

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

Student v. Concord Carlisle Regional School District

BSEA #1407063

DECISION

This decision is issued pursuant to M.G.L. c. 71B and 30A, 20 U.S.C. § 1401 et seq., 29 U.S.C. § 794, and the regulations promulgated under said statutes.

PROCEDURAL HISTORY

Parent requested a hearing on March 26, 2014 which was scheduled for April 30, 2014. Concord Carlisle Regional School District (hereinafter, CC) requested a postponement of the initial hearing date on April 2, 2014, which request was allowed. There was a hearing officer initiated telephone conference call on April 15, 2014 and a pre-hearing conference on May 22, 2014. The hearing was held on September 9, 2014 at the CC special education administration building in Concord, Massachusetts. The Parties requested a postponement to file written closing briefs and the hearing officer allowed their request to submit their briefs by September 16, 2014. The briefs were submitted and the record closed on September 16, 2014.

Those present for all or part of the hearing were:

Mother

Father

Janice E. Schwartz

Elaine Cockroft

Jessica Murphy

Tom Keane

Jessica Lutz

Kathy McGowan

Kelley Gallant

Ann Little

Alisia St. Florian

Catherine Putney-Yaceshyn

Parents' consulting psychologist

Attorney for the Parents

Director of Special Education, Concord Carlisle Regional School District

Special education department chair and head teacher, Pathways Program

School psychologist, Concord Carlisle Regional School District

Speech language pathologist, Concord Carlisle Regional School District

Tutor/job coach, Pathways Program

Special education teacher/case manager, Pathways Program

Attorney, Concord Carlisle Regional School District

Hearing Officer

The official record of this hearing consists of Parent's exhibits marked P-1 through P-23, and Concord Carlisle Regional School District's exhibits marked S-1 through S-35 and approximately six hours of recorded oral testimony.

ISSUES

1. Whether the IEP proposed by the Concord Carlisle Regional School District for the period from January 22, 2014 through January 21, 2015 was reasonably calculated to provide Student with a free appropriate public education in the least restrictive environment.
2. If not, whether the IEP for the period for 2014 through 2015 can be modified to be made appropriate.
3. If not whether the LABB Collaborative is an appropriate placement for Student.

SUMMARY OF THE EVIDENCE

1. The student (hereinafter, "Student") is nineteen years old and resides in Carlisle, within the Concord Carlisle Regional School District (hereinafter, "C-C"). She has been described by one of her teachers as the most energetic, engaging and empathic young woman he has met in over twenty years of teaching. (Keane) She has been diagnosed with an intellectual impairment, Attention Deficit Hyperactivity Disorder, and language and developmental delays. (S-15) She demonstrates delays in her overall cognitive functioning, speech and language, fine motor skills and understanding curriculum concepts. She is described as a concrete thinker who requires structure and repeated exposure to learn. Student has difficulty generalizing skills from one activity to another and requires guidance to transfer information from one context to another. Areas of Student's strength include her sight memory, her exuberance for learning and desire to be amongst her friends. Areas of weakness include reading and language comprehension, written expression, math skills and reasoning, fine motor skills and social understanding. All areas of the curriculum are modified for Student. (S-10)
2. Student attended the Pathways Program (hereinafter, "Pathways") at C-C for grades nine through twelve and continues to attend Pathways. (Mother, Keane) Pathways is an inclusion program for students with multiple and varying disabilities. It is flexible and individualized. In addition to attending mainstream classes, students have the opportunity to receive special education writing, reading and math. The program provides services for students who need them until their twenty second birthday. For the first four years of the program (grades nine through twelve) the focus is on academics with the goal of students attaining a diploma, if possible. (Murphy) After twelfth grade, if the district and parents agree that a student should remain in the program, the Team looks at each student individually and determines his or her post-secondary goal. The Team determines where they hope a student's transition planning will have lead them by age twenty-two and plans backwards based upon the end goal. (Murphy) In addition to participating in Pathways,

Student was included for her science and social studies as well as for some electives. As part of Pathways, during the 2013-2014 school year, Student participated in off-site vocational experiences. Students from Pathways along with students from a nearby regional school district met on Wednesday mornings at a food pantry and prepared food, boxed foods, and broke down boxes, among other tasks. The same group of students met at the Goodnow Library in Sudbury to assist the librarians. (Murphy, Keane)

