

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND JUDICIAL DEPARTMENT

In the Matter of the Application of
ROBERT A. COX,
Petitioner-Respondent,
For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules,

-against-

CITY SCHOOL DISTRICT OF NEW ROCHELLE and
DR. COREY REYNOLDS, in his official capacity as
Superintendent of Schools and FOIL Appeals Officer,
Respondents-Appellants.

Appellate Division Docket No. 2026-10900
Supreme Court Index No. 57316/2026

NOTICE OF MOTION PURSUANT TO CPLR 5519(c)

PLEASE TAKE NOTICE that upon the accompanying Affirmation of Robert A. Cox, the Memorandum of Law, the exhibits annexed thereto, and all prior proceedings and papers in this matter, Petitioner-Respondent Robert A. Cox will move this Court, pursuant to CPLR 5519(c), on Monday, October 26, 2026, at 10:00 a.m., or as soon thereafter as the motion may be submitted, for an order:

1. vacating, to the extent applicable, the automatic stay arising under CPLR 5519(a)(1) from Respondents-Appellants' October 2, 2026 Notice of Appeal, insofar as the stay prevents enforcement of the disclosure provisions of the September 3, 2026 Decision, Order and Judgment;
2. alternatively, limiting or modifying any such stay to permit enforcement of the disclosure provisions directing production of the responsive portions of the legal billing statements in conformity with the version already submitted to Supreme Court for in camera review;
3. if the Court determines that disclosure should remain stayed pending appeal, directing Respondents-Appellants to perfect the appeal by a date certain and granting such calendar preference or expedited consideration as the Court deems appropriate;
4. directing, if necessary for determination of this motion or the appeal, transmission to this Court of the unredacted in camera submission reviewed by Supreme Court;
5. vacating, limiting, or modifying the stay as appropriate with respect to the \$350 in filing costs awarded to Petitioner-Respondent under Public Officers Law § 89(4)(c);
6. awarding allowable motion costs and disbursements; and
7. granting such other and further relief as the Court deems just and proper.

The motion is returnable on submission. No oral argument is requested.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR 2214(b), answering affidavits and any notice of cross-motion, with supporting papers, if any, shall be served at least seven days before the return date of this motion.

Dated: October 6, 2026

/s/ Robert A. Cox

Robert A. Cox
Petitioner-Respondent Pro Se
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New Rochelle, NY 10801
Tel.: +353 89 972 0669

TO:
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Attorneys for Respondents-Appellants

**SUPREME COURT OF THE STATE OF NEW YORK
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**AFFIRMATION OF ROBERT A. COX IN SUPPORT OF MOTION
PURSUANT TO CPLR 5519(c)**

I, Robert A. Cox, affirm under penalties of perjury:

1. I am the Petitioner-Respondent in this proceeding and submit this affirmation in support of my motion pursuant to CPLR 5519(c) to vacate, limit, or modify the automatic stay arising from Respondents-Appellants' appeal, or, alternatively, to expedite the appeal.
2. On October 8, 2024, I submitted a FOIL request seeking, among other things, all invoices and payments for legal services provided to the District in reference to Shrub Oak International School from 2019 to the present.
3. After more than a year, the District produced approximately 380 pages of Ingerman Smith, LLP billing statements. Every individual billing entry was redacted in whole or in part. I administratively appealed the redactions on January 14, 2026. The District did not determine that appeal within the statutory period, and the record contains no evidence that it ever issued an administrative determination invoking a FOIL exemption for those redactions.
4. I commenced this Article 78 proceeding. In opposing it, Respondents told Supreme Court that the proceeding was diverting 'limited and finite resources away from schoolchildren' and that the District 'continues to face significant budgetary constraints' and 'faces a budget deficit of over twenty million dollars.' (Ex. F, COX-0032-COX-0033.)
5. Supreme Court ultimately directed an in camera review. On August 18, 2026, the court permitted Respondents to leave redacted only material entirely unrelated and unresponsive to my Shrub Oak request and directed that all other portions, including material claimed to be privileged, be submitted unredacted. (Ex. E, COX-0028-COX-0029.)

