

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

IN RE: CALEB¹

&

BSEA #1505976 / 1507508²

NAUSET PUBLIC SCHOOLS

CORRECTED DECISION*

This decision is issued pursuant to M.G.L. c.71B and 30A, 20 U.S.C.§1401 *et seq.* and 29 U.S.C. §794 and the regulations promulgated under those statutes. A Hearing was held on January 12 and 13, 2016 at the Administrative Offices of the Bourne Public Schools. Those present for all or part of the proceedings were:

Caleb	Student
Ms. C	Parent
Rafael Castro	Neuropsychologist
Michael Elia	Director of South East Alternative School
Meghan Hammond	Director of Special Services, Riverview School
Dr. Ann Caretti	Director of Student Services, Nauset Public Schools
Mary Joann Reedy	Attorney for Nauset Public Schools
Susan Love	Attorney for Parent
Jane Williamson	Court Reporter
Lindsay Byrne	Hearing Officer

¹ "Caleb" and "Ms. C" are pseudonyms chosen by the Hearing Officer to protect the privacy of the Family in documents available to the public.

² This matter was originally consolidated with BSEA 15-07508. In that earlier filed matter the School sought a determination that it was not obligated to fund the Parent's Request for an Independent Educational Evaluation on the grounds that its own evaluations were comprehensive and appropriate. The School has withdrawn that request.

*This Decision, originally issued on March 23, 2016, is being reissued on July 11, 2016 in order to accurately reflect corrections made to non-substantive typographical errors contained in the original Decision.

The official record of the Hearing consists of documents submitted by the Parent marked P-1 through P-12; documents submitted by the School marked S-1 through S-30; and approximately 9 hours of recorded oral testimony. After presentation of the Parent's testimonial evidence the School moved for a Directed Verdict. The Motion was DENIED. The Parties submitted written closing arguments on February 29, 2016 and the record closed on that date.

ISSUE

Whether the 2014-2015 Individualized Education Program developed by Nauset, which proposed graduation at the conclusion of the 2014-2015 academic year, was reasonably calculated to provide a free appropriate public education to Caleb?

SUMMARY OF THE EVIDENCE

1. Caleb is a twenty year old resident of the Nauset Public School district. He delegated educational decision-making to his parent on Aug. 6, 2013 and again on March 26, 2015. (P-9A; P-9B)
2. Caleb has received special education services through the Nauset Public Schools since preschool. He has been diagnosed with multiple disabilities: Asperger's Disorder, Sensory Processing Disorder, Dyspraxia, ADHD, Dysthymia, Visual Processing Disorder, and Encopresis. He demonstrates significant gross motor challenges. Intellectual function testing has consistently placed him in the borderline range of cognitive ability. (P-1B; See also P-4C, S-4; P-4A, S-23)

The 2013-2014 IEP developed by Nauset in November 2013 states:

“...[Caleb] qualifies for special education services under the disability of Autism/Intellectual, math disorder and learning disorder, NOS with severely slow visual motor skills. Significant weaknesses in the areas of reading speed, spelling and writing speed. Borderline intellectual functioning.

The IEP stated that Caleb operated at the third grade level in both instructional and independent reading and received special education in “life skills mathematics.” The IEP also reported that Caleb had achieved passing scores on all three components of the MCAS. (P-1B; See also: S-10, a Reading Evaluation conducted in September 2013 which pegged Caleb's reading skills at the 7-9 year level.)

3. Carl Gustafson, Psy.D. conducted neuropsychological evaluations of Caleb at the request of the Nauset Public Schools in February 2012 and December 2014. (P-1B; P-1A; S-15; S-4; P-4C) He noted that Caleb's weak social understanding is a “chronic and pervasive...adaptive liability” which is likely to result in frequent failures to anticipate the consequences of his actions and to misconstrue the boundaries of appropriate behavior. Dr. Gustafson reported that his clinical interview as well as Caleb's test responses indicated that Caleb had little interest in engaging with people. Dr. Gustafson described Caleb's thinking style as rigid, concrete and

inflexible. Dr. Gustafson noted that Caleb had an inconsistent cognitive profile which ranged from extremely low functioning, particularly in the areas of attention, concentration, planning and problem solving to nearly average functioning in verbally mediated fact based learning. Dr. Gustafson's recommendations centered on Caleb's social-emotional-behavioral development. (S-4; P-4C; See also corroborating testimony of Castro; P-4A)

