Generally, most of Chuck’s social-emotional and behavioral skills in the BASC fell in the average range for a boy his age, although Chuck reported having feelings of inadequacy particularly as relates to school, where he sometimes feels bored. He indicated appropriate levels of self-esteem, a general ability to control feelings of stress and anger, and that he relates well to family and teachers. While indicating that depression, anxiety and physical ailments were not particularly burdensome, Chuck did report that things were harder for him than others, and noted that he would rather quit than fail when confronted with educational challenges. Other than school related areas, Chuck was confident and well-adjusted in several areas (PE-32; SE-2G; Risser).

1. Ms. Risser opined that Chuck would benefit from

…extra time, visuals paired with auditory information, short and concise directives, frequent praise and encouragement of growth mindset, and opportunities to build relationships with teachers and peers at school. He would also benefit from structured opportunities to receive feedback and feel social success at school to encourage continued engagement (PE-32; SE-2G).

1. Chuck reported that he had six friends with whom he shared similar interests, two of which were in Sudbury. He asked to meet for lunch with his elementary school friends on the day he met with Ms. Risser for testing in Sudbury. According to Ms. Risser, Chuck’s peers were as excited or even more excited to see him (Risser).
2. Ms. Risser recommended that Chuck receive counseling to work on self- esteem issues and perseverance, and that the counselor consult with his teacher and related service providers. She testified that she would have provided support in the classroom to students on her caseload (including Chuck) and would provide classroom lessons to the class as a whole (Risser).
3. Susan Venturoso, DPT, physical therapist in Sudbury, conducted a physical therapy evaluation of Chuck in December 2023 at various locations within Curtis (PE-34; SE-2G).[[17]](#footnote-17) She found that Chuck was able to follow multiple multi-step directions allowing him to finish the test promptly. Her report regarding Chuck’s motor skills development noted that when sitting he maintains adequate posture on a standard desk chair and can sit with stability on a backless stool when classmates sit on the floor. The gait assessment showed that Chuck walks independently with a functional gait pattern with sufficient endurance to navigate the school environment, but because of decreased hip abduction, and rotation issues, “he ambulates with decreased stride length and a toe-out pattern”. Chuck was able to get to where he needed to be without assistance. When negotiating stairs Chuck could ascend and descend 16 steps using an alternating pattern with appropriate speed and safety awareness to adequately handle school transition times.[[18]](#footnote-18) Chuck could independently and safely negotiate curbs including areas surrounding the Curtis building with uneven surfaces. His balance was assessed using the Pediatric Balance Scale measuring fourteen criteria. Ms. Venturoso explained that “good balance depends on correct sensory information from the eyes (vision), muscles and joints (proprioceptive input) and the balance organs in the inner ear (vestibular system)” (PE-34; SE-2G). She noted that Chuck had difficulty balancing on one foot, and also when standing with one foot in front of the other. Functional transitions were measured using Timed Up and Go Through. Chuck’s performance was age-appropriate though slightly slower than average. His ability to maintain a fast pace for short distances, efficiently pivot his feet, and perform directional turns was excellent. Regarding recreational movement, Chuck reported enjoying swings, dancing and being interested in cheerleading. He also reported that he can access the playground structures at Wolf, but prefers to socialize or play group games during recess (PE-34; SE-2G).
4. Based on Chuck’ self-awareness, ability to modify in the moment to fully participate in an activity and ability to fully access his school environment independently, Ms. Venturoso opined that he did not require PT or PT consultation services. Her sole recommendation was that Chuck continue to partake in daily movement activities that promote his overall fitness and gross motor development. Regarding his ability to manage the physical environment at Curtis, Ms. Venturoso expressed no reservation about Chuck’s ability to access the Curtis building, including the outdoor spaces, noting that indoors he would be able to access the building’s elevator if he wished (SE-2G; Venturoso).
5. Ms. Shelley, concurred that Chuck would be able to navigate the Curtis building. She measured the steps Student regularly walked at Noyes and the ones he would be required to take at Curtis, noting that Student took approximately 4,368 steps per day at Noyes whereas he would be required to take approximately 1,527 at Curtis daily (Shelley).
6. An academic achievement assessment was performed by Kate McCullough, M.A., M.Ed., special educator in Sudbury, on December 18 and 19, 2023 (PE-35; SE-2J). She administered the Wechsler Individual Assessment Test, Fourth Edition (WIAT-4), subtests in the areas of reading, math and written expression, the Test of Written Expression- Fourth Edition (TOWL-4), and conducted behavioral observations during the tests. Each testing lesson lasted between 25 and 60 minutes during which Chuck remained actively engaged, persisted on difficult tasks and put forth good effort. His composite score on the WIAT-4 was in the low range at 62, placing him in the 0.6 percentile (PE-35; SE-2J). His lowest score on this test was on Written Expression, where he scored a 60, falling within the low range, and placing him in the 0.4 percentile. His highest scores were a 70 in Reading, placing him at the 2nd percentile, and Math where his below average range score of 79 placed him in the 8th percentile. On the TOWL-4, he achieved a scaled score of 4, placing him in the poor range at the 2nd percentile in both the Contextual Conventions and Story Composition subtests (PE-35; SE-2J). Ms. Cullough made numerous recommendations for specialized instruction, practice and accommodations in reading, writing and math (PE-35; SE-2J).
7. Therese Adams, occupational therapist in Sudbury (CV at SE-20), conducted an OT evaluation in January of 2024[[19]](#footnote-19) to examine how “sensory and motor factors underlying problem-solving, learning, and self-care skills” impact Chuck’s ability to participate in school related activities (PE-36; SE-2M). She considered a parent questionnaire, conducted clinical observations and administered the Sensory Processing Measure, Second Edition (SPM-2) and the Goal-Oriented Assessment of Life Skills (GOAL) to assess Chuck’s sensory motor skills, fine motor/visual motor skills, functional computer skills, and activities of daily living. Ms. Adams noted that Chuck presented with diminished organizational and fine motor control skills, he struggled with written output for lengthy assignments and with visual and auditory information when working in a group but, he can successfully participate in his curriculum when strategies are put in place. Ms. Adams recommended various accommodations in the school setting including support in learning to utilize additional Chrome and Google products (PE-36; SE-2M). Ms. Adams would be responsible to offer OT consultation and services to Chuck at Curtis (Adams).
8. Chuck’s Team convened on January 25, 2024, for the annual review and to discuss the results of Chuck’s three-year re-evaluation (PE-37; SE-1B). At the time of Sudbury’s re-evaluation, Chuck had completed ESY and a semester at Wolf (PE-37; SE-1B). Based upon the result of the evaluations the Team recommended placement in the hybrid LEAP and LAB programs at Curtis to address his primary neurological disability and secondary physical disability. Sudbury further recommended an in-district ESY program, rejecting Parents’ request for funding of the ESY program at Wolf. The Team meeting notes further reflect Chuck’s vulnerability to being bullied or for bullying others, and recommended preventative steps including direct services from the speech and language pathologist, participation in the general education social emotional curriculum (Open Circle) and policies consistent with the Massachusetts Bullying Prevention and Intervention law and Sudbury’s internal policies (PE-37; SE-1B).
9. The proposed IEP resulting from the January 2024 meeting offered 30 minutes per trimester consultation service among the teachers and services providers; 20 minutes monthly 20 Adaptive PE and PE teachers consult; TVI vision consult and audiologist consult 4x 60 minutes per year. Services in the general education setting included 6x60 minutes lunch and recess support, and 3x50 minutes Unified Arts support per six-day cycle. Under the C grid, Chuck would receive the following direct services per six day cycle: 2x25 minutes social skills by the SLP; 3x50 minutes skills and strategies by the special education teacher; 6x50 minutes mathematics by the special education teacher; 6x50 minutes ELA (reading and writing) by the special education teacher; reading-decoding/fluency by the special education teacher; 2x25 minutes counseling with the school counselor; and 6x50 minutes each, science and social studies co-taught by the special education and the general education teachers (PE-37; SE-1B). The ESY program offered 4x255 minutes of functional academics, social/behavioral/life skills, and 5x60 minutes each math and reading. As with the previous IEPs, this one offered numerous accommodations to address Chuck’s physical, mobility, educational and neurological challenges[[20]](#footnote-20) (PE-37; SE-1B).