6. After reviewing the 381-page in camera submission, Supreme Court held on September 3, 2026 that Respondents had failed to establish that they invoked any statutory exemption or other legal justification at the administrative level. The court held that Respondents could not rely for the first time in litigation on attorney-client privilege to justify the redactions. (Ex. A, COX-0005-COX-0008.)
7. Supreme Court therefore ordered Respondents to disclose the billing statements without redactions to the responsive portions, while allowing material wholly unrelated and nonresponsive to remain redacted. The court directed that disclosure conform to the version Respondents themselves submitted for in camera review. (Ex. A, COX-0007-COX-0009.)
8. Supreme Court also found that I substantially prevailed and, because Respondents failed to timely determine my administrative appeal, awarded me \$350 in filing costs under Public Officers Law § 89(4)(c): \$210 for the index number, \$95 for the Request for Judicial Intervention, and \$45 for the notice of petition. (Ex. A, COX-0008-COX-0009.)
9. I served Notice of Entry and subsequently caused the Decision, Order and Judgment to be personally served. The filed affirmation of service is Exhibit D. (COX-0026-COX-0027.)
10. Respondents filed a Notice of Appeal on October 2, 2026. (Ex. B, COX-0010-COX-0023.) The Second Department opened Docket No. 2026-10900 on October 5, 2026. (Ex. C, COX-0024-COX-0025.)
11. The records at issue concern legal services relating to the District's use of Shrub Oak International School for special-education placements. Their materiality is now demonstrated by official records from both the District and the New York State Education Department.
12. Based on my review and addition of the District's tuition invoices and payment records, I calculated \$2,858,151.70 in tuition expenditures associated with Shrub Oak; the District's NVISION vendor history is Exhibit I. (Ex. I, COX-0048-COX-0057.) District transportation records document an additional \$470,300.90 in transportation expenditures. (Ex. J, COX-0058-COX-0060.) The combined tuition and transportation expenditure for four students was \$3,328,452.60.
13. These expenditures do not include the legal expenses reflected in the billing statements that are the subject of this FOIL proceeding. They also do not include the additional legal expenses the District has incurred litigating this Article 78 proceeding and pursuing this appeal.
14. NYSED records establish that Shrub Oak was not a State-approved school. In an April 8, 2022 email memorializing May 5 and May 6, 2020 communications with New Rochelle personnel, NYSED stated that 'Shrub Oak is not an approved NYS school' and that NYSED had informed New Rochelle that a CSE 'cannot make a recommendation to a nonapproved school.' (Ex. G, COX-0044.)
15. A May 26, 2020 NYSED email stated that the Department would contact the superintendent 'to discuss concerns related to New Rochelle students attending Shrub Oak.' (Ex. H, COX-0047.)

16. NYSED State Review Officer Decision No. 21-158, dated August 18, 2021, concerns New Rochelle and a student whom the District had placed in Shrub Oak's day program during the 2019-20 school year. The decision states that the District made that placement 'notwithstanding that the school was not State-approved.' (Ex. L, COX-0081-COX-0082.)
17. The same SRO decision explains that districts are authorized to contract with nonpublic schools approved by the Commissioner of Education and identifies the statutory and regulatory framework governing such placements. It further recounts that, after an April 1, 2020 CSE recommendation for a Shrub Oak residential placement, the District witness described in the decision as the "school psychologist" testified that she learned the District had to explore State-approved residential programs, after which the CSE reconvened on April 21, 2020. (Ex. L, COX-0081-COX-0084.)
18. Most significantly for the materiality of the legal billing records sought here, the SRO decision recounts testimony that the parent received an April 14, 2020 District email stating that the District's attorney had advised that the District would have to look at State-approved residential programs before it could place the student in Shrub Oak's residential program. (Ex. L, COX-0083.)
19. The SRO ultimately concluded that the District's pursuit of a State-approved nonpublic school rather than Shrub Oak, 'which was not a State-approved nonpublic school,' was consistent with the District's obligations under the IDEA and related State law, regulation, and policies. (Ex. L, COX-0086-COX-0087.)
20. Exhibit M is NYSED's official downloadable '853 Only' approved-private-school listing. Shrub Oak does not appear on that list. (Ex. M, COX-0088-COX-0100.)
21. Taken together, these official records show why the legal billing entries are not collateral or curiosity-driven records. They concern legal services associated with a matter in which the District expended \$3,328,452.60 in tuition and transportation for four students at a school that was not State-approved for District CSE placement, and in which the District's own attorney's advice concerning the State-approved-school requirement became part of the official administrative record.
22. My FOIL request was submitted on October 8, 2024. By the October 26, 2026 return date of this motion, more than two years will have elapsed. If the automatic stay remains in place through an ordinary appellate timetable, disclosure may be delayed for many additional months.
23. I recognize that disclosure cannot practically be undone once the responsive portions of the invoices are released. That consideration is real, but it is materially reduced here because Supreme Court already conducted an individualized in camera review and preserved the redaction of all material that Respondents identified as wholly unrelated and nonresponsive.
24. The remaining dispute is therefore unusually narrow. Supreme Court did not order wholesale disclosure of 381 pages. It ordered disclosure only of responsive billing information after reviewing the precise version that Respondents submitted in camera, and it did so because Respondents had not invoked the asserted exemption during the administrative process.