3. Kelley Gallant has been Student's job coach for the past three school years. On Wednesdays she accompanies Student to three job sites: a local food pantry, a public library and Drumlin Farm. At the food pantry students put away canned goods and sort them in the back room. They have also bagged bread and broken down boxes. Currently, they pick up items such as rice or tea, bring it back to school, divide it into smaller portions, and deliver it back to the food pantry. Additionally, they go to a local grocery store and grind coffee beans, put them in bags, and deliver them back to the food pantry. At the library Student shelves children's books and DVDs in alphabetical order. At Drumlin Farm Student visits three different sites, collects data, and records relevant information on data sheets. Student does an excellent job at the job sites. In the beginning she was a bit reserved and did not know the routine. However, now she knows each person at each job site. At the library, Student always approaches the librarian and asks how she is doing and begins her job. She has become more confident. Student is approximately eighty five percent independent at the Wednesday job sites. Ms. Gallant finds that it has been beneficial for Student to work at the same job sites for several years because repetition is very important for Student and she has been able to become more independent over time.

Student also spent one half day per week assisting in the preschool located in C-C's Ripley Building during the 2013-2014 school year. She performed a number of tasks at the preschool. She did some laminating and copying; filed papers, assisted with project preparation and ran mini groups. She required the most support from Ms. Gallant during the mini groups because she was interacting with students. Her independence increased over the course of the year. Ms. Gallant used to stand right behind her during mini groups and now is able to stay across the room to provide the reinforcement Student requires. This year Student is scheduled to continue with the same Wednesday job sites. Additionally, she will increase time spent in the preschool from one half day to one and one half days. (Gallant)

Ms. Gallant works on reinforcing appropriate job behaviors when she is on job sites with Student. They talk about appropriate questions to ask co-workers when you are building a relationship and making eye contact with the person speaking to her instead of looking to Ms. Gallant. Ms. Gallant also works with Student in the Lifeskills class when the students are cooking. Student is able to cut on the cutting board. She is hesitant to use the stove because she knows it is very hot. The staff is working to make Student more comfortable using the stove.

Ms. Gallant has attended community field trips with Student. She needs an adult in her presence, but she is able to walk with her peers and does not require an adult by her side.

When the group stops at Dunkin Donuts Student pays independently. She sometimes looks back to Ms. Gallant for assurance, but she is able to independently order and pay the clerk. Money math continues to be hard for Student and the staff continues to work on that.

Ms. Gallant believes that Pathways can provide what Student requires for the next three years. She believes that if Student is interested in adding a job site in addition to the preschool that Pathways could provide Student with an additional job site. (Gallant)

In addition to the aforementioned job sites, Student has worked in the school store approximately once per week. She has been working in the school store since she was in middle school¹. The school store was created to develop social interactions (because there is a relationship between social skills and job retention), to increase students' money skills and understanding of change, and to give students an opportunity to earn income. Students also have an opportunity to deposit the checks they have earned working at the store into a bank account. (Keane)

4. Thomas Keane, the head teacher and creator of the Pathways Program, has a Master's degree and C.A.G.S. in vocational rehabilitation. Mr. Keane explained how skills learned in the Pathways classes are integrated with Student's vocational experiences. During his morning Pathways class students discuss actual scenarios that have taken place at the school store. They discuss things that have gone well, interactions with peers, and mistakes that have been made. In the Lifeskills class, students go to a local market and learn what needs to be purchased for the week to cook in the Lifeskills kitchen. The kitchen is designed to look like an apartment kitchen. It provides students with the opportunity to work on their life skills of cooking and cleaning in a natural setting. They learn about nutrition, food safety, and kitchen safety. (Keane, Gallant)
5. Prior to the IEP proposed for the time period from January 2014 through January 2015, Parents had accepted all of Student's previous IEPs. (Mother, S-8, S-10) On January 21 and March 7, 2014, the Team convened for Student's annual review meeting. It reviewed updated psychological (S-15) and speech language evaluations (S-16). The Team determined that a vocational evaluation should be completed and the parties agreed that the expired IEP would remain in effect until the team reconvened to review the assessment. Parents and their attorney stated that they believed Student required an out of district placement to address her vocational/life skills needs. (S-1)
6. The IEP proposed pursuant to the January 21 and March 7, 2014 Team meetings proposed continuing Student's placement in the Pathways Program at C-C. The IEP contains goals in the following areas: vocational, transition, communication, social, language arts, and math. The grid contains consultation services by the speech language pathologist to the teachers and tutors 1 x 15 minutes per 2 weeks and consultation between the case manager and the teachers and tutors 1 x 15 minutes every five days. The C grid contains vocational services with the Pathways staff 4 x 55 minutes per week, transition services with the Pathways staff 4 x 55 minutes per week, Pathways Lifeskills 4 x 55 minutes per week;