1. During the 2023-2024 school year, students enrolled in the Curtis programs recommended for Student participated in monthly community outings designed to offer opportunities to practice life skills, social skills, time-management, budgeting and math skills in the community (SE-18; Carapezza). Students went to a Farm Stand, grocery store, the Goodnow Library, Discovery Museum in Acton, and Russell Garden Center. They also participated in a scavenger hunt in the North End, raised money running the school store after purchasing supplies at Target/ CVS/ Dollar Tree stores, and honored their friends by planning, purchasing ingredients and making a meal after visiting Sudbury Farms (SE-18; Carapezza).
2. On April 23, 2024, Sudbury received Parents’ April 17, 2024, rejection of the IEP and placement arguing that comparison of the WIAT-IV completed by Dr. Baldwin in 2021 and the District’s testing in 2024 demonstrated lack of progress by a student whom Parents considered to have average cognitive abilities despite Dr. Baldwin’s 2021 finding that he had borderline cognitive abilities (SE-1B; PE-7).
3. Alexander Duca, MA, BCBA, LABA, conducted a Behavioral Observation of Student Wolf on behalf of Sudbury, on May 2, 2024 (PE-38; SE-2I). This was not a Functional Behavioral Assessment (Juriansz). He described Chuck as personable, kindhearted and polite, noting Student’s ease engaging in age-appropriate conversation. Student reported that his favorite things at Wolf were having recess twice a day and playground equipment similar to a zip-line. He also shared that he did better when he was able to take “brain-breaks”. Chuck participated appropriately in his classes, albeit at times offering silly responses to questions. Overall he was able to complete tasks with minimal assistance. A staff member reported that Chuck appreciated the opportunity to move about the school setting with reduced staff supervision, which helped him not feel different from his peers, opining that Chuck benefited from settings with fewer students. By report, Chuck independently asked to use the “chill zone” when feeling emotionally dysregulated (PE-38; SE-2I). Mr. Duca made several recommendations to help promote Chuck’s continued utilization of functional communication and self-advocacy skills. He suggested providing opportunities for learning in small classroom settings, allowing Chuck 15-seconds processing time, and using a multisensory approach when giving him instructions. He also recommended that Chuck have a designated space he can access when feeling emotionally dysregulated or upset during the school day and having access to his counselor (PE-38; SE-2I).

1. On May 7, 2024, Ms. Juriansz denied Parents’ April 23, 2024, request for funding and transportation for Parents’ unilateral placement of Chuck at Wolf for the 2024-2025 school year (SE-6C). In response to Parents’ allegations that Chuck’s evaluation results showed regression instead of progress, Ms. Juriansz responded,

Although this decrease in his scores could be reflective of several variables, it could indicate that his current educational environment may not be supportive of his need for intensive instruction with the appropriate methodology. In the past when the appropriate methodology was given with fidelity and consistency, his progress data demonstrated a rate of positive progression commensurate with his complex learning profile. The Sudbury Public Schools has an intensity of service providers, who are highly specialized in language-based strategies and diverse literacy and math interventions in order to provide intensive academic and social supports (SE-6C).

At the time of this letter, Student was about to complete his first year at Wolf, inclusive of the 2023 summer program. Ms. Juriansz noted that Sudbury’s program was a less restrictive environment and Chuck would have access to a cohort of similar learners in the District’s proposed program (SE-6C).

1. Chuck’s report card for the 2023-2024 school year notes that Student was making progress toward the benchmarks set by Wolf. His best scores were in performing and visual arts where he achieved Wolf’s highest score, “almost always” meeting the targets on his Learning Plan (PE-39).
2. At Wolf, Chuck’s three times per week reading services were delivered by Meg Silva, a Learning Specialist (Karlsson). The record lacks evidence that Ms. Silva is certified in any reading modality or has received specific reading training (Karlsson). Similarly, no evidence was presented regarding the specific reading methodology she used during the reading sessions with Chuck (*Id*.; Dion).

1. On August 21, 2024, Parents wrote to Ms. Juriansz informing her that Chuck would continue his unilateral placement at Wolf for the 2024-2025 school year and noting their intention to move forward with a BSEA Hearing (PE41). Ms Juriansz responded declining Parents’ request for funding of Wolf and reminding Parents that as a “private pay student, [Chuck]” could access special education resources through the public school” and Sudbury was amenable to meeting with them to provide additional information (PE-41).

1. Chuck’s 2024-2025 class at Wolf had ten students who could be broken up into small instructional groups led by the teacher, the occupational therapist, the teacher assistant and others in different parts of the classroom or in one of the adjacent spaces inside the classroom (Karlsson).
2. Dr. Baldwin again evaluated Student on November 21, and December 11 and she observed Chuck at Wolf on December 13, 2024, during recess, lunch and instructional time (PE-48; Baldwin). She administered the WRAML-3 (selected subtests), CELF-5, Test of Everyday Attention for Children (TEA-Ch), BRIEF-2 (parent and teacher report), Beery-Buktenica Developmental Test of Visual-Motor Integration (VMI), Beery VMI Developmental Test of Visual Perception, Beery VMI Developmental Test of Motor Coordination, Grooved Pegboard, Youth Self-Report for ages 11-18 (YSR), Child Behavior Checklist (CBCL, parent report), Teachers Report for Ages 6-18 (teacher report), Social Responsiveness Scale, Second Edition (SRS-2, parent and teacher report), Vineland Adaptive Behavior Scales (Vineland-3), Child Neuropsychological History Questionnaire, Teacher Questionnaire (completed by Kristen Machado), consultation with Chuck’s educational Team, Chuck’s therapist Robert Hoover, LCSW, Parents and Chuck, and clinical observations (PE-48). Notably, Dr. Baldwin did not conduct any academic achievement tests, despite stressing the importance of academic testing for obtaining a full picture of a student’s performance and despite Parents sharing their concerns about Student’s academic skill development in 2024 (PE-48; Baldwin). Dr. Balldwin adopted Sudbury’s intellectual assessment results indicating that Chuck’s intellectual functioning fell in the “below average range overall intellectual functioning with weaknesses in aspects of information processing, including processing speed and working memory”, abandoning her previous “borderline” cognitive functioning findings (PE-48). In contrast to her 2021 report, which emphasized Student’s weaknesses, the 2024 focused on his strengths (PE-7; PE-48).
3. Dr. Baldwin noted that Student continued to display magical-thinking, choosing to tell a story referencing his acquisition of superpowers at birth (Baldwin). The 2024 Parent and Teacher social/ emotional rating scales showed elevated social-emotional scores in 2024 with social problems, anxiety, depression and externalizing problems scoring in the “borderline” category and internalizing problems falling in the “clinical” range; these same scores were rated “typical” in 2021 (Risser). Nonetheless, Dr. Baldwin attributed Chuck’s improvement in mood and emotional regulation in part to his change in placement, finding that he did not meet the diagnostic criteria for anxiety or depression disorders, but he demonstrated patterns of “tending to direct stress inwardly to himself and become nervous easily” (PE-48; Baldwin). Chuck continued to demonstrate marked reading and spelling skills delays and slightly better math skills albeit below grade level (PE-48).
4. When comparing the results of the WRAML-3 to those of 2021, Dr. Baldwin noted that Student’s scores had declined, now “falling further behind what is typical” (Baldwin). A comparison between the WRAML-3 scores performed in 2020 and 2021, when Student attended Sudbury demonstrated progress, but the results of the WRAML-3 in 2024, decreased following Student’s placement at Wolf (Baldwin). In the CELF-5, Chuck’s Core Language score decreased 10 points when compared to the results of the CELF-5 administered by Ms. Frady in September of 2023 (PE-31; PE-48). Dr. Baldwin was unable to form an opinion as to whether Student had made any academic gains while at Wolf (PE-4; PE-7; PE-48; Baldwin). Her 2024 diagnoses included those previously given in 2021 and added ADHD, a diagnosis given by Children’s Hospital in 2019 and which she had previously rejected (PE-7; PE-48; Baldwin).
5. Dr. Baldwin continued to recommend language-based instruction in a cohesive small setting with similar peers and frequent consultation and coordination among teachers and service providers. Specialized academic instruction in all foundational areas including writing, reading and mathematics as well as extended school year services. Dr. Baldwin stressed the need for consultation with the audiologist, vision therapist, and assistive technology expert, recommending that all three be embedded within the school and available for regular communication for dynamic modifications as needed (PE-48). She also recommended consultation with a physical therapist, Chuck’s medical team and supported continued individual therapy for Chuck. Dr. Baldwin noted the need for continued work on pragmatic language skills, perspective-taking, and techniques and activities for stress reduction (PE-48). Dr. Baldwin did not observe Chuck’s proposed program at Sudbury, but having observed him at Wolf, she endorsed this placement (Baldwin).
6. Lindsay Carapezza, speech and language pathologist (CV at SE-20) is the Team Chair and mentor for SLPs at Curtis. She observed Student during ELA, Tech Time, recess and lunch at Wolf on December 3, 2024 (SE-2K; Carapezza). The observers left Sudbury at 8:45 a.m. It took them one hour and seventeen minutes to arrive. Student’s classroom was a main room, containing ten desks surrounded by smaller rooms that opened to the main classroom. The classroom served students in sixth, seventh and eighth grades. A lead teacher, speech and language pathologist, OT, and a teacher assistant comprised the staff and shared team teaching, consulting and planning. Orton Gillingham and Read Naturally were used for reading instruction which is taught separately from ELA. The classroom was inviting and RedCat microphone was present although it was only used by the OT, and no Phonak/ FM system was used. Counseling, OT and speech and language services are not offered as direct instruction but as a consultation model at Wolf (SE-2K; Carapezza).