25. Continued delay prejudices the public-accountability purpose of the request. The records concern decisions and expenditures beginning years ago, and their value for contemporaneous reporting and public scrutiny diminishes as disclosure is postponed.
26. I therefore respectfully request that this Court vacate the stay as to disclosure or modify it to permit enforcement of Supreme Court's disclosure directive.
27. If the Court determines that disclosure should remain stayed, I respectfully request that Respondents be directed to perfect their appeal by a date certain and that the appeal receive expedited consideration.
28. I further request that the Court direct transmission of Supreme Court's sealed in camera submission if the Court concludes that review of that submission would assist determination of this motion or the appeal.
29. I also request appropriate relief concerning the \$350 in filing costs awarded by Supreme Court under Public Officers Law § 89(4)(c), together with allowable costs and disbursements on this motion.
30. No prior application has been made for the relief requested in this motion.
31. The accompanying Memorandum of Law sets forth the legal grounds for the requested relief.

I affirm this 6th day of October, 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

Dated: October 6, 2026

/s/ Robert A. Cox

Robert A. Cox
Petitioner-Respondent Pro Se
11 Burling Lane
New Rochelle, NY 10801
Tel.: +353 89 972 0669

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**MEMORANDUM OF LAW IN SUPPORT OF MOTION PURSUANT TO
CPLR 5519(c)**

PRELIMINARY STATEMENT

This motion asks the Court to exercise the discretion expressly conferred by CPLR 5519(c) over an automatic governmental stay. Supreme Court has already completed the difficult work: it reviewed Respondents-Appellants' 381-page in camera submission, preserved redactions for material wholly unrelated and nonresponsive to the FOIL request, and ordered disclosure only of responsive billing information. It did so on a legal ground that goes to the administrative process itself: Respondents never invoked attorney-client privilege or any other statutory exemption when they redacted the records, and they could not supply that missing administrative justification for the first time in litigation. (Ex. A, COX-0005-COX-0009.)

The public interest in prompt disclosure is substantial. The billing records concern legal services relating to the City School District of New Rochelle's use of Shrub Oak International School for special-education placements. District records document \$2,858,151.70 in tuition and \$470,300.90 in transportation expenditures for four students - \$3,328,452.60 before the legal expenses sought through this FOIL request are counted. (Exs. I-J, COX-0048-COX-0060.)

The record has now become materially stronger. An official 2021 NYSED State Review Officer decision involving New Rochelle and Shrub Oak states that the District placed a student in Shrub Oak's day program during the 2019-20 school year notwithstanding that Shrub Oak was not State-approved. The decision recounts that, after a later recommendation for residential placement at Shrub Oak, District personnel learned that State-approved programs had to be explored; it further records testimony that an April 14, 2020 District email advised the parent that the District's attorney had said State-approved residential programs had to be considered before

the student could be placed in Shrub Oak's residential program. The SRO ultimately concluded that pursuing a State-approved nonpublic school rather than Shrub Oak was consistent with the District's obligations under federal and State law. (Ex. L, COX-0073-COX-0087.) NYSED's official approved-private-school listing likewise does not include Shrub Oak. (Ex. M, COX-0088-COX-0100.)

Those facts make the withheld legal billing entries especially material. The public is entitled to know the extent and nature of legal services associated with a matter in which millions of public dollars were spent and in which legal advice concerning the requirement that State-approved residential programs be considered before a Shrub Oak residential placement appears in an official NYSED adjudicative record. After more than two years since the October 8, 2024 request, an automatic stay should not convert Respondents' appeal into another prolonged period of nondisclosure.

Petitioner therefore asks the Court to vacate the stay as to disclosure, or at minimum to modify it to permit enforcement of Supreme Court's carefully limited disclosure order. If the Court concludes that disclosure should remain stayed because disclosure cannot be undone, the appropriate alternative is a prompt perfection deadline and expedited consideration of the appeal.