¹ Student worked in the school store as part of her participation in a program called the Bridge to Pathways. (Keane)

speech language services with the speech language pathologist 2 x 55 minutes per week, Pathways language arts 4 x 55 minutes per week, and Pathways math 5 x 55 minutes per week. The grid also contains a Pathways Summer Program for 3 x 300 minutes per week from July 1, 2014 through August 29, 2014. (S-4)

7. Jessica Lutz, school psychologist, C-C, has a Master's degree in school psychology and has been working in Pathways for five of the six years she has worked in C-C. She spends over half of her time working in Pathways where she is the primary mental health staff member. She has worked with Student, primarily in a weekly social skills group, since Student's ninth grade. The social group, or ladies' group, is made up of females from Pathways and typical peer mentors from the high school. Although Student is the only female participating in the Pathways post- graduation group, there are two other female students in the ladies' group and typical mentors will be incorporated.² Ms. Lutz explained that Student has always been friendly, outgoing, and charming. She has always had the same areas of weakness on which she has been working. However, she has made a great deal of progress since ninth grade. Student used to interrupt often or talk about something unrelated to the topic at hand. Although she occasionally still does that, she is much better at listening to her peers and providing feedback that is on topic. In addition to the social group, Student will seek Ms. Lutz's assistance with social issues via e-mail, phone, or in person. Ms. Lutz finds that Student requires frequent repetition to learn. Ms. Lutz repeats concepts they discuss in the social group and she makes sure Student can explain concepts back to her using her own words. Ms. Lutz agreed that Student's IEP goals and performance levels look similar from one year to the next. She explained that is because Student continues to have similar areas of strength and weakness. They are still working on the same areas, but fine tuning them. Some of Student's weaknesses will remain weaknesses for her whole life. She envisions working with Student this year on potential workplace issues, self-determination, and how to achieve her goals. Ms. Lutz believes Pathways continues to be appropriate for Student. Ms. Lutz is not concerned about Student being the only female in the post graduate Pathways program because she has exposure to other female peers in the vocational settings and through the peer mentors in the social group. (Lutz, S-20, S-22) Additionally, Mr. Keane anticipates there will be other female peers at the Wednesday job sites with whom Student can interact. (Keane)

8. Ann Little has a Master's degree in moderate disabilities and is a Pathways teacher. She taught Student's English language arts class for three years. Although she agrees that some of Student's goals and objectives in English language arts have remained similar, she testified that does not mean that Student has not made progress. Although Student has worked on the same skills, she has worked toward greater independence. In the area of paragraph writing, she has progressed from sitting with a tutor who scribed and encouraged her a lot to working on an iPad with her tutor and working with more independence and confidence. Student will not spend as much time in English language arts this year, but will spend more time in the community. Her current English language arts teacher tends to focus on career focused reading and writing, and letter and resume writing. Ms. Little believes Student has made slow but steady progress

² The typical mentors are high school students who have volunteered to participate in the group as typical role models.

in English language arts and has made gains in her confidence in the Pathways community. Ms. Little hopes that over the next several years Student is able to apply her emerging reading comprehension and writing skills to the real world. She hopes with some support Student will be able to follow directions and remain on task to perform a job well. She believes that Student will have the necessary skills in the area of English language arts to engage in supportive employment. (Little, S-20, S-22)

9. The current Pathways post graduate program is comprised of five students including Student. Student is the only female in the post graduate portion of the program. Student continues to work in the preschool and the amount of time she spends working in the preschool will increase to one full day and one half day in addition to her Wednesday community outing/vocational exploration activities. Mr. Keane described Student's first post graduate year at Pathways as a pivotal year in terms of the focus of her programming. He stated that the amount of vocational training and community exposure increases during the post graduate years. (Keane)
10. Jessica Murphy is the Director of Special Education at C-C. She testified that she is working to broaden the district's vocational settings and to build a "job club" at different high schools to broaden the available peer group. She has met with an employee of Work Opportunities, Incorporated to this end. She hopes to have these services in place by January. Additionally, Ms. Murphy has requested funding for a transition specialist and a tutor to work primarily with Pathways students and their families to investigate postsecondary settings, job placements, the 688 process, onsite job training, and activities of daily living in the community. (Murphy)