1. Ms. Carapezza noted that Student used his hearing aids during the observation on December 3, 2023, but not his glasses. During ELA the students began by playing Prodigy independently on their Chromebooks until a timer rang and they broke into smaller groups and Chuck worked one-to-one with the teacher assistant for 20 minutes. No interaction with the lead teacher was observed during this period. Chuck worked with two other students and the lead teacher during the next activity which involved reading and discussing the history of jazz and its impact. While Chuck participated more than the other two students, the concept of high and low notes appeared not to be clearly understood. Some of the material was not at Chuck’s independent reading level and he had difficulty decoding (SE-2K). Ms. Carapezza opined that the lesson felt rushed, material was not previewed and Chuck never interacted with the speech and language pathologist (Carapezza). Ten students participated in the Tech Time block led by the OT who initiated the block by having students engage in a GoNoodle activity through which students had to run, jump and duck obstacles. The class broke into small groups and Chuck worked with another student and the OT for the remainder of the block taking turns answering to a “would you rather” question by dictating their answers using speech to text in their Chromebooks. During recess he mostly interacted with a seventh grader who was not in his ELA class. Chuck was observed to “navigate the space with no apparent difficulty, running, walking and fake sword fighting” (SE-2K; Carapezza).
2. Kristen Machado, Chuck’s seventh grade teacher at Wolf, completed a Teacher Questionnaire in which she highlighted that Chuck’s “focus and attention[al] ability to access and complete schoolwork” have been a problem for a long time and these significantly impact his educational progress (SE-28). Ms. Machado was aware that Chuck was on an IEP for “academics, speech and OT”, noting that his strengths were in history and social studies and his greatest weakness was reading. Lastly, she noted that although Chuck had numerous friends, he had “a hard time letting things go or knowing when to stop arguing… [and] sometimes instigates” (SE-28).

1. At Parents’ request, Nicole K. Coman, licensed educational psychologist (CV at PE-50), conducted observations of the Wolf and Curtis programs (PE-49; Coman). Prior to the observations, she reviewed Ms. Mason’s report, Dr. Baldwin’s evaluation report, the proposed IEP, the OT evaluation, progress notes from Wolf and other records (Coman). She did not evaluate Chuck, and her knowledge of him prior to her observation stemmed primarily from having reviewed Dr. Baldwin’s report.[[21]](#footnote-21) Ms. Coman background is primarily with students on the autism spectrum (Coman). She considered Chuck’s reading, writing, slow processing speed, anxiety and attention challenges as well as his need for explicit language-based instruction and pragmatic language development when conducting her evaluations (PE-49; Coman).
2. Ms. Coman observed Chuck at Wolf on December 13, 2024 (PE-49). According to Ms. Coman, students are grouped according to their ability level for all core academic courses. She observed Chuck’s math class in which there were a total of two students, including Chuck. The class involved a competition between Chuck and another student in which they had to hang from a tire swing in the classroom, while laying on their stomach holding an extension tool with which they had to reach and grab a plastic egg. Despite Chuck struggling with the activity, the OT did not provide any accommodation until Chuck asked for help when he needed extra time to complete the task due to reduced hand strength (PE-49;(Coman).

1. Ms. Coman observed a science, ancient civilization class and a one-to-one reading lesson offered by Ms. Benner, Ms. Dion, Ms. Marchan and a teacher assistant, at the proposed LAB program in Curtis, on January 14, 2025 (PE-49). At Curtis, Ms. Coman observed a reading lesson taught by M. Dion, that was paced appropriately, taught with fidelity and was “well-implemented”, by a skilled teacher (Coman). Overall, the LAB program at Curtis offered “a smaller group and low student-to-teacher ratio classes with co-taught special educator support… [and] modified guided notes…” (PE-49). She noted that the reading support lesson “was well implemented and supported” (PE-49). Ms. Coman also observed other LAB program classes where students were broken into small groups. She observed and objected to an activity in which students were competing against each other. She raised concerns about Chuck’s ability to safely and independently navigate the physical space at Curtis, given that LAB classes were held on the second floor. Overall, she noted that Sudbury’s program was aligned with some of the recommendations in Dr. Baldwin’s report (PE-49).

1. Ms. Coman noted that the staff in both programs were friendly, welcoming and dedicated educators (PE-49). Agreeing with Dr. Baldwin, she opined that given Chuck’s language and social communication needs, he required participation in a highly structured language-based classroom that offered “consistent teaching strategies, through multi-modalities with explicit connections to new learning” (PE-49). She stressed the need for Chuck to be placed with similar peers (PE-49; PE-47; Coman). Ms. Coman cautioned that without the appropriate programming and interventions across all core, academic courses Chuck was likely to struggle academically widening the gap between himself and his peers, opining that this would likely cause re-emergence of emotional challenges (PE-49). To support Chuck’s emotional stability, she discouraged Chuck’s engagement in competitive activities in the classroom that would highlight his weaknesses “exploiting his learning differences” and inducing stress and anxiety. Based on her observations, Ms. Coman concluded that because the LAB program was not specialized enough, the peers did not appear to be similar and the layout of the building may present navigational challenges (given that LAB classes were on the second floor) it would not meet Chuck’s needs, while the program at Wolf could do so (Coman).

1. On cross-examination Ms. Coman conceded that she had no information regarding the Sudbury staff’s credentials and qualifications, and she was unaware that the students at Wolf had a variety of disabilities not all of which were speech and language related (Coman). Ms. Coman raised concern that not all students at LAB appeared to have a reading disability (Coman). She also agreed that it was inappropriate for Chuck to have participated in the math competition with another student at Wolf (involving the tire hanging from the ceiling) because it exploited his differences and induced stress (Coman). She also agreed that many of the recommendations in Dr. Baldwin’s evaluation were not provided at Wolf including specialized reading instruction, consultation by an audiologist, a technology expert and a TVI, direct speech and language services, and OT services, all of which were offered at Curtis (Coman). When comparing Sudbury’s and Wolf’s summer programs, Ms. Coman agreed that the ESY program at Wolf did not include OT or SLP whereas the Sudbury program was a full day program with OT and SLP (Coman).
2. Ms. Coman lacked information regarding Chuck’s academic performance at Wolf and was unable to render an opinion as to whether he had made academic progress while at Wolf (Coman).
3. After reviewing Chuck’s Learning Plan at Wolf, Ms. Dion opined that his reading progress while at Wolf fell short of what it could be. She noted that he had not made many gains (Dion). No evidence was presented at Hearing that Student has been receiving any specialized reading instruction at Wolf.
4. Chuck’s annual review Team meeting was held on January 22, 2025, with twenty participants including Parents, a TVI, an audiologist, the Parties’ attorneys, Wolf representatives and Sudbury personnel including teachers, a speech and language pathologist, a reading specialist, an OT, a PT and an APE representative (PE-46; SE-1A).
5. Following a discussion regarding Chuck’s performance at Wolf and Sudbury’s “programmatic structure and cohort”, Chuck’s complex learning profile and his need for “smaller classes with a slower, modified pace”, Sudbury recommended substantially-separate instruction at the LAB program in Curtis. In reaching this determination the Team considered: Sudbury’s classroom observation, classroom performance reports by the Wolf teachers, Student’s work samples and observations, progress reports, report cards, district-wide assessment results, MCAS data, and independent neuropsychological evaluations (PE-46; SE-1A).
6. The Narrative Description of School District’s Proposal section of the IEP reflects that the LAB program is taught “by a highly qualified special education teacher with a reading specialist license” (PE-46; SE-1A). LAB also includes a reading specialist who offers small and individual reading instruction, and a speech and language pathologist and an OT who offer regular consultation and are integrated into classes assisting students with generalization of skills. The proposed IEP’s description of the District’s proposal notes that Sudbury

…has the ability to customize programming while maintaining small group learning with similar peers, highly modified instruction, and minimal transitions across the school day… LAB would provide access within the least restrictive setting, knowing that the ability to intensify this program with a hybrid model is possible at any time per team recommendations in the future. Additionally, the LAB program cohort is appropriate for [Chuck] (PE-46; SE-1A).

1. The previous IEP offered a hybrid LEAP/LAB program with intense functional skills development, but Wolf representatives reported that Chuck did not need functional skills instruction and the Team offered LAB. Although Wolf shared no concerns regarding PT (and Parents reported that Chuck was on Wolf’s basketball team), Sudbury added PT consultation to support Student’s gross motor access to the Curtis building (PE-46; SE-1A). Parents also reported that Student was having 20/20 vision and no longer wore glasses but requested that vision consultation be maintained to support transition. The audiologist consultation remained in the IEP despite reports that Student was not using an FM system. Every room at Curtis has a *RedCat* System which would be available to Chuck. Assistive technology and OT consultation were added to the IEP to ensure application of techniques throughout the day. All academic instruction remained in the C grid and a pragmatic speech session was added to the IEP. Adaptive PE and a PE consult were included in this IEP, as were ESY services. Lastly, shared support would be provided within the general education setting when Student was at lunch, recess or at unified arts (PE-46; SE-1A). Parents requested retroactive and continued funding for their unilateral placement at Wolf and transportation (PE-46; SE-1A; PE-51).