POINT I

CPLR 5519(c) AUTHORIZES THIS COURT TO VACATE, LIMIT, OR MODIFY THE AUTOMATIC STAY

CPLR 5519(a)(1) may stay enforcement of an executory judgment when the appellant is the State, a political subdivision, or an officer or agency thereof. *Pokoik v Department of Health Servs. of County of Suffolk*, 220 AD2d 13, 14-15 (2d Dept 1996). To the extent Respondents' October 2, 2026 Notice of Appeal triggered such a stay, CPLR 5519(c) expressly permits the court from or to which an appeal is taken to 'vacate, limit or modify' a stay imposed by subdivision (a).

The statute does not impose a rigid preliminary-injunction test. The Court of Appeals has explained that there is no entitlement to discretionary relief under CPLR 5519(c); the court may consider the merits and is 'duty-bound to consider the relative hardships' resulting from granting or denying a stay. *Da Silva v Musso*, 76 NY2d 436, 443 & n 4 (1990). *Pokoik* likewise demonstrates this Court's authority to tailor an automatic governmental stay rather than treat it as immutable. 220 AD2d at 19-20.

The relevant considerations here favor modification: Supreme Court's ruling rests on settled FOIL administrative-review principles; the disclosure order was narrowed through in camera review; the requested records are materially connected to substantial public expenditures and official NYSED findings; and continued nondisclosure after more than two years imposes a concrete public-accountability cost.

POINT II

THE APPEAL CHALLENGES A JUDGMENT GROUNDED IN SETTLED FOIL LAW LIMITING JUDICIAL REVIEW TO THE AGENCY'S ADMINISTRATIVE JUSTIFICATION

Supreme Court's merits ruling did not turn on a generalized conclusion that attorney billing records can never contain privileged material. It turned on a more basic rule: an agency denying or redacting records under FOIL must invoke its exemption during the administrative process, and a reviewing court is limited to the grounds the agency actually invoked.

The governing rule is stated in *Matter of Madeiros v New York State Educ. Dept.*, 30 NY3d 67, 74-75 (2017): judicial review of an administrative determination is limited to the grounds invoked by the agency, and an agency may not defend its determination on an alternative ground first advanced in litigation. The Second Department applied that principle in *Matter of Aron Law, PLLC v Town of Hempstead*, 242 AD3d 880, 882-883 (2d Dept 2025), holding that giving an agency the benefit of justifications not advanced in the first instance contravenes Court of Appeals precedent and FOIL's purpose. Supreme Court applied that rule here and, in doing so, cited *Matter of New York Civ. Liberties Union v New York State Off. of Ct. Admin.*, 45 NY3d 226, 232, 237 (2025), together with *Madeiros* and *Aron Law*. (Ex. A, COX-0005-COX-0007.)

Supreme Court found no evidence that Respondents ever sent Petitioner an administrative response identifying a statutory exemption or other legal justification for the redactions. It further found that the first invocation of attorney-client privilege appeared in the Article 78 litigation. On that record, Supreme Court held that Respondents could not rely on Public Officers Law § 87(2)(a) and CPLR 4503 to avoid disclosure. (Ex. A, COX-0005-COX-0007.)

That ruling is also consistent with the broader FOIL requirement that exemptions be narrowly construed and supported by particularized and specific justification. See *Matter of Gould v New York City Police Dept.*, 89 NY2d 267, 275 (1996); *Matter of Fink v Lefkowitz*, 47 NY2d 567, 571 (1979). Separately, the NYCLU majority rejected OCA's categorical attorney-client privilege theory and required a document-specific privilege analysis, including in camera review where appropriate. 45 NY3d at 233-236.

Thus, while Respondents are entitled to appellate review, the merits do not present a strong equitable reason to preserve months of additional nondisclosure. The judgment applies a recently reaffirmed Court of Appeals rule to an administrative record that Supreme Court found contained no timely exemption claim.

POINT III

THE WITHHELD BILLING INFORMATION IS MATERIALLY CONNECTED TO A SUBSTANTIAL AND DOCUMENTED PUBLIC-ACCOUNTABILITY QUESTION

The materiality of these records is not abstract. District records document \$2,858,151.70 in Shrub Oak tuition and \$470,300.90 in transportation for four students, totaling \$3,328,452.60. (Exs. I-J, COX-0048-COX-0060.) Those figures do not include the legal expenses reflected in the records at issue here or the later legal expense of resisting disclosure and pursuing this appeal.