During the next three years of Student's potential eligibility, Ms. Murphy envisions using the Team's previous knowledge of Student in conjunction with the vocational assessment results. Pathways will continue to expand Student's role in the preschool and help her work toward becoming a teaching assistant or support staff member in a local daycare. Additionally, there may be opportunities for her to provide teaching assistance or work in a different capacity in the district's Rivers and Revolution program³. Pathways would continue to expand on what Student is already doing. During the postgraduate portion of the Pathways Program the goal is for students to spend more time out in the community as independently as possible. Students spend more time away from their peer group and more time on job sites with their job coaches. (Murphy)

11. Parents rejected the IEP on March 12, 2014. (P-5(20))
12. Janice Schwartz, Ed. D., has been a clinical neuropsychologist for thirty nine years and is licensed in Massachusetts. Approximately two to three percent of students she sees have a profile similar to Student's. She conducted a neuropsychological assessment of Student

³ The Rivers and Revolution program is a regular education semester-long program that incorporates hands-on experiential learning using all subject areas and studying the history of the local area. Student participated in the program last year. (Murphy)

on February 10 and 12, 2014⁴. She noted that Student's WISC IV results when she was last assessed were in the deficient range, with a full scale IQ score of 44. Dr. Schwartz noted that Student has difficulty with reasoning tasks, but can learn new information by using her rote memory. Student learns best when verbally and repetitively presented with new information. Student's decoding is at approximately the fourth grade level and her reading comprehension is at the late second grade level. She noted that in the area of daily living skills Student can bathe and dress without assistance. She requires assistance opening a can, but can use a microwave. She is afraid of the stove or anything hot. She can clear and set the table, sweep, vacuum, and make her bed. She has a cell phone and stays in touch with her family. She does not leave her neighborhood or go out on her own. She does not fully understand money or budgeting. Dr. Schwartz concluded that Student requires a program with a minimum of three days a week of vocational training as well as two days per week of independent skill development and social skills training including travel training. Her program recommendations were based upon Student's age and experience and what she needs to learn. Dr. Schwartz believes Student requires experience in the community, in a "workshop" and in the classroom. (Schwartz, P-15)

Dr. Schwartz observed Student in her preschool vocational setting for approximately fifteen minutes and met with Ms. Murphy and Mr. Keane for about forty-five minutes on June 3, 2014. Student seemed engaged and happy in the setting and did a good job. Dr. Schwartz believes that although Student requires a great deal of repetition to learn she could have more than one job at a time if she were learning the same job skills in different settings. (P-16, Schwartz)

Dr. Schwartz believes Student requires a program in which some of Student's peers are girls. She stated that because Student requires assistance with social pragmatic skills and she learns from exposure and modeling, and because "girls are very different from boys, especially for adolescents" she would benefit immeasurably from female peers. (Schwartz)

At Parents' request, Dr. Schwartz spent approximately one hour meeting with James Kelly, Program Director of High School Programs for the LABB Collaborative, and observing some LABB Collaborative classrooms at Lexington High School. Mr. Kelly told Dr. Schwartz that LABB uses an integrated model which includes functional academics, community safety, physical education, social groups, independent living skills and self-regulation. There are twenty-four job sites available to students and numerous vocational counselors. There are many structured social opportunities after school. The program runs for eleven months. Students at the Lexington High School program have opportunities to walk to downtown Lexington and work on community independence and travel training. Dr. Schwartz was convinced that the program could expose Student to vocational training and social skills. She concluded that Student requires "age appropriate social and vocational development." (S-16, Schwartz)

⁴ Dr. Schwartz utilized the following measures in assessing Student: the Boston Naming Test, the WRAML2, the Rey-Osterrieth Complex Figure Test, the Peabody Picture Vocabulary Test, the Rorschach, the Thematic Apperception Test, the BASC-2, the Vineland-II, a student interview and a parent interview. (P-15)