1. Dr. Baldwin attended the January 2025 Team meeting noting in testimony that she had been impressed with the proposed programs at Curtis and how talented the professionals with whom she spoke were. Since she had not observed the program, she could not render an opinion about its appropriateness for Student. Dr. Baldwin recommended that Student receive school counseling which is a service delineated in the Sudbury IEPs but not in Wolf’s service plans Student (SE-1; Baldwin).

1. Both Dr. Baldwin and Ms. Gowans conceded in testimony that there was no evidence that Student had made academic progress at Wolf (Baldwin; Gowans). Ms. Dion testified that Chuck’s reading progress was not what it could be, and having received no data regarding the reading methodology allegedly being used at Wolf, so she could not confirm that he had actually received the services. She would have used a different reading methodology at Curtis (Dion).
2. On January 20, 2025, Dr. Eckstrom, observed Sudbury’s Middle School language-based program, specifically LAB and STEPS (SE-10B). She noted Sudbury’s long-standing commitment to providing language-based programming and support to students who require explicit instruction in this area, and consistent with her 2022 program review, “those students who attended these programs have exhibited significant growth in their abilities”. She further noted that Sudbury has invested significant resources to ensure the high quality of its language-based programs including opportunities for students to access assistive technology and/ or audiological and manipulative resources to support the students’ overall educational experience and reduce anxiety. Dr. Eckstrom noted that students received differentiated work responsive to their needs; they worked at their own pace and were provided opportunities to work collaboratively with peers (SE-10B). She reported cross-curricular alignment, carry-over and generalization across educational settings. The classrooms were observed to provide “visual, verbal, tactile, and kinetic pedagogy that encouraged student engagement in learning” and supportive teachers and services providers who modeled, checked for understanding and offered positive reinforcement to the students (SE-10B). Work is modified and tailored to the students’ needs (SE-23). Dr. Eckstrom testified that enhancements had been made to the Curtis LAB program since her previous visit (SE-10B). She further testified that she uses the Sudbury program as an example of what an exemplary and robust language-based program should be (Eckstrom).

1. Ms. Juriansz described the high level of expert consultation provided by Landmark and Case Collaborative to the various specialized and language-based programs at the elementary and middle school level in Sudbury, such as LAB, LEAP and STEPS. Ms Juriansz noted that other towns request and tuition students into Sudbury’s specialized programs (SE-24; SE-25; Juriansz).
2. Several teachers and related service providers offered testimony about the LAB and LEAP programs at Curtis. Katie Feldman, has been a LAB teacher at Curtis over the past six years (CV at SE-20). She is certified by Massachusetts DESE in moderate special needs and has had extensive training in numerous reading and social/ emotional interventions. Prior to coming to Sudbury, she worked at the Carroll School. Ms. Feldman explained that LAB has four content area teachers who co-teach with her in math, ELA, social studies and science (SE-17; Feldman). LAB also has a dedicated speech pathologist who offers push-in services, co-teaches, and offers one-to-one services. An OT also works with students in the LAB classroom setting (Feldman). LAB instruction is explicit, multi-sensory, paced according to the students’ needs, with spiraling, previewing and reviewing of the instructional content, graphic organizers are the same across instructional settings, and work is modified as the program meets the present needs of each student as they build toward more complex concepts (Feldman). Ms. Benner, the seventh grade LAB special education teacher, testified that the seventh and eighth grade LAB programs at Curtis are substantially similar (Benner).
3. Ms. Feldman testified that all the students in LAB present with language-based deficits and Chuck would have been in a cohort of eight students, all of whom would have been cognitively and academically appropriate for him (SE-17; Feldman). Annya Pedreschi, Special Education Administrator and Team chair at Curtis, had also reviewed the IEPs for the cohorts in Chuck’s proposed programs.[[22]](#footnote-22) She too opined that the cohorts were similar to Chuck and would have been appropriate peers (SE-17; Pedreschi). Ms. Pedreschi further noted that there is great flexibility to shift programming in response to the students’ individual needs at LAB (SE-17; Pedreschi).

1. Ms. Sharon, the TVI from the Carroll School who evaluated Chuck in December of 2022, has visited Curtis on numerous occasions to consult for other students. She opined that Chuck could access the building (Sharon).
2. Chuck testified about his experiences in Sudbury and at Wolf. Chuck testified that there were a handful of incidents at Sudbury that made him sad, and he felt that one of his teachers did not understand him. He also did not like receiving assistance from the teacher assistant, noting that his friends thought it was weird. He testified that at present he only sees his private therapist when he needs to do so, and he does not see the social worker at Wolf frequently. He likes Wolf and does not mind the drive there. He testified that he has bilateral hearing aids, but he forgets to use them in school and mostly uses the one for the right ear. Chuck also spoke about his strengths in socializing noting that he still has friends that he met while attending Sudbury, and that he is also friendly with some students at Wolf, but they are not in his class. After high school Chuck wishes to attend a vocational school program and move near that school (Chuck). He also wants to have a girlfriend when he is older, and wants to get married someday. According to Parent, the vocational school in which Student is interested has a large campus with over 1,300 students and it offers multiple career paths (Parent). In cross-examination, Ms. Coman agreed that if Student’s goal was to attend a large school after high school, it would be important for him to be exposed to a larger school environment than Wolf (Coman).

**CONCLUSIONS**:

Chuck is a fourteen-year-old resident of Sudbury whose entitlement to special education services under federal[[23]](#footnote-23)and Massachusetts special education law[[24]](#footnote-24) is not disputed. His complex presentation, diagnoses and areas of need are also not in dispute. Rather, the Parties’ dispute stems from their disagreement as to whether the programs and placements offered by Sudbury during the 2023-2024 and the 2024-2025 school years offered Chuck a FAPE. Asserting they did not, Parents now seek reimbursement for their unilateral placement of Chuck at Wolf (inclusive of transportation) and summer programming in 2023 and 2024. Moreover, since Chuck’s most recent IEP covers the period from December 19, 2024 to December 18, 2025, they also seek public funding for prospective placement at Wolf through the end of the IEP period.

School districts are required to offer IDEA eligible students a FAPE, through individualized education programs (IEP) tailored to meet their unique needs[[25]](#footnote-25) in a manner “reasonably calculated to confer a meaningful educational benefit”[[26]](#footnote-26) to the eligible student.[[27]](#footnote-27) Moreover, the program and services offered must be delivered in the least restrictive environment appropriate to meet the individual student’s needs[[28]](#footnote-28), and must be “reasonably calculated to enable [the student] to make progress appropriate in light of the child’s circumstances.” *Endrew F. v. Douglas County Sch. Distr.*, 137 S. Ct. 988 (March 22, 2017); *D.B. ex rel. Elizabeth B.,* 675 F.3d at 34.

In Massachusetts the applicable FAPE standard is as described in *Endrew F.*, requiring that eligible students be provided with a special education program and services specifically designed to develop the student’s individual educational potential.[[29]](#footnote-29) As such, educational progress is measured in relation to the particular student’s potential.[[30]](#footnote-30)

The IDEA further allows reimbursement for private placement to a parent who has enrolled the child in a private school when the public school fails to make “a free appropriate public education available to the child in a timely manner prior to that enrollment.[[31]](#footnote-31) A BSEA hearing officer is authorized[[32]](#footnote-32) to grant this type of discretionary, equitable remedy [[33]](#footnote-33) after considering all relevant factors, [[34]](#footnote-34) including the reasonableness of the parties’ conduct.[[35]](#footnote-35) In *Florence County Sch. Dist. Four v. Carter*, 510 U.S. 7 (1993), the Supreme Court established a three-prong test when considering whether reimbursement is warranted: 1) whether the IEP and placement offered by the school district was inadequate or inappropriate; 2) whether the private school placement selected was appropriate to meet the student’s needs; and 3) whether balancing of the equities supports reimbursement. If the answer to all three prongs is favorable to the parent, reimbursement may be granted. When selecting a private placement, parents are not held to the same statutory standards as a school district.[[36]](#footnote-36) To be considered appropriate for an award of reimbursement purposes, the private placement need not provide the student with every special education service delineated in the student’s IEP or “meet every last one of the child's special education needs.”[[37]](#footnote-37) Rather, a “unilateral private placement is only appropriate if it provides education *specifically* designed to meet the *unique* needs of a handicapped child.”[[38]](#footnote-38)

Pursuant to *Schaffer v. Wea*st, 126 S.Ct. 528 (2005), as the moving party, Parents in the instant case carry the burden of persuasion, and therefore, in order to prevail, must prove by a preponderance of the evidence that the IEPs proffered by Sudbury failed to offer Chuck a FAPE, that Wolf was appropriate to meet Chuck’s needs, and that the balancing of the equities supports reimbursement. If the evidence is closely balanced, Sudbury will prevail. In rendering my determination, I rely on and incorporate by reference the facts delineated in the Facts section of this Decision, focusing only on the most salient ones in the analysis below.