Official NYSED evidence establishes the governing context. In an April 8, 2022 email memorializing May 5 and May 6, 2020 communications with New Rochelle personnel, NYSED stated that Shrub Oak 'is not an approved NYS school' and that NYSED had informed New Rochelle that a CSE 'cannot make a recommendation to a nonapproved school.' (Ex. G, COX-0044.) On May 26, 2020, NYSED stated that it would contact the superintendent regarding concerns about New Rochelle 'students' attending Shrub Oak. (Ex. H, COX-0047.)

The 2021 SRO decision supplies an even more direct official record. It explains that districts are authorized to contract with Commissioner-approved nonpublic schools and that NYSED maintains the approved-school list. It then states that New Rochelle placed the student in Shrub Oak's day program for the 2019-20 school year 'notwithstanding that the school was not State-approved.' (Ex. L, COX-0081-COX-0082.)

The decision further documents what happened when the District later contemplated residential placement for that same student. On April 1, 2020, the CSE recommended Shrub Oak residential placement. The District witness described in the decision as the school psychologist testified that she thereafter learned that when the District recommended residential placement it had to explore State-approved programs, and the CSE reconvened on April 21. Most significantly here, the SRO decision records the parent's testimony that an April 14 District email stated that the District's attorney had advised that State-approved residential programs had to be considered before the District could place the student in Shrub Oak's residential program. (Ex. L, COX-0083.)

The existing record therefore establishes that District counsel was involved in the Shrub Oak placement matter to at least some extent. The withheld billing records may shed additional light on the nature and extent of that involvement, including whether counsel participated more directly in the placement process or attended CSE meetings concerning Shrub Oak placements. That information bears directly on the public-accountability interests underlying Petitioner's FOIL request.

The SRO ultimately concluded that the District's pursuit of a State-approved nonpublic school instead of Shrub Oak, which was not State-approved, was consistent with its obligations under the IDEA and related State law, regulation, and policies. (Ex. L, COX-0086-COX-0087.) NYSED's official '853 Only' approved-school listing, reproduced as Exhibit M, does not include Shrub Oak. (Ex. M, COX-0088-COX-0100.)

That record substantially sharpens the public interest in the legal invoices. The invoices do not concern an incidental legal matter. They concern legal services associated with a placement controversy in which the District's own attorney's advice about the State-approved-school requirement became part of the official NYSED record. District records document \$3,328,452.60 in tuition and transportation for four students before legal costs are counted.

The District itself has emphasized its fiscal circumstances in this litigation, asserting that this proceeding diverts 'limited and finite resources away from schoolchildren,' that it 'continues to face significant budgetary constraints,' and that it 'faces a budget deficit of over twenty million dollars.' (Ex. F, COX-0032-COX-0033.) Those assertions reinforce, rather than diminish, the

public interest in timely disclosure of responsive legal billing information tied to multimillion-dollar expenditures.

The public-interest showing does not depend on proving in this motion who personally authorized any particular placement or why. Those investigative questions are not before the Court. The narrower point is established by official records: New Rochelle spent millions on Shrub Oak placements; Shrub Oak was not State-approved; NYSED communicated that a CSE could not recommend a nonapproved school; an SRO decision involving New Rochelle records District legal advice about the approved-school requirement; and the FOIL records at issue are the District's legal bills concerning Shrub Oak. That is more than sufficient materiality for purposes of the Court's CPLR 5519(c) discretion.

POINT IV

KAUR CONFIRMS THAT CPLR 5519(c) IS AN APPROPRIATE VEHICLE WHEN AN AUTOMATIC STAY DELAYS ACCESS TO RECORDS

Matter of Kaur v New York State Urban Dev. Corp., 15 NY3d 235 (2010), is particularly instructive because it arose in the context of records whose disclosure had been stayed pending appeal. The Court of Appeals rejected the petitioners' procedural-due-process argument in part because they had failed to seek CPLR 5519(c) relief from the automatic stay. *Id.* at 261-262. The Court quoted the Appellate Division dissent's observation that a CPLR 5519(c) application would have permitted consideration of the likelihood of success and the materiality of the withheld records. *Id.*

Kaur does not prescribe a separate FOIL-specific test, but it confirms the procedural point important here: a party whose access to material records is delayed by an automatic governmental stay may ask the appellate court to exercise its CPLR 5519(c) discretion. Petitioner is doing precisely that.

POINT V

THE IRREVERSIBILITY OF DISCLOSURE DOES NOT REQUIRE AN UNMODIFIED STAY WHERE SUPREME COURT ALREADY CONDUCTED AN INDIVIDUALIZED IN CAMERA REVIEW

Petitioner recognizes Respondents' strongest equitable consideration: once responsive billing information is disclosed, confidentiality cannot be restored if Respondents later prevail. That consideration warrants attention, but it is not dispositive. If irreversibility alone controlled, CPLR 5519(c) relief would effectively be unavailable whenever an agency appealed a disclosure order, a result difficult to reconcile with Kaur's express discussion of the remedy.