13. Mother testified that Student has one friend who is no longer at Pathways. When she gets home from school she listens to the radio in her room, plays with her phone, and texts people. She does not go out unless adults have planned activities for her. She does not have any meaningful relationships with any students currently at school. Student is not able to independently shop. She is not able to determine the appropriate amount to give the cashier to pay for her purchases without assistance. Mother observed the LABB Collaborative program at Lexington High School in May or June 2014. Student was accepted into the program. The classroom that Student would likely attend has fifteen students, six girls and nine boys. There are about seventeen companies which the program uses for job sites and students may visit more than one on any given day. The afternoon program includes sports, a weekly movie night at a theater, and monthly dinners in local restaurants. There are overnight recreational trips. There are dances attended by up to eighty students from various LABB programs. Student would have vocational opportunities three days per week and would go in the community often to work on travel training using public transit. Mother believes that Student has become increasingly isolated in the C-C program because her age peers have graduated and left school, her best friend has left, and there are only “a couple of kids left in the program.” (Mother)
14. A vocational assessment of Student was completed by Joseph Venskus, Jr., on June 18, 2014. In addition to the battery of formal assessments, Student participated in a situational assessment during which she learned and performed tasks at a retail store and a nursing home. Her supervisor at the store noted that Student followed directions well, but got confused if her supervisor gave her more than two directions at a time. The nursing home supervisor noticed that Student followed directions well, however, she needed to show her a task rather than just explaining it to her. If she attempted to just explain the task verbally, Student would miss a step. She noted that Student did a nice job interacting with her peers and transitional coach and displayed appropriate behavior for the site. Mr. Venskus made a number of recommendations. He noted that Student may require assistance with special concept memory and sequential auditory memory and that she should be instructed by showing and doing. Student’s workspace should be simply and clearly organized by task. Her emotional/behavioral needs in the areas of socialization, impulsivity and anxiety should be considered. Mr. Venskus suggested that Student may want to continue to explore additional career options such as the retail store and nursing home where she was assessed. Such exploration will provide her with more choices on which to base her future career decisions and help her gain a better understanding of what is expected at a job. Job accommodations should include demonstrations, elimination of distractions, and consistent feedback, and encouragement. (S-11)
15. The Team met to review the results of the vocational assessment on September 4, 2014. The Team determined that it was reflective of what was already in the proposed IEP. (Murphy) The proposed IEP was not amended. (S-4)
16. Mr. Keane testified that C-C has the ability to change vocational placements in the future as needed. He explained that the staff will continue to give student “satisfaction surveys” by asking her what she likes about one job site versus another. They will use a variety of assessments and utilize the services of Work Opportunities and assist Student to hone her

skills to work in her preferred setting. He anticipates that Pathways will be able to address Student's need for transportation training during the next three years. Pathways would do so by utilizing what is available in the Concord community since it is anticipated that Student will continue to live there upon turning twenty-two. Mr. Keene also anticipates Pathways will provide some opportunities for evening socializing for its students by planning movie nights or other social activities. In past years Pathways has invited students from nearby communities to attend social events, but that has not happened recently. (Keane)

FINDINGS AND CONCLUSIONS:

Student is an individual with a disability, falling within the purview of the Individuals with Disabilities Education Act (IDEA)⁵ and the state special education statute.⁶ As such, she is entitled to a free appropriate public education (FAPE). Neither her status nor her entitlement is in dispute.

Under the Individuals with Disabilities Education Act (IDEA) and Massachusetts law, children with disabilities have the right to a FAPE. (20 U.S.C. § 1400(d); (M.G.L. ch. 71B.) A FAPE means special education and related services that are available to the child at no charge to the parent or guardian, meet state educational standards, and conform to the child's IEP. (20 U.S.C. § 1401(a)(9).) "Special education" is instruction specially designed to meet the unique needs of a child with a disability. (20 U.S.C. § 1401(a)(29).)

A FAPE is provided when the school district implements an IEP that is "reasonably calculated" to insure that the child receives meaningful 'educational benefits' consistent with the child's learning potential." *Hunt v. BSEA & City of Newton*, No. 08-10790-RGS, 2009 U.S. Dist. LEXIS 79775, at *4 n.8 (D. Mass. Sept. 4, 2009) (quoting *Bd. of Educ. of Hendrick Hudson Central Sch. Dist. v. 16*.)