When considered in the context of the applicable legal standards, the evidence in this matter does not support a finding that Sudbury failed to meet its legal mandate to offer Chuck a FAPE. Having failed to meet the first prong in a reimbursement analysis and therefore their evidentiary burden, they are not entitled to reimbursement for their unilateral placement of Chuck at Wolf. My reasoning follows.

The Parties agree that Chuck presents with a complex learning profile due to early childhood medical complications and brain insults, which make integration of brain functions difficult for him. (Baldwin). He has been found IDEA eligible under the categories of neurological and physical impairments (SE-1A; Parent; Baldwin). Chuck’s presentation is consistent with his cerebral palsy diagnosis and he has also been diagnosed with a language disorder, social communication disorder, developmental coordination disorder, specific learning disorders in reading, writing and math, ADHD, and hearing and visual impairments (SE-1A; PE-48). His multiple disabilities “impact his processing skills, visual motor skills, fine motor skills, [and] social pragmatics across all academic skills”, and his “weaknesses in oral expression, comprehension, understanding of high-level language and vocal weaknesses” impact his functioning across settings (SE-1A; Baldwin, Coman, Lewis, Clark, Mason).

Chuck’s psychological testing shows cognitive abilities falling within average to low average ranges. He demonstrates poor reading abilities, consistent with slow processing speed (impacting fluency and phonological decoding skills), weaknesses in all aspects of executive functioning, attributed to focus and attentional issues, and social-emotional weaknesses impacting perspective taking (SE-4; PE-7; PE-48). Relative strengths were evidenced in verbal comprehension skills.

The Parties further agree that Chuck requires specialized language-based programming that is individualized, intensive and highly integrated. Dr. Baldwin explained that Chuck’s early brain insult impacted his ability to integrate and access higher level reasoning and abstract information. Appropriate programming must therefore address his neurological, language, visual, motor and sensory deficits. Chuck requires a tailored, modified curriculum presented through multi-modal interventions across settings. Given the numerous areas that must be targeted throughout the day, his services must be coordinated among his instructors and services providers to ensure reinforcement and consistency across settings (SE-1A; Baldwin, Coman, Mason). Chuck’s presentation is also atypical in that his attention improves when information is presented both visually and auditorily simultaneously.

Appropriate programming must include OT, assistive technology, PT, reading, pragmatic language instruction, and counseling services, as well as the myriad of accommodations delineated in his IEPs. TVI and audiology consults must also be provided.

 Over the years Chuck has been tested, evaluated and re-evaluated in every one of his deficit areas including academic, psychological, OT, PT, reading, assistive technology, TVI and audiology, all yielding similar results. He has also been observed countless times by numerous individuals as described in the Facts section, *supra*. Taken together, the observations and evaluative data offer a clear understanding of Chuck’s strengths and weaknesses and support the type of programming which the Parties agree is necessary for his success. The evidence reflects that these recommendations are consistent with the programming Sudbury delivered in the past and has offered Chuck to date.

Chuck’s last year in Sudbury was the 2022-2023 school year, his fifth grade and the last year in elementary school. He was placed with his preferred teacher, Ms. Mongeon, at Noyes. The IEP covering that school year offered Chuck participation in the hybrid Foundations/LAB programs specifically designed for children with language-based deficits. Per the partially accepted IEPs impacting that school year, Chuck received consultation services by the special education teacher, speech and language pathologist, audiologist, physical therapist, school counselor/ psychologist, and occupational therapist. He received push-in services from the speech and language pathologist (to address social skills), OT, and the special education teacher/ teacher assistant provided instruction and support in content areas. Chuck received direct and small-group services for social skills), reading instruction consistent with, the recommendations of a renowned reading consultant (Melissa Orkin), ELA (writing and reading), mathematics, adaptive physical education, and counseling (PE-9). Assistive technology was also available to Chuck. The IEP also offered ESY services inclusive of ELA, math and reading instruction the summer he transitioned from fifth to sixth grade. During the 2022-2023 school year Chuck also participated in unified and general education activities, including outings and a talent show. The record shows that Sudbury delivered the services in this IEP consistent with Parents’ partial acceptance.

On or about June 16, 2022, Parents partially rejected the 2022-2023 school year IEP (SE-9), and thereafter, never again fully accepted any of the IEPs impacting that school year. By that point in time, Parents were already exploring out-of-district placements and were arranging for evaluations and observations to support their position. Parents applied to Wolf on January 16, 2023, three days following their visit to Curtis.

While noting no social-emotional or behavioral issues in their application to Wolf, in January of 2023, Parents reported to Sudbury that Chuck was depressed. Chuck testified that at times, he felt angry, sad and frustrated, and he did not like to be assisted by the teacher’s assistant because his friends thought it was weird. Parents never reported that Chuck had made any statements regarding harming himself, something Ms. O’Neill, who was consistently responsive to Chuck’s presentation, testified the district would have been able to address through internal protocols. Sudbury concedes that Chuck expressed feelings of inadequacy and sadness at times, and because of his pragmatic language deficits he misinterpreted social situations (SE-4). However, he had friends and the day-to-day social concerns that arose were typical for his age.

Moreover, as Chuck became increasingly aware of his presentation and other developmentally appropriate social-emotional challenges surfaced, the staff in Sudbury created opportunities for him to develop a positive self-image (e.g., work with preschool children) and proactively planned and offered accommodations to allow him to participate in school field trips (e.g., rope obstacle course outing) (SE-9; SE-11; SE-13; SE-21; SE-26; PE-59; Lewis, Parent). Contrary to Parents’ assertions, the record supports a finding that the Sudbury staff understood Chuck’s needs and responded thoughtfully to issues as they arose, through effective consultation, coordination and constant, proactive communication with Parents and among teachers and service providers (SE-9; SE-13; SE-26; PE-54; PE-55; PE-56; PE-57; PE-58; PE-59; PE-60; PE-61; PE-62; PE-63; PE-64; PE-65; Lewis, O’Neill; Mongeon). The District was equally responsive to Parents’ concerns and requests for additional consultation and assessment, including acquiescing to Parent’s’ preferred TVI evaluator (SE-9). Ms. Juriansz testified to the numerous offers to meet with Parents to continue to work with them and address their concerns.

Academically, Chuck made progress commensurate with his abilities toward the goals and objectives in his IEP, but he required continued work in the numerous other areas simultaneously addressed by Sudbury (PE-20; SE-4; SE-5). As such, the IEPs provide for intensive, direct, small group and related services. It also provided for consultation among the teachers, service providers and consultants.

Chuck’s teachers and services providers opined that his cohort during the 2022-2023 school year was appropriate and Chuck’s friendships with some of them has lasted through the present (Mongeon; Risser; Chuck). SE-17, redacted IEPS of the cohort for that school year (and subsequent school years) support a finding that these IEPs describe an appropriate cohort for Chuck (SE-17; Pedreschi, Feldman, Pierce, Mongeon).

The evidence is convincing that the program and placement delivered by Sudbury during the 2022-2023 school year appropriately met Chuck’s needs. Similarly, the program and placements proposed for ESY 2023[[39]](#footnote-39), ESY 2024[[40]](#footnote-40), the May 2023 IEP, impacting the beginning of the 2023-2024, the 2024-2025 and the 12/2024-12/2025 IEPs were equally appropriate to meet Chuck’s needs in the least restrictive setting. Chuck’s transition to Curtis was thoughtfully planned by individuals who knew him, the LAB and LEAP programs at Curtis, and the would-be cohort (PE-37; SE-1A; SE-1B; SE-1D).

Like the predecessor IEPs, the IEPs impacting middle school offered Chuck robust, year-round, highly individualized language-based, small-group instruction in ELA, math, science, social studies, reading and skills and strategies. They also offered OT, assistive technology, PT, TVI, speech and language consultation, adaptive physical education services, counseling, and full day ESY programming. SE-1A also includes consultation by an audiologist (SE-1A).

The staff in both the proposed sixth and seventh grade programs are highly skilled, trained professionals in their domain and in methodologies appropriate for Chuck. The LAB and LEAP programs are designed to meet students where they are and support their progress (Feldman, Pedreschi, Benner, Eckstrom). The high level of coordination and communication among the staff creates fluidity within and among these programs, allowing for modifications as the students’ needs change. Moreover, LEAP and LAB are in close proximity to each other, on the second and third floors of the Curtis building. Chuck’s proposed transition IEP recommended that Chuck participate in the LEAP ELA class, which is located on the second floor in Curtis, however, the most recent IEP proposes that he receive all of his education in LAB. LEAP and LAB programs are supported by personnel from the Landmark Outreach Program, Case Collaborative, Children’s Hospital, Dr. Melissa Orkin, a TVI, and Teacher of the Deaf and Hard of Hearing, and both programs have been endorsed by Dr. Eckstrom and Ms. Sharon who also consult to Sudbury (Juriansz, Eckstrom, Sharon).