More importantly, this is not an order requiring indiscriminate release of the District's billing files. Supreme Court directed Respondents to submit the records in camera, allowed wholly unrelated and nonresponsive entries to remain redacted, reviewed the resulting 381-page submission, identified responsive entries, and ordered disclosure to conform to that reviewed version. (Exs. A and E, COX-0006-COX-0009, COX-0028-COX-0029.)

The order therefore already incorporates a substantial protection for material outside Petitioner's request. The information remaining at issue is responsive Shrub Oak billing

information that Supreme Court concluded could not be withheld on an exemption first asserted in litigation. The balance is materially different from a case in which no judicial review of the records has occurred.

POINT VI

THE RELATIVE HARDSHIPS FAVOR PROMPT DISCLOSURE

Petitioner made the underlying FOIL request on October 8, 2024. By the October 26, 2026 return date, more than two years will have passed. The District took more than a year to produce the heavily redacted billing statements; it did not timely determine the administrative appeal; Supreme Court then conducted in camera review and entered judgment. An ordinary appellate timetable could extend nondisclosure for many additional months.

The harm from that delay is not merely personal. FOIL exists to promote open government and public accountability. The records concern the expenditure of public funds and legal services relating to events already several years old. Information useful for public scrutiny and reporting loses contemporaneous value as disclosure is deferred.

By contrast, Respondents' confidentiality interest has already received substantial judicial protection through in camera review and preservation of unrelated material. Their remaining interest is principally in preserving for appeal an exemption that Supreme Court found was never invoked in the administrative process. On this record, the relative hardships favor vacating or modifying the stay.

POINT VII

IF DISCLOSURE REMAINS STAYED, THE COURT SHOULD EXPEDITE THE APPEAL

If the Court concludes that the irreversible nature of disclosure counsels against enforcement before appellate review, the appropriate alternative is not an open-ended automatic stay. Under 22 NYCRR 1250.9(a), an appeal in the Second Department ordinarily must be perfected within six months of the date of the notice of appeal. The Court should therefore direct Respondents to perfect this appeal by a date certain and grant calendar preference or expedited consideration.

That alternative preserves Respondents' appellate rights while addressing the central prejudice to Petitioner and the public: continued delay in access to records already ordered disclosed after individualized judicial review. It is especially appropriate where the underlying FOIL request is already more than two years old and the merits issue is principally legal rather than fact-intensive.

The Court should also direct transmission of Supreme Court's sealed in camera submission if that record would assist this Court in resolving either the present motion or the appeal.

CONCLUSION

For the foregoing reasons, Petitioner-Respondent respectfully requests that the Court, pursuant to CPLR 5519(c), vacate the automatic stay insofar as it prevents enforcement of Supreme Court's disclosure order; alternatively limit or modify the stay to permit that disclosure; or, if disclosure remains stayed, direct prompt perfection and expedited consideration of the

appeal. Petitioner further requests appropriate relief concerning the \$350 in filing costs awarded below under Public Officers Law § 89(4)(c), transmission of the in camera submission if necessary, allowable motion costs and disbursements, and such other and further relief as the Court deems just and proper.