4. After an unsuccessful attempt to attend Cape Cod Vocational and Technical School during the 2011-2012 school year, Caleb attended a "blend-in" program at Nauset High School with increasing supports over the course of the 2012-2013 school year. The Parties agreed that the school year was difficult for Caleb and "trying" for the interested adults. (Parent, Caretti) After several mediations during the school year, the Parties developed a Transition Plan. The Plan, Caleb's first at age 17, contained some elements to be implemented during the summer of 2013. Due to Parental objection and other circumstances beyond the School's control, neither the Transition Plan nor some other agreed upon services were fully implemented during the summer 2013. (Caretti; Parent)

5. Nauset made a Chapter 688 referral to the Massachusetts Rehabilitation Commission on Caleb's behalf on September 11, 2013. (S-29)

6. After another mediation was held in September 2013 Nauset offered to place Caleb at South East Alternative School (hereinafter "SEAS"). According to its Director, Michael Elia, SEAS serves a small population of students with significant social/emotional challenges. Approximately a third of the students have been diagnosed with an Autism Spectrum Disorder. The school provides clinical services and academic and transition skills instruction in a supportive therapeutic environment. (Elia)

7. The Team met on November 4, 2013 to develop an IEP for Caleb to be implemented at SEAS. There were two evaluations available to the Team: a Reading Evaluation which reported that Caleb's skills clustered at the 7-8 year old level and an "Evaluation of Daily Living Skills" conducted by an Occupational Therapist. (S-10; S-11) Neither recommended a discontinuation of special education or related services. Neither addressed Caleb's vocational or transitional skills.

8. The proposed November 2013-November 2014 IEP developed by Nauset called for Caleb's placement at SEAS. It set out goals and objectives in social skills, mathematics, vocational, transitional services, written expression, reading and speech/language. It is not clear in the record how those goals were developed. In the additional information section of the 11/13-11/14 IEP the following language appears:

Mass Rehab will be working with district to assist with transitional plan goals. A future meeting will be scheduled to discuss transition and next steps.

[Caleb] has age of majority rights. He has chosen to share decision-making with his mother.

(Caleb)'s graduation class is 6/20/14.

(S-16; P-18)

9. On December 18, 2013 Ms. C. accepted the SEAS placement for Caleb, but rejected other portions of the Plan, including the anticipated graduation date of 6/19/2015. (P-1B)

10. The Team reconvened on January 10, 2014 to rework the IEP. Ms. C. accepted the SEAS placement and most of the substantive portions of the November 2013- November 2014 IEP on February 14, 2014. She did not specifically reject the anticipated graduation date of June 19, 2015 at that time. (P-1B) Ms. C. testified that her failure to object to the proposed graduation date was an oversight. (Parent)

11. Mr. Elia testified that SEAS was an appropriate placement for Caleb, and that Caleb made consistent progress in the program. Mr. Elia noted that some components of the program that would have provided a benefit to Caleb could not be implemented due to parental objections and interference. (Elia; See also Parent; P-5H; P-5I; P-5J)

12. The Team reconvened on June 24, 2014. The Team proposed continuing Caleb's placement at SEAS for the 2014-2015 school year.

13. The proposed 2014-2015 IEP lists an anticipated graduation date of 6/19/15. Under Additional Information the IEP states:

Mass Rehab will be working with district to assist with transition plan goals. [Caleb] has age of majority rights. He has chosen to share decision-making with his mother. [Caleb] will receive a diploma in June 2015. He has completed transcript and MCAS requirements.

...

[Caleb] and his mother were offered placement to Riverview's GROW Program... [and approved sending] information to Riverview School for review.

In January 2014, the Nauset Public Schools and Parent verbally agreed to an additional year of school in 2014-2015. [Caleb] met his graduation requirements in June 2014.

(S-15; P-1A)

14. The goals and objectives for social skills, life skills math, reading, written expression, speech/language and transition set out in the proposed 2014-2015 IEP are identical to those listed in the 2013-2014 IEP. The vocational goals and objectives are different. (Compare S-15 and S-16) In addition to the 2013-2014 progress reports prepared by SEAS (P-5H; P-5I; P-5J) the following evaluations were available to the Team: Neuropsychological (Gustafson, S-4; P-4C); Speech/Language (Wong; S-5; P-4E); Assistive Technology (Woodbury; S-6); Occupational Therapy (Boren; S-8) None recommended discontinuation of special education services. The Occupational Therapist recommended discontinuation of direct occupational therapy. There were no vocational or transitional services assessments.