While an IEP must conform to the procedural and substantive requirements of the IDEA, "the obligation to devise a custom tailored IEP does not imply that a disabled child is entitled to the maximum education benefit possible." *Lessard, v. Wilton-Lyndenborough Cooperative School District et.al.*, 518 F.3d 18 at 23. Additionally, the IDEA does not require school officials to in effect finance alternative care as a means of remedying issues in a child's life that are unrelated to education. *Abrahamson v. Hershman*, 701 F.3d 223, 227-228 (1st Cir. 1983).

There are two parts to the legal analysis of a school district's compliance with the IDEA. First, the hearing officer must determine whether the district has complied with the procedures set forth in the IDEA. (*Rowley, supra*, 458 U.S. at pp. 206-207.) Second, the hearing officer must decide whether the IEP developed through those procedures was designed to meet the child's unique needs, and was reasonably calculated to enable the child to receive educational benefit. (*Ibid.*) An IEP is not judged in hindsight; its reasonableness is evaluated in light of the information available at the time it was promulgated. *Roland M. v. Concord Sch. Comm.*, 910 F.2d 983, 992 (1st Cir. 1990)

⁵ 20 USC 1400 *et seq.*

⁶ MGL c. 71B.

The burden of persuasion in an administrative hearing challenging an IEP is placed upon the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 126 S. Ct. 528, 534, 537 (2005) In this case, Parents are the party seeking relief, and thus have the burden of persuading the hearing officer of their position.

I find, based upon a preponderance of the evidence, that the IEP proposed by C-C for the period from January 22, 2014 through January 21, 2015, with some modifications as contained herein, will be reasonably calculated to provide Student with a free appropriate public education in the least restrictive environment. As such, it is not necessary to reach the question of whether the LABB Collaborative is an appropriate placement for Student. My reasoning follows.

Parents did not present any expert testimony with respect to the inappropriateness of the IEP. Although Dr. Schwartz presented her recommendations with respect to Student's programming, she had not reviewed the IEP and admitted that she was not able to make any conclusions regarding the appropriateness of the IEP. Parents sought to demonstrate the inappropriateness of Student's IEP by comparing IEP goals and objectives from one year to the next. Although some of the IEP goals and objectives remained static from one year to the next, the C-C witnesses were able to credibly show that even in areas where Student's goals and objectives remained the same over time, Student demonstrated progress by becoming more independent and confident in her skills. (See testimony of Keane, Lutz, Little, McGowan.)

Parents raised concerns about Student's vocational services. Student currently works in an in-district pre-school with the support of a job coach. The evidence shows that this placement is appropriate and in keeping with the findings of the recent vocational assessment. (S-11) The evidence also shows that Student is doing well in her placement and thoroughly enjoys it. The placement is an area in which Student has indicated an interest and has demonstrated skill, helping people. Student spent a half day per week in the preschool setting last year and appropriately is extending her time in the preschool this year to increase her endurance and expand her responsibilities.

There was a great deal of testimony with respect to the Wednesday morning job sites and the school store where Student has worked for several years. Parents argued that Student was not benefitting from continuing in the same placements from year to year and required different vocational placements to make progress. Both Parents' and C-C's witnesses agreed that Student requires a great deal of repetition to learn. C-C's witnesses credibly testified that Student continues to make progress in her vocational programs because she continues to increase her independence in following directions, relating to co-workers, and completing tasks. (Keane, Gallant) Parents pointed to the vocational assessment to support their position that Student requires different vocational placements. (See S-11, pg.13.) However, the recommendation with respect to exploring additional vocational options was fairly vague. It stated that Student *may* want to explore additional career options. Additionally, C-C has indicated that it is capable of providing an additional work site for Student if she is interested. (Keane, Gallant) C-C should discuss the possibility of adding an additional work site with both Student and Parents. I did not place great weight upon Dr. Schwartz's conclusion that Student requires a program that provides at least three days per week of vocational training and two days of independent skill development and social skills training because she could not provide any basis for her opinion.