Dated: October 6, 2026

/s/ Robert A. Cox

Robert A. Cox

Petitioner-Respondent Pro Se

11 Burling Lane

New Rochelle, NY 10801

Tel.: +353 89 972 0669

EXHIBIT TABLE OF CONTENTS

CPLR 5519(c) Motion - Appellate Division, Second Department

Exhibit A	Notice of Entry with Sept. 3, 2026 Decision, Order and Judgment	COX-0001-COX-0009
Exhibit B	Oct. 2, 2026 Notice of Appeal, Informational Statement and accompanying papers	COX-0010-COX-0023
Exhibit C	Oct. 5, 2026 Second Department docket notification (Docket No. 2026-10900)	COX-0024-COX-0025
Exhibit D	Sept. 29, 2026 filed Affirmation of Service of Decision, Order and Judgment	COX-0026-COX-0027
Exhibit E	Aug. 18, 2026 Supreme Court in-camera review direction (NYSCEF Doc. No. 39)	COX-0028-COX-0029
Exhibit F	Respondents' March 27, 2026 Affirmation in Support of Motion to Dismiss (NYSCEF Doc. No. 26)	COX-0030-COX-0042
Exhibit G	Apr. 8, 2022 NYSED email "Nonapproved schools"	COX-0043-COX-0045
Exhibit H	May 26, 2020 NYSED email concerning New Rochelle students attending Shrub Oak	COX-0046-COX-0047
Exhibit I	District NVISION Vendor History Report for Shrub Oak International School, 2018-2024	COX-0048-COX-0057
Exhibit J	District Shrub Oak transportation expenditure records	COX-0058-COX-0060
Exhibit K	Oct. 8, 2024 FOIL request for aide records through Nov. 6, 2025 District response	COX-0061-COX-0072
Exhibit L	NYSED State Review Officer Decision No. 21-158 (Aug. 18, 2021)	COX-0073-COX-0087
Exhibit M	NYSED official approved-private-school workbook - complete "853 Only" listing	COX-0088-COX-0100

EXHIBIT A

Notice of Entry with September 3, 2026 Decision, Order and Judgment

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER**

In the Matter of the Application of
ROBERT A. COX,

NOTICE OF ENTRY

Index No. 57316/2026

Petitioner,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules

-against-

CITY SCHOOL DISTRICT OF NEW ROCHELLE and
DR. COREY REYNOLDS, in his official capacity as
Superintendent of Schools and FOIL Appeals Officer,

Respondents.

PLEASE TAKE NOTICE that the annexed Decision, Order and Judgment of the Honorable Sheralyn Pulver, Acting Supreme Court Justice, dated September 3, 2026, was duly entered in the Office of the Clerk of the Supreme Court, Westchester County, on September 3, 2026, and filed on the New York State Courts Electronic Filing System as NYSCEF Document No. 42.

Dated: September 21, 2026
Dublin, Ireland

Robert A. Cox
Petitioner Pro Se

TO:
Counsel for Respondents
City School District of New Rochelle and
Dr. Corey Reynolds

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER-----X
In the Matter of the Application of
ROBERT A COX,

Petitioner,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules**DECISION & ORDER**Index No.: 57316/2026
Motion Seq. #1

-against-

CITY SCHOOL DISTRICT OF NEW ROCHELLE and
DR. COREY REYNOLDS, in his official capacity as
Superintendent of Schools and FOIL Appeals Officer,Respondents.
-----X

PULVER, J.,

Petitioner, Robert A. Cox ("Petitioner"), brought this proceeding, pursuant to Civil Practice Law and Rules ("CPLR") Article 78, seeking to annul responses made by the City School District of New Rochelle (the "District") and its Superintendent, Dr. Corey Reynolds (collectively, "Respondents") to three Freedom of Information Law ("FOIL") requests, and to compel further responses and document productions. Petitioner further seeks an award of attorneys' fees and costs pursuant to Public Officers Law ("POL") § 89(4)(c).

The Court read and considered the following papers electronically filed via NYSCEF in making its decision:

- Notice of Petition, Petition, Affirmation Robert Cox in Support, Exhibits A-F, Request for Judicial Intervention ("RJI"), Amended RJI, and Affirmation of Service (NYSCEF Doc. Nos. 1-11, 15-18).
- Notice of Motion to Dismiss, Affirmation of Michael Liptrot, Esq. in Support, Exhibits A-C (NYSCEF Doc. Nos. 25-29).
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- Verified Answer and Exhibit A (NYSCEF Doc. Nos. 33-34).
- Reply Affirmation of Robert Cox in Further Support of Petition (NYSCEF Doc. No. 35).
- Correspondence from Petitioner and Respondents (NYSCEF Doc. Nos. 37-38, 41).

By Decision and Order dated April 28, 2026, the Court granted in part and denied in part Respondent's motion to dismiss (*see* NYSCEF Doc. No. 32). Petitioner's claim as to one of the three FOIL requests, described below, survived dismissal. Respondents have since answered the surviving claim, and Petitioner has replied.

At issue now in this proceeding is a FOIL request submitted by Petitioner to the District for "[a]ll invoices and payments for legal services provided to the District in reference to Shrub Oak International School (2019 to Present)" (*see* Petition [NYSCEF Doc. No. 1], ¶ 5). The District eventually provided Petitioner with 380 pages of legal billing statements from the law firm of Ingerman Smith, LLP, all heavily redacted, in response to this request (*see* Ex. A to Answer [NYSCEF Doc. No. 34]). All individual billing entries in said records were redacted in whole or in part (*see id.*).