15. On August 4, 2014 the Parent rejected the placement and most of the substantive content of the proposed 2014-2015 IEP. Next to her partial rejection the Parent wrote “see list”. No appropriately dated list appears in the documents. Ms. C. denied entering into any agreement with Nauset concerning Caleb’s graduation. (Parent; P-2C; S-14)

16. At a meeting held in September 2014 to discuss the Parent’s rejection of the SEAS placement, Dr. Caretti offered Caleb a placement at the Riverview School. The Parent consented to the Riverview placement on September 29, 2014. The Placement Consent Form was attached to the 2014-2015 IEP developed in June 2014 (S-15; P-1A) No other changes were made to the 2014-2015 IEP. The Parent’s substantive objections to the proposed IEP were not resolved. (Caretti; Parent; Hammond)

17. Caleb began attending Riverview as a residential student in October 2014. Meghan Hammond, Riverview’s public school district liaison, testified that no Team meeting was held to develop an IEP for Caleb that reflected Riverview’s GROW program. Riverview used the IEP developed in June 2014 to design the program and services appropriate for Caleb. Riverview added goals and objectives to reflect the residential component of the GROW program. Riverview reported Caleb’s progress on the 2014-2015 Nauset IEP goals and on the quarterly goals Riverview added. (S-17; S-18; P-5A-G) Ms. Hammond acknowledged that no information is available on the Nauset goals for the 3rd and 4th term of the 2014-2015 school year. Ms. Hammond reported that Caleb demonstrates improvement in math based life skills, in understanding job requirements, in accepting feedback, in written expression and reading, in following rules and social scripts, and in general social relatedness. Caleb continues to demonstrate weaknesses in the areas of planning, problem solving and appropriate behavior. He requires moderate support for all vocational and community based activities. He is not able to work independently. His goal is to work in the community with a job coach. At the time of the Hearing his transition to adult service providers was not complete. (Hammond; S-30)

18. No Team meeting has been held since Caleb entered the Riverview GROW Program in October, 2014. (Hammond; Caretti; Parent)

19. On February 11, 2015 the Parent sent to Nauset the Additional Information page of the proposed June 2014-June 2015 IEP indicating that she rejected the anticipated graduation date of 6/19/15, the transition plan and the end date of service. She also wrote: “There is no verbal agreement.” (P-3) The Parent also sent a letter dated 2/11/15 to the Special Education Director, Dr. Ann Caretti, indicating that she rejected portions of Caleb’s then current IEP, including: the graduation date, the end service date, the current Transition plan and stating:

“I reject that I hold a verbal agreement of graduation with or ending services Dr. Ann Caretti or any other school official. I absolutely do not have a verbal agreement.

I accept his current placement at Riverview School.”

(P-3 *sic*)

20. On March 17, 2015 Nauset Special Education Director Ann Caretti wrote to Ms. C. stating: “[Caleb] has made progress and is on track to meet his IEP goals and objectives. As stated in his current IEP, [Caleb]’s services will end in June.” Dr. Caretti noted that a BSEA Facilitator had been invited to a March 31, 2015 Team meeting. (P-7) There is no indication in the record that a March 31, 2015 Team meeting took place.
21. Riverview prepared a “Summary of Student Performance” on March 23, 2015. (P-5K)
22. On March 31, 2015 Ms. C. requested that Nauset arrange a Transitional and Vocational Assessment for Caleb at the Southeast Massachusetts Educational Collaborative. Nauset declined to make that arrangement and timely requested a Hearing at the BSEA. (15-07508) On June 16, 2015 the Parent withdrew her request for a publicly funded independent evaluation. Shortly thereafter the School withdrew its request for Hearing. (Administrative Record)
23. On May 5, 2015 the Parent requested a BSEA Hearing seeking a finding that Nauset had failed to provide Caleb with appropriate special education and transitional services and that Nauset was obligated to maintain Caleb’s placement at the Riverview School pending resolution of the BSEA appeal. (Administrative Record) To date Caleb continues to attend the residential Riverview program on a “stay put” basis.
24. The Massachusetts Rehabilitation Commission conducted a CIES Assessment in August, 2015. In a report dated 10/6/2015 the Counselor found that Caleb required one to one supervision and direction for all tasks and was not a candidate for competitive employment in the community. (P-4B; S-23)
25. Rafael Castro, Ph.D., conducted a Neuropsychological Evaluation of Caleb on 9/15/15. (P-12) His findings echoed those of previous evaluators Dr. Gustafson, Ms. Wong, Mr. Bocen, Ms. DeSimone, Ms. Rice. (Compare e.g. S-22, P-4A and S-4, P-4C) Dr. Castro testified that Caleb’s academic skills are significantly better developed than his functional life skills. Dr. Castro noted that this disparity is not uncommon in individuals on the autism spectrum. For Caleb the gap could reflect a more intensive early focus on developing literacy and so indicate a capacity for similar growth in other realms if similar instructional focus were applied. Social interaction and communication is one area of persistent serious difficulty for Caleb. To make progress in the acquisition of functional social skills consistent with his potential Caleb requires the type of “wrap around” instruction, guidance, support and practice he is currently receiving at Riverview. (Castro)
26. Dr. Ann Caretti (S-26) is the Special Education Director for Nauset Public Schools. She has been involved with Caleb’s programming since June 2012. She testified that Nauset offered the Riverview placement to Caleb after a contentious Team meeting in June 2014 to permit him to access an educational program without interference and to assess his capabilities in a neutral setting. She acknowledged that Nauset has not held a Team meeting since Caleb began attending Riverview in October 2014. Nauset has not developed goals other than those set out in the June 2014 IEP. Nauset has not evaluated Caleb’s progress toward achievement of those goals.