Parents disputed that the Curtis building and outdoor space were accessible, noting that having to navigate the building would be unsafe and difficult for Chuck. They also raised concerns about the accessibility of the high desk and stools in the engineering room. Curtis is an ADA compliant structure with an elevator. Ms. Venturoso, Ms. Shelley and Ms. Sharon who have evaluated Chuck, worked with him and/ or have familiarity with the building had no concerns about Chuck’s ability to independently and safely navigate the structures at Curtis, as well as the outdoors space and newly renovated playground available this year. In the past, accommodations have been provided in the engineering room to students in wheelchairs (Gowans). Similarly, accommodations would be provided to Chuck for accessibility. Moreover, were Chuck to have issues with endurance and fatigue, the OT, PT and APE teacher/ consultants would confer and provide any necessary additional accommodations.

From a social/ emotional standpoint, the robust middle-school IEPs offered counseling and pragmatic language interventions and opportunities to practice same, as well as exposure to a more integrated mainstream environment through unified arts, outings and access to general education activities.

Parents’ arguments focused on nuanced selections of portions of Chuck’s test results, the physical space, and Chuck’s social-emotional presentation, especially at home during the 2022-2023 school year. However, this narrow focus loses sight of the gestalt of the Sudbury programs. The evidence supports a finding that Sudbury’s proposed IEPs and placements comported with the type of programming and placements recommended by experts and service providers, offered FAPE in the least restrictive environment, and were specifically designed to help Chuck achieve his long-term goals.

Given the challenges he had to overcome and the complexity of his deficits, Chuck’s progress is remarkable. It is a result of the intense medical, educational and therapeutic interventions he has received over the years, but foremost due to his parents’ unwavering commitment and Chuck’s resilience. Parents and Sudbury have persistently tested, observed and evaluated Chuck in their relentless efforts to better understand his needs and provide the myriad of services and interventions necessary for him to progress. Given everything Chuck has endured and overcome in his short life, by all accounts he already displays many of the characteristics of the superheroes he so admires; he is brave, strong, persevering, and he loves people (Baldwin, Parent). His character and aptitude were evident during his testimony. Chuck presented as much more capable than he appears on paper. He was responsive, deliberate and able to explain his views and express his opinions. He has clear goals to attend a vocational school when he graduates from high school. He wants to live independently in a different town, have a girlfriend, and eventually get married. There is no reason he should not realize his post-graduate goals with the right supports and educational interventions in place. For this to occur, he needs to receive the type of intensive programming recommended by the professionals and proposed by Sudbury, and he needs to be challenged.

In rendering this decision, I credit the testimony of Sudbury’s teachers, service providers and administrators, Dr. Ekstrom and Ms. Sharon, all of whom offered candid detailed descriptions of Chuck’s performance in Sudbury, the Sudbury programs, the ongoing training, and the consultation and oversight by Landmark, Case Collaborative, TVIs, audiologists and Children’s Hospital (Mongeon, Shelley, Jacobson, Lewis, Jurianz, Benner, Feldman, Venturoso, Frady, Carapezza, Jacobson, Risser, Pedreschi, Dion, Feldman, Pierce, O’Neill, Sharon, Eckstrom). Sudbury’s commitment to Chuck’s education is impressive.

Review of Chuck’ cohorts at Noyes and Curtis (SE-17) offer insight as to the appropriateness of those peers and the level of individualization provided by Sudbury. In contrast, little to no information was provided about the cohort at Wolf, and, despite Chuck’s overall level of comfort at Wolf, it is concerning that none of the students that he considers his friends are part of his Wolf cohort. Moreover, there appears to be disparity in functional capacity among his cohort (Carapezza).

I further credit portions of the testimony offered by Dr. Baldwin, whose explanation of Chuck’s developmental and brain function integration issues, as well as her programmatic recommendations I find persuasive. However, I do not credit Dr. Baldwin’s placement recommendations given her lack of personal knowledge about both Chuck’s fifth grade program and experience, and the Curtis programs, in addition to the fact that her placement recommendations were influenced by problematic test results. (The WISC-V and CELF-V were both administered outside recommended timelines and incorrect descriptors were used regarding the WISC-V). Further, her diagnosis of major depression is questionable, as it relied heavily on parental report and conflicts with the balance of credible evidence that Chuck’s sadness and frustration may be the result of increased self-awareness, challenging academics, and social concerns typical for children his age.

Ms. Gowans’ overview of the events that transpired from the time she became involved with Parents was helpful, but her objectivity is questionable given her acknowledgment that she was hired for the purpose of helping Parents secure an out of district placement for Chuck, and her testimony that she and the family were going through the procedural motions necessary to achieve that goal. The focus of Ms. Gowans’ testimony was on what was wrong with Sudbury’s program as opposed to referencing those facets that were appropriate. She also lacks the necessary educational background to afford her opinion as to the appropriateness of the Sudbury programs any evidentiary weight.

Both Ms. Mason and Ms. Coman were retained in 2022 and 2023 respectively, after Parents had already decided to place Chuck out of district. I credit Ms. Mason’s overall program recommendations but not her opinion regarding placement at Noyes or Curtis, as she relied on incorrect data from Dr. Baldwin’s 2021 testing and had no information regarding Chuck’s academic abilities in May of 2023. I also do not credit her opinion as to the appropriateness of the Curtis programs for Chuck. She described having observed well taught, explicit, slow-paced, with check-ins for understanding and other appropriate language-based interventions being delivered by the Curtis staff in May of 2023. The cohort she observed was different from the one Chuck would have. Her opinion was contrary to the credible testimony of Ms. Benner, Ms. Carpezza, Ms. Lewis, McCullough, Ms. Pierce, Ms. Adams, Ms. Dion, Ms. Venturoso and Dr. Eckstrom regarding the types of services, collaboration, flexibility and individualized language-based interventions at both the LEAP and LAB programs (SE-3B; SE-3C; SE-10-A). Also, Ms. Mason had not participated in any of Chuck’s Team meetings, she did not observe him in the Wolf program, and she had not seen him in the past two years.

Ms. Coman offered a fairly balanced description of her observations at Curtis and of Chuck at Wolf, except when objecting to a competitive activity at Curtis because such activities would highlight Chuck’s vulnerabilities, but not objecting to the competitive activity she observed at Wolf with which Chuck struggled and asked for help. Further, her concerns regarding Student’s ability to safely navigate the physical space at Curtis were unpersuasive when considered in the context of Ms. Venturoso’s and Ms. Shelley’s physical therapy evaluations and Ms. Sharon’s orientation and mobility assessment, as well as their knowledge of the Curtis building and outdoor space. Ms. Coman’s overall programming recommendations are persuasive and supported by the weight of the credible evidence, but her opinion as to the appropriateness of the Curtis programs for Chuck is not persuasive, given her lack of knowledge of Sudbury’s staff qualifications, and limited knowledge of the programs and would be cohort.

I credit Ms. Karlsson and Ms. Frady’s description of Wolf and Chuck’s presentation upon arrival, but not Ms. Frady’s opinion of Chuck’s progress as it is inconsistent with testing done by both Sudbury in 2023 and Dr. Baldwin, and the credible testimony of the Sudbury observers.

Lastly, Parents’ unconditional commitment to Chuck’s happiness and well-being is beyond question. Both parents’ love for and relentless quest to help their son motivates their actions and decision-making, as do their fears and concerns; while wholly understandable, when such concerns are weighed against the totality of the credible evidence presented in this matter, they are insufficient to support public funding for an out-of-district placement.

The evidence is convincing that the IEPs developed by Sudbury for the relevant periods of the 2023-2024, 2024-2025 and the 12/2024-12/2025 school years (including the 2023 and 2024 ESY programs) and the LAB/ LEAP placements at Curtis were and are reasonably calculated to offer Student a FAPE consistent with *Endrew F. v. Douglas County Sch. Distr.*, 137 S. Ct. 988 (March 22, 2017), and federal and state law. Parents did not meet their burden of persuasion pursuant to *Schaffer v. Wea*st, 126 S.Ct. 528 (2005), in showing that said IEPs promulgated by Sudbury were inappropriate and thus, Parents are not entitled to reimbursement for their unilateral placement of Chuck at Wolf

Given that the Sudbury programs have been found appropriate, I need not engage in a determination regarding the appropriateness of Wolf.[[41]](#footnote-41)

**ORDER:**

1. The 12/2024 to 12/2025 IEP offered by Sudbury is appropriate and shall be implemented upon Student’s return to Sudbury.
2. Parents are not entitled to reimbursement of tuition or transportation costs occasioned by their unilateral placement of Chuck at Wolf from the summer 2023 through the end of the 12/2024 to 12/2025 IEP period.