Although Parents did not demonstrate that the IEP was inappropriate, C-C's witnesses testified that there were some necessary services missing from the proposed IEP. Jessica Lutz testified that she is thinking about ways that C-C can open up more social opportunities for Student. Jessica Murphy acknowledged that C-C is a small district with approximately twenty peers in Pathways at any given time. She testified that C-C is part of the CASE Collaborative and there are no programs similar to the LABB Collaborative's post-graduate programs within it. Each of the thirteen districts belonging to the CASE Collaborative has its own program to meet the needs of its post-graduate students. She testified that C-C does its best to keep students in their local community which she views as the least restrictive environment. Mother expressed a concern that Student is socially isolated and does not have any meaningful relationships with any peers in Pathways. Mr. Keane testified that Pathways tries to meet the social needs of its students through movie nights and other social activities and that Pathways used to invite students from neighboring districts to such events. He acknowledged that the social activities have not happened recently. He referenced research which shows that students with disabilities can experience isolation and loneliness. This echoed Mother's testimony that Student does not have any meaningful peer relationships. The record is unclear as to how often Pathways provides opportunities for its students to practice social skills in out of school environments. While I was not persuaded that Student's being the only female in the post-graduate program makes Pathways inappropriate for Student (Dr. Schwartz testified that being the only female was problematic, however, she was not able to state a specific reason other than that adolescent girls are different than adolescent boys.) The record nonetheless shows that Student continues to require practice with social skills (Lutz), that there are few opportunities for her to do so outside of the classroom (Keane, Mother), and that she is socially isolated (Mother). Based upon the foregoing, I find that C-C is not adequately addressing Student's social needs.

The record does reflect that C-C has begun to find ways to address the small peer group such as working with Work Opportunity, Inc. (Murphy) Ms. Lutz also talked about the possibility of seeking to invite students from other districts to attend Pathways social events. However, these social opportunities are not *currently* available. C-C must continue to work toward expanding Student's social opportunities within the district and may have to look outside the district to find ways to meet Student's immediate social needs in addition to pursuing the services of Work Opportunity, Inc. If it is not possible for C-C to provide a cohort of peers with whom Student can interact and practice social skills in natural settings, it shall look out-of-district and determine whether Student can participate in existing social programs with appropriate peers.

Finally, Parents have raised concerns that Student has not received sufficient community exposure and travel training. Parents argue that Student is still not able to independently determine which monetary denomination is necessary to pay for purchases or how to count her change. Additionally, they are concerned that she has not received adequate instruction in how to access public transportation. Tom Keane agreed that Student should and could be provided with independent travel training with a staff member. Therefore, C-C should add travel training with a staff member to Student's IEP to assist her with accessing public transportation within her community. Parents have not met their burden of showing that Student requires additional community exposure. Ms. Gallant testified that Student's proposed IEP provides opportunities to make purchases in a grocery store or donut shop during their weekly outings to purchase provisions for the Pathways kitchen. Additionally, the IEP continues to contain benchmarks and

objectives to support Student's difficulty with counting money. Thus, other than the addition of public transportation/travel training, Parents have not met their burden of showing the IEP requires modification to provide additional exposure to the community.

It is not necessary to reach the question of the appropriateness of the LABB program for Student as I have concluded that C-C's IEP with modifications is reasonably calculated to provide Student with a free appropriate public education and is less restrictive than the out of district LABB program⁷.

ORDER

Based upon the foregoing, I find that the IEP proposed for the period from January 22, 2014 through January 21, 2015 with modifications is reasonably calculated to provide Student with a free appropriate public education in the least restrictive environment.

Student's IEP must be modified to include opportunities for Student to practice social skills in a natural setting with a peer group larger than the six post-graduate students at C-C.

Student's IEP must be modified to include transportation/travel training within Student's community.

By the Hearing Officer,

Catherine M. Putney-Yaceshyn

Dated: October 9, 2014

⁷ Although neither party raised issues regarding Student's transition services, because of her age, a brief description of the requirements for transition services is appropriate. The term "transition services" means a coordinated set of activities for a child with a disability that—

(A) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; (B) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and (C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation. 20 U.S.C. § 1401(34). I find that C-C has complied with the IDEA's requirements pertaining to transition services. C-C is providing Student with a program focused on improving her academic and functional achievement through Pathways. She is receiving vocational education, participates in supported employment at the preschool and through the Wednesday morning job sites. She receives instruction in independent living through her Lifeskills class. Her preferences, strengths and interests are taken into account with respect to the preschool placement. She is receiving community experiences and has received a functional vocational evaluation.