Dr. Caretti testified, however, that Caleb has met his transition goals and is ready for graduation. She clarified that “meeting” goals meant “making effective progress toward” the goals contained in the IEP. Nauset does not require mastery of IEP goals in order to receive a diploma. (Caretti)

27. The Parties agree that, by January 2014, Caleb had met two of the district’s three graduation criteria. He had achieved passing scores on the English Language Arts, the Mathematics and the Science components of the MCAS and he had accumulated the required number of course credits. (Caretti) There is no documentation to support the MCAS results other than assertions in the district’s proposed November 2013-November 2014 and June 2014-June 2015 IEPs. (S-15; S-16)

28. Dr. Caretti testified that the participants in the June 2014 Team meeting discussed Caleb’s transition goals in depth. She could not identify any transitional or vocational assessment the Team used to guide the discussion. (Caretti) The transitional goals outlined on the IEPs developed in November 2013 and in June 2014 are identical. The Transition Plans attached to the November 2013 IEP and the June 2014 IEPs are identical with one exception: the employment goals and activities listed on the 2013 Plan were eliminated on the 2014 Plan. (Compare s-15; P-1A; and S-16- P-1B)

FINDINGS AND CONCLUSIONS

There is no dispute that Caleb is a student with special learning needs and thus has been entitled to a free, appropriate public education pursuant to 20 U.S.C. §1401 *et seq* and M.G.L. c. 71B. The Parties’ disagreement centers on whether he continues to be eligible for special education. At the due process hearing level determining whether a school district has met its obligations to provide a free appropriate public education to a resident student with a disability has both a procedural and a substantive component. Indeed the bulk of the IDEA and its implementing regulations address the procedural aspects of finding and evaluating students, developing their IEPs, providing their programs, and ensuring that the students and their parents have a meaningful voice in all decisions. The federal emphasis on process is not accidental nor trivial. The aim of correct process is to produce correct content. In Massachusetts procedural violations that are serious enough to affect the delivery of appropriate special education services rarely reach the Hearing level. This matter is an exception.

The preponderance of the credible evidence here supports the conclusion that Nauset failed to appropriately evaluate the Student before developing the vocational and transitional goals set out in the proposed 2013-2014 and 2014-2015 IEP’s, and the transitional plan attached to those IEPs. There is nothing in the record to explain how the goals were selected and how they relate to Caleb’s individual educational needs. 20 U.S.C §1414(d)(1)(A)(i)(vii)(aa); 34 CFR 300.320 (b); 34 CFR 300.305. Furthermore the preponderance of the credible evidence supports the conclusion that Nauset failed to appropriately evaluate Caleb’s progress toward achievement of those goals.

Dr. Caretti's testimony that the June 2014 Team discussed Caleb for five hours does little to answer the question why, if Caleb were making the progress the district claimed he was toward achievement of his IEP and transitional goals, none of the pertinent goals, objectives or benchmarks contained in his 2013-2014 IEP were changed in the IEP proposed for 2014-2015. The lack of change, or alternatively the lack of a reasonable explanation for the lack of change, leads me to conclude that Caleb's progress toward acquisition of the listed transitional (and other) skills was insufficient to warrant new goals. 34 CFR 300.324 (c).