By the Hearing Officer,

Rosa I. Figueroa

Rosa I. Figueroa

Dated: June 1, 2025

**COMMONWEALTH OF MASSACHUSETTS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

**EFFECT OF FINAL BSEA ACTIONS AND RIGHTS OF APPEAL**

**Effect of BSEA Decision, Dismissal with Prejudice and Allowance of Motion for Summary Judgment**

20 U.S.C. s. 1415(i)(1)(B) requires that a decision of the Bureau of Special Education Appeals be final and subject to no further agency review. Similarly, a Ruling Dismissing a Matter with Prejudice and a Ruling Allowing a Motion for Summary Judgment are final agency actions. If a ruling orders Dismissal with Prejudice of some, but not all claims in the hearing request, or if a ruling orders Summary Judgment with respect to some but not all claims, the ruling of Dismissal with Prejudice or Summary Judgment is final with respect to those claims only.

Accordingly~~,~~ the Bureau cannot permit motions to reconsider or to re-open either a Bureau decision or the Rulings set forth above once they have issued. They are final subject only to judicial (court) review.

Except as set forth below, the final decision of the Bureau must be implemented immediately. Pursuant to M.G.L. c. 30A, s. 14(3), appeal of the decision does not operate as a stay. This means that the decision must be implemented immediately even if the other party files an appeal in court, and implementation cannot be delayed while the appeal is being decided. Rather, a party seeking to stay—that is, delay implementation of-- the decision of the Bureau must request and obtain such stay from the court having jurisdiction over the party’s appeal.

Under the provisions of 20 U.S.C. s. 1415(j), “unless the State or local education agency and the parents otherwise agree, the child shall remain in the then-current educational placement,” while a judicial appeal of the Bureau decision is pending, unless the child is seeking initial admission to a public school, in which case “with the consent of the parents, the child shall be placed in the public school program.”

Therefore, where the Bureau has ordered the public school to place the child in a new placement, and the parents or guardian agree with that order, the public school shall immediately implement the placement ordered by the Bureau. *School Committee of Burlington v. Massachusetts Department of Education*, 471 U.S. 359 (1985). Otherwise, a party seeking to change the child’s placement while judicial proceedings are pending must ask the court having jurisdiction over the appeal to grant a preliminary injunction ordering such a change in placement. *Honig v. Doe*, 484 U.S. 305 (1988); *Doe v. Brookline*, 722 F.2d 910 (1st Cir. 1983).

**Compliance**

A party contending that a Bureau of Special Education Appeals decision is not being implemented may file a motion with the Bureau of Special Education Appeals contending that the decision is not being implemented and setting out the areas of non-compliance. The Hearing Officer may convene a hearing at which the scope of the inquiry shall be limited to the facts on the issue of compliance, facts of such a nature as to excuse performance, and facts bearing on a remedy. Upon a finding of non-compliance, the Hearing Officer may fashion appropriate relief, including referral of the matter to the Legal Office of the Department of Elementary and Secondary Education or other office for appropriate enforcement action. 603 CMR 28.08(6)(b).

**Rights of Appeal**

Any party aggrieved by a final agency action by the Bureau of Special Education Appeals may file a complaint for review in the state superior court of competent jurisdiction or in the District Court of the United States for Massachusetts. 20 U.S.C. s. 1415(i)(2).

An appeal of a Bureau decision to state superior court or to federal district court must be filed within ninety (90) days from the date of the decision. 20 U.S.C. s. 1415(i)(2)(B).

**Confidentiality**

In order to preserve the confidentiality of the student involved in these proceedings, when an appeal is taken to superior court or to federal district court, the parties are strongly urged to file the complaint without identifying the true name of the parents or the child, and to move that all exhibits, including the transcript of the hearing before the Bureau of Special Education Appeals, be impounded by the court. See *Webster Grove School District v. Pulitzer Publishing Company*, 898 F.2d 1371 (8th. Cir. 1990). If the appealing party does not seek to impound the documents, the Bureau of Special Education Appeals, through the Attorney General's Office, may move to impound the documents.

**Record of the Hearing**

The Bureau of Special Education Appeals will provide an electronic verbatim record of the hearing to any party, free of charge, upon receipt of a written request. Pursuant to federal law, upon receipt of a written request from any party, the Bureau of Special Education Appeals will arrange for and provide a certified written transcription of the entire proceedings by a certified court reporter, free of charge.