When Nauset offered to place Caleb at Riverview in September 2014 it did so solely with a proffered placement page. I credit Dr. Caretti's testimony that Nauset used this procedure to accomplish a change from the SEAS placement to which Ms. C. objected to a more intensive program in the swiftest, easiest manner possible. Nevertheless, Nauset did not reconvene the Team at any point, over the course of 16 months, to address the significant change of placement from a day program to a residential one, as required under federal and state procedures. 34 CFR 300.325; 603 CMR 29.06 (3) (b); 603 CMR 28.06 (2) (e) and (2) (f); 603 CMR 28.05 (6).

The failure to convene the required placement meeting led inexorably to the failure to convene the annual Team to review Caleb's progress toward achievement of the IEP and transition goals as required by 34 CFR 324 (b), 34 CFR 343 (a) and 603CMR 28.04 (3). See also 34 CFR 300.321 (b) (3). Nor did the Team reconvene to consider the results of evaluations conducted by Dr. Gustafson, Dr. Castro, Massachusetts Rehab Commission, and another transitional agency between the date of Caleb's placement at Riverview and Dr. Caretti's March 2015 notice of intent to graduate him.

Team meetings, and parental/student participation in them, are fundamental components of the IDEA and M.G.L. c. 71B. By ignoring its obligation to convene Team meetings at critical junctures in Caleb's education Nauset violated the family's right to participate in the educational planning and assessment process. Absent a showing of substantial deprivation of educational benefit procedural defects do not, by themselves, require a finding that a student has been denied a free appropriate public education. *Roland v. Concord Public Schools*, 91 F.2nd 983 (1st Cir. 1990) Here, though, the procedural violations are substantial and led directly to the flawed decision to graduate Caleb and terminate his special education services. On the way to that decision Nauset failed to develop IEP and transitional goals appropriate to Caleb's changed circumstances, to assess his progress toward achievement of those goals, and to monitor the delivery of educational services to him by the out of district facility in which Nauset placed him.³ 603 CMR 28.06 (2) (b). Without that information Nauset could not reasonably reach the conclusion that Caleb had met the criteria for graduation from Nauset with a high school diploma. I find, therefore, that Nauset's proposal to graduate Caleb in June 2015 was not based on reliable evidence of educational and transitional progress, was a result of a flawed IEP development and placement process and, if implemented, would have deprived Caleb entirely of a free appropriate public education⁴

³ Compare 2013-2014 and 2014-2015 IEPs.

⁴ See also *Doe v. Marlborough Public Schools*, 2010 WL 2682433, at *6 (D. Mass. 2010) ("courts have taken the position that notwithstanding a student's satisfaction of local graduation requirements, a school district may not properly graduate a student with disabilities if the student was not provided with FAPE as required by IDEA (e.g. a

Nauset also failed to provide the Parent and Student with the type of prior written notice required under the IDEA before moving to graduate Caleb. First, I acknowledge that, strangely, a formal Team meeting is not required in advance of awarding a student with a disability a high school diploma. Termination of eligibility for special education and transitional services for students under age 22 would seem to be the most significant “change of placement” that could be contemplated under the IDEA. The federal regulations acknowledge that graduation is a change of placement but carve out an exception to the general rule requiring Team meetings in advance of any such change. (See discussion, *supra*) Instead it is sufficient under federal law to provide advance written notice of the School’s intent to terminate the student’s special education. 34 CFR 300.102 (a)(3)(iii); 34 CFR 300.503; 34 CFR 300.306 (e). There is no Massachusetts corollary and those regulations are silent on graduation and termination of special education eligibility.⁵ The Summary of Student Performance prepared by Riverview staff in March 2015 while comprehensive, is based on IEP goals and objectives that were both stale and prepared for services in an entirely different setting. (P-5K) Thus, both procedurally and substantively, it is fatally flawed. As the only document given to Parent in advance of the proposed June 2015 graduation, it lacks the notice elements required by 34 CFR 300.503.⁶

Finally I find, based on the preponderance of the evidence, that there was never a meeting of the minds, orally or in writing, among these Parties on any particular graduation date for Caleb. The anticipated graduation date of June 2014 listed in the proposed 2013-2014 IEP was rejected by the Parent in December 2013. (P-1B) The proposed 2013-2014 IEP resulting from a Team meeting reconvened in January 2014 lists a graduation date of June 2015 with the note: “[Caleb]’s graduation class is June 2015”. (S-16) The proposed 2014-2015 IEP developed in June 2014 states that Caleb met graduation requirements in June 2014 and that Nauset and Ms. C. “verbally agreed” to an additional year of school in 2014-2015. (S-15) Ms. C. rejected both assertions in February 2015. This series of IEP statements is troubling. The record of evaluations and transitional services available at the hearing does not support a finding that a

student did not receive appropriate transitional services or his IEP was not reasonably calculated to provide him educational benefits); *Dracut School Committee v. Bureau of Special Educ. Appeals for the Massachusetts Dept. of Elementary and Secondary Educ.*, 2010 WL 3504012, at *15 (D. Mass. 2010) (“issuance of a diploma was improper because C.A. was denied a FAPE”, in this case appropriate transition services.)

⁵ But see: *Black River Falls S.D.*, 114 LRP 53687 (SEA WI 2004) which held that failing to review an IEP to determine whether graduation goals are appropriate and whether student is making progress toward them is procedural error.

⁶ 34CFR 300.503 (b) provides: (b) Content of notice. The notice required under paragraph (a) of this section must include-

- (1) a description of the action proposed or refused by the agency;
- (2) An explanation of why the agency proposes or refuses to take the action;
- (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
- (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
- (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
- (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
- (7) A description of other factors that are relevant to the agency’s proposal or refusal.

Team thoughtfully considered and planned for Caleb’s post-high school needs or coordinated services with an adult agency. (34 CFR 300.344 (c)(3).) The IEPs are internally inconsistent. Caleb’s graduating class, and the class he would graduate with had an “additional” year been agreed upon are unlikely to be the same “class”. I also find it unlikely, given the Parent’s strong and longstanding objection to graduation, that she would have agreed to a special education termination date short of Caleb’s 22nd birthday. Where there is disagreement between the parties about the existence or terms of “verbal” agreement⁷ one looks to the written record for support. Here I find the Parent’s written rejection of the proposed June 2015 graduation date supports her position that she did not agree with that term of the IEP. The fact that the Team never reconvened to address the rejected programmatic elements of the June 2014 IEP lends further support to her position that the district ignored her ongoing objections to any proposed graduation. Similarly Dr. Caretti’s letter of March 17, 2015, which restates the School’s intention to graduate Caleb in 2015, without acknowledging the Parent’s rejection of that term, supports the Parent’s position that Nauset’s decision to graduate Caleb was not based on an objective and individualized assessment of Caleb’s progress toward his special education and transitional goals. (P-7A)

These procedural violations singly, and certainly in combination, are sufficiently substantial as to have impeded the rights of the Parent and Student to participate in the educational and transitional planning process and to have had an ongoing negative effect on Caleb’s entitlement to an individually tailored IEP designed to permit him to make meaningful progress toward achievement of his unique educational and transitional goals. While the Hearing showcased the interpersonal difficulties Nauset clearly sought to avoid by minimizing family contact in this matter, it is precisely those students without reasonably effective advocates to whom the highest degree of diligence, protection and proper planning is owed.

Therefore, based on the totality of the credible evidence and on the applicable law I find that Nauset erred in selecting June 2015 as a graduation date for Caleb. Nauset shall convene a properly constituted Team which shall consider the current evaluative information and determine whether additional evaluations, assessments and observations are necessary. If the Team determines that none is necessary, or when the necessary evaluations have been completed, the Team shall develop individualized, measurable goals and objectives, draft an IEP to address those goals and objectives, set out assessment criteria and timelines to determine progress toward or achievement of those goals and objectives, outline clear criteria for graduation and/or exit from special education and determine the progress toward/achievement of those criteria, and ensure that appropriate links to adult service agencies are established.

⁷ By which I take the Parties to mean an “oral” agreement.

ORDER

The Parent has shown by a preponderance of the evidence that Nauset Public Schools failed to appropriately plan for Caleb's exit from special education. The graduation date of June 2015, as proposed by Nauset on the 2014 -2015 IEP, was not appropriate. Caleb shall remain in his current placement as a residential student at the Riverview School pending completion of the IEP development process in accordance with this Decision and 34 CFR 300.320.

By the Hearing Officer

Lindsay Byrne
Dated: March 23, 2016