 **June 1, 2025**

# **COMMONWEALTH OF MASSACHUSETTS**

# **DIVISION OF ADMINISTRATIVE LAW APPEALS**

# **BUREAU OF SPECIAL EDUCATION APPEALS**

**CHUCK**

**&**

**SUDBURY PUBLIC SCHOOLS**

**BSEA # 2503347**

### **BEFORE**

**ROSA I. FIGUEROA**

**HEARING OFFICER**

**LILLIAN E. WONG, ESQ., ATTORNEY FOR PARENTS/ STUDENT**

**PAIGE TOBIN, ESQ., ATTORNEY FOR SUDBURY PUBLIC SCHOOLS**

1. “Chuck” is a pseudonym selected by the Chuck, who is referred to as Chuck or Chuck throughout this Decision. [↑](#footnote-ref-1)
2. PE-49 was admitted with a stipulation by the Parties that the Team did not have an opportunity to review this report as it was produced shortly before the Hearing. [↑](#footnote-ref-2)
3. SE-12 was withdrawn by the District. [↑](#footnote-ref-3)
4. SE-20 contains the CVs of most of the Sudbury staff/ witnesses but some of the CVs had not been updated. [↑](#footnote-ref-4)
5. See *In Re: Isa and Hingham Public Schools*, *Ruling on Hingham Public Schools’ Motion for Directed Verdict*, BSEA #2500461, 30 MSER 383 (Reichbach, 10/22/2024) (denying motion as premature to dismiss the claims without careful consideration of the “significant amount of documentary evidence” admitted into evidence, and the testimony of a witness). [↑](#footnote-ref-5)
6. The Issues for Hearing were stipulated by the Parties. [↑](#footnote-ref-6)
7. PE-1 through PE-6. [↑](#footnote-ref-7)
8. Chuck’s “educational team needs to have expertise in working with children with intersecting cognitive, physical, sensory, communication and academic limitations. A program broadly designed to serve Chucks with low cognitive potential is inappropriate for [Chuck] as responding to his orthopedic, visual, and hearing challenges is integral to establishing a foundation for learning for him. He requires highly individualized instruction tailored to accommodate interconnecting areas of need” (PE-7). [↑](#footnote-ref-8)
9. Ms. Dion administered only the WIST because Chuck was in the middle of a private evaluation (PE-11; SE-2C). [↑](#footnote-ref-9)
10. Ms. Mason’s report is not dated. [↑](#footnote-ref-10)
11. The notes reference Chuck’s use of bilateral hearing aids. [↑](#footnote-ref-11)
12. Some of the LEAP classes are located on the third floor. [↑](#footnote-ref-12)
13. In the past, Sudbury has accommodated students in wheelchairs in the engineering room (Gowans). [↑](#footnote-ref-13)
14. The students in the program observed by Ms. Mason were not the same cohort that would have been in Chuck’s 2023-2024 programs. [↑](#footnote-ref-14)
15. Parent has never observed Chuck at Wolf or at Sudbury. [↑](#footnote-ref-15)
16. The report lacks a specific date. [↑](#footnote-ref-16)
17. The evaluation does not provide the specific date in December of 2023. [↑](#footnote-ref-17)
18. At Wolf he does not have to negotiate stairs as the school is a one floor building (SE-2G). [↑](#footnote-ref-18)
19. No specific date is provided in the report. [↑](#footnote-ref-19)
20. “[M]ultiple repetitions to practice new skills; clear, consistent, predictable environment and expectations; use of consistent social skills vocabulary; break down directions into single steps and present in a visual for reference; check in with [Chuck] to make sure he heard and understood directions and ensure that he follows through with completing a direction; facilitate peer interactions in conversation and whenever necessary; enlarge font (16-18) as much as possible;… supportive seating with feet resting on a stable surface; environmental adaptations as needed (bathroom, art class, physical education) etc.; visual aids/pictures to support social pragmatics; reduce the number of items on visually busy papers; movement/ cognitive breaks; elevator access a needed;… use of a vocal hygiene program to limit strain on voice (frequent water breaks, discourage any yelling/ speaking loudly with excessive force) (PE-37; SE-1B). [↑](#footnote-ref-20)
21. During cross-examination she agreed that Dr. Baldwin should not have conducted WISC-5 within a year of previous administration (Coman). [↑](#footnote-ref-21)
22. Ms. Pedreschi, ran the Team meetings for Chuck and she was responsible for coordinating the proposed extended school year services for the summer of 2023 (SE-1E; Pedreschi). [↑](#footnote-ref-22)
23. 20 USC 1400 *et seq*. [↑](#footnote-ref-23)
24. MGL c. 71B. [↑](#footnote-ref-24)
25. E.g., 20 USC 1400(d)(1)(A) (purpose of the federal law is to ensure that children with disabilities have FAPE that “emphasizes special education and related services designed to meet their unique needs . . . .”); 20 USC 1401(29) (“special education” defined to mean “specially designed instruction . . . to meet the unique needs of a child with a disability . . .”); *Honig v. DOE*, 484 U.S. 305, 311 (1988) (FAPE must be tailored “to each child's unique needs”). [↑](#footnote-ref-25)
26. See *D.B. v. Esposito*, 675 F.3d 26, 34 (1st Cir. 2012) where the court explicitly adopted the meaningful benefit standard. [↑](#footnote-ref-26)
27. *Sebastian M. v. King Philip Regional School Dist*., 685 F.3d 79, 84 (1st Cir. 2012)(“the IEP must be custom-tailored to suit a particular child”); *Mr. I. ex rel L.I. v. Maine School Admin. Dist. No. 55*, 480 F.3d 1, 4-5, 20 (1st Dir. 2007) (stating that FAPE must include “specially designed instruction …[t]o address the unique needs of the child that result from the child’s disability”) (quoting 34 C.F.R. 300.39(b)(3)). See also *Lenn v. Portland School Committee*, 998 F.2d 1083 (1st Cir. 1993) (program must be “reasonably calculated to provide ‘effective results’ and ‘demonstrable improvement’ in the various ‘educational and personal skills identified as special needs’”); *Roland v. Concord School Committee*, 910 F.2d 983 (1st Cir. 1990) (“Congress indubitably desired ‘effective results’ and ‘demonstrable improvement’ for the Act's beneficiaries”); *Burlington v. Department of Education*, 736 F.2d 773, 788 (1st Cir. 1984) (“objective of the federal floor, then, is the achievement of effective results--demonstrable improvement in the educational and personal skills identified as special needs--as a consequence of implementing the proposed IEP”); 603 CMR 28.05(4)(b) (Student’s IEP must be “designed to enable the student to progress effectively in the content areas of the general curriculum”); 603 CMR 28.02(18) (“*Progress effectively in the general education program* shall mean to make documented growth in the acquisition of knowledge and skills, including social/emotional development, within the general education program, with or without accommodations, according to chronological age and developmental expectations, the individual educational potential of the child, and the learning standards set forth in the Massachusetts Curriculum Frameworks and the curriculum of the district.”). [↑](#footnote-ref-27)
28. 20 USC 1412 (a)(5)(A). [↑](#footnote-ref-28)
29. MGL c. 69, s. 1 (“paramount goal of the commonwealth to provide a public education system of sufficient quality to extend to all children the opportunity to reach their full potential… ”); MGL c. 71B, s. 1 (defining “special education” as “…educational programs and assignments…. designed to develop the educational potential of children with disabilities….”); 603 CMR 28.01(3) (identifying the purpose of the state special education regulations as “to ensure that eligible Massachusetts students receive special education services designed to develop the student’s individual educational potential…”). See also Mass. Department of Education’s Administrative Advisory SPED 2002-1: [Guidance on the change in special education standard of service] from “maximum possible development” to “free appropriate public education” (“FAPE”), effective January 1, 2002, 7 MSER Quarterly Reports 1 (2001) (appearing at [www.doe.mass.edu/sped](http://www.doe.mass.edu/sped)) (Massachusetts Education Reform Act “underscores the Commonwealth’s commitment to assist all students to reach their full educational potential”). [↑](#footnote-ref-29)
30. *Hendrick Hudson Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 199, 202 (court declined to set out a bright-line rule for what satisfies a FAPE, noting that children have different abilities and are therefore capable of different achievements; court adopted an approach that takes into account the potential of the disabled student). See also *Lessard v. Wilton Lyndeborough Cooperative School Dist*., 518 F3d. 18, 29 (1st Cir. 2008), and *D.B. v. Esposito*, 675 F.3d at 36 (“In most cases, an assessment of a child’s potential will be a useful tool for evaluating the adequacy of his or her IEP.”). [↑](#footnote-ref-30)
31. 20 USC 1412 (a)(10)(C)(ii)). [↑](#footnote-ref-31)
32. See *Forest Grove Sch. Dist. V.T.A.*, 2009 WL 1738644, \*8, n.11, and \*10 (2009). (the hearing officer in an IDEA dispute has concurrent authority with the court to grant the equitable remedy of reimbursement). [↑](#footnote-ref-32)
33. See *School Union No. 37 v. Ms. C.,* 518 F.3d 31, 34 (1st Cir. 2008) (“Reimbursement is an equitable remedy”); *Diaz-Fonseca v. Commonwealth of Puerto Rico*, 451 F.3d 13, 31 (1st Cir. 2006) (“Reimbursement is a matter of equitable relief, committed to the sound discretion of the district court”) (internal quotations omitted). [↑](#footnote-ref-33)
34. *Florence County School District Four v. Carter*, 510 U.S. 7, 16 (1993). [↑](#footnote-ref-34)
35. See *C.G. ex rel. A.S. v. Five Town Community School Dist.*,513 F.3d 279, 288 (1st Cir. 2008) (parent’s unreasonable actions may justify a denial of reimbursement under the IDEA. [↑](#footnote-ref-35)
36. *Florence County School District Four v. Carter*, 510 U.S. 7, 13-14 (1993). [↑](#footnote-ref-36)
37. *Mr. I. ex rel. L.I. v. Maine School Admin*., Dist. No. 55, 480 F.3d 1, 25 (1st Cir. 2007). [↑](#footnote-ref-37)
38. *Gagliardo v. Arlington Cent. Sch. Dist.,* 489 F.3d 105, 115 (2d Cir. 2007) (emphasis in original) (internal quotation marks omitted) (quoting *Rowley,* 458 U.S. at 188-89, 102 S.Ct. 3034). See also *R.B. ex rel. W.B. v. St. Joseph School Dist*, 2012 WL 1448501, \*3 (8th Cir. 2012) (parents must demonstrate that private placement provides “educational instruction specially designed to meet the unique needs of a handicapped child, supported by such services as are necessary to permit the child to benefit from the instruction”); *Matrejek v. Brewster Central School Dist*., 293 Fed.Appx. 20, 22, 2008 WL 3852180, \*2 (2nd Cir. 2008) (where parents’ private “school did not provide the type of instruction and services recommended by the evaluators hired by the parents” and did not provide other recommended services such as speech-language services, reimbursement should be denied). [↑](#footnote-ref-38)
39. The ESY program was taught by the same special education teacher he would have had during the school year at Curtis. [↑](#footnote-ref-39)
40. The 2024 ESY services included OT and SLP. [↑](#footnote-ref-40)
41. Nevertheless, I note that Parents’ assertion as to the appropriateness of the Wolf program for Chuck is questionable. The testimony is persuasive that the classrooms and general spaces are inviting, well-appointed, organized spaces that are conducive to language-based learning. Some of the staff, albeit not all, is properly qualified, and it appears that the reading providers are not properly certified in the reading methodologies they may be using.

Wolf offers its 70 students an immersion model program which conflicts with the services in Chuck’s IEPs and the recommendations of the District’s and outside expert witnesses and service providers relative to the type of instruction and services he requires. Pursuant to the Wolf model, students on IEPs, including Chuck, must comport with the Service Plans drafted by Wolf, which plans reflect the immersion model, not the services in the students’ IEPs. Further, the population at Wolf presents with a wide range of disabilities, the majority of Chuck’s cohort are not on IEPs, and the students with whom he socializes are not in his class.

Chuck’s Service Plans for the 2023-2024 and 2024-2025 are substantially similar and lacking in the instructional model and many of the services essential to his educational progress. Wolf does not offer pull-out speech and language, occupational therapy or physical therapy. Despite TVI, audiology and assistive technology consultation having been recommended by Dr. Baldwin and Ms. Mason, Chuck did not receive any such services during the 2023-2024 school year. He also did not receive weekly individual counseling or individualized literacy/ reading instruction. Moreover, there is no evidence that the Learning Specialist teaching reading holds any certifications or specialized reading training. The record also lacks information regarding the reading methodology used with Chuck. The same is true for the 2024-2025 school year, excepting for one TVI consultation and another one that is planned. The deficiencies in Chuck’s program at Wolf are not supportive of Chuck’s vision to attend a large vocational program after high school graduation.

Most concerning was Chuck’s academic decline as reflected in Sudbury’s December 2023, reevaluation. Chuck’s word reading and math fluency scores were lower than those achieved in previous academic tests (SE-2J; SE-2O). Dr. Baldwin could offer no clarity or opinion on this issue as she did not conduct any academic testing during her December 2024 re-evaluation. [↑](#footnote-ref-41)