Following receipt of the foregoing records, Petitioner submitted an administrative appeal of the District's response to Dr. Corey Reynolds, the District Superintendent (*see* Ex. G to Affirmation of Robert Cox in Opposition to Motion to Dismiss [NYSCEF Doc. No. 31]). Therein, Petitioner alleged that the District made excessive and overbroad redactions to the produced records with no explanation or justification provided for the redactions (*see id.*). Petitioner asserts that Respondents failed to determine the appeal within ten business days as required under POL § 89(4)(a), and there is no evidence in the record of this proceeding that Respondents ever responded to this administrative appeal.

By this proceeding, Petitioner alleges that the District failed to comply with FOIL in that it made excessive and overbroad redactions to the produced records with no explanation or justification provided. Petitioner further contends that the District failed to provide a *Vaughn* index or otherwise cite any specific statutory exemptions to disclosure.¹

Discussion

A. General Requirements under FOIL

Pursuant to FOIL, a government agency must make all its records presumptively available for public inspection and copying, except that the agency may deny access to records, or portions thereof, that fall within one or more specifically enumerated exemptions (*see* POL § 87(2)). "To promote open government and public accountability, the FOIL imposes a broad duty on government to make its records available to the public ... All government records are thus presumptively open for public inspection and copying unless they fall within one of the enumerated exemptions to Public Officers Law § 87(2)" (*Matter of Gould v New York City Police Dept.*, 89 NY2d 267, 274-275 [1996]). "To ensure maximum access to government documents, the exemptions are to be narrowly construed, with the burden resting on the agency

¹ A *Vaughn* index is a document that may be used in federal Freedom of Information Act ("FOIA") litigation in which the agency opposing disclosure lists each record withheld along with the claimed statutory exemption (*see Vaughn v Rosen*, 484 F2d 820 [DC Cir 1973]; *New York Times Co. v U.S. Dept. of Justice*, 762 F3d 233, 237 [2d Cir 2014]).

to demonstrate that the requested material indeed qualifies for exemption ... only where the material requested falls squarely within the ambit of one of these statutory exemptions may disclosure be withheld” (*id.* at 275 [internal citations and quotation marks omitted]. *See also Matter of Data Tree, LLC v Romaine*, 9 NY3d 454, 462 [2007]; *Matter of Jaronczyk v Mangano*, 121 AD3d 995, 996 [2d Dept 2014]).

“[T]he agency does not have carte blanche to withhold any information it pleases. Rather it is required to articulate particularized and specific justification and, if necessary, submit the requested materials to the court for *in camera* inspection, to exempt its records from disclosure” (*Matter of Fink v Lefkowitz*, 47 NY2d 567, 571 [1979]). “Conclusory assertions that certain records fall within a statutory exemption are not sufficient; evidentiary support is needed” (*Matter of Livson v Town of Greenburgh*, 141 AD3d 658, 660 [2d Dept. 2016], quoting *Matter of Dilworth v Westchester County Dept. of Correction*, 93 AD3d 722, 724 [2d Dept. 2012]).

An agency’s failure to comply with the procedural requirements of FOIL constitutes a constructive denial of a FOIL request (*see* POL § 89[4][a]).

B. Standard of Review

Judicial review of an agency’s determination of a FOIL request, presuming all administrative remedies have been exhausted, may be obtained by way of a proceeding under CPLR Article 78 (*see* POL § 89[4][b]). In such an Article 78 proceeding, the appropriate standard of review is whether the respondent’s determination “was affected by an error of law,” and not the more common “arbitrary and capricious” standard (*see Matter of Prall v New York City Dept. of Corr.*, 129 AD3d 734, 735 [2d Dept. 2015]; *Matter of Jewish Press, Inc. v New York City Police Dept.*, 190 AD3d 490, 490 [1st Dept. 2021]; CPLR § 7803[3]).

Further, “[j]udicial review of an administrative determination [of a FOIL request] is limited to the grounds invoked by the agency” (*Matter of New York Civ. Liberties Union v New York State Off. of Ct. Admin.*, 45 NY3d 226, 232 [2025], quoting *Matter of Madeiros v New York State Educ. Dept.*, 30 NY3d 67, 74 [2017]). “‘If the reasons an agency relies on do not reasonably support its determination, the administrative order must be overturned and it cannot be affirmed on an alternative ground that would have been adequate if cited by the agency’ ... An agency wishing to deny disclosure based on a FOIL exemption must do so expressly during the administrative process, and it cannot change its justification for the denial during the course of litigation” (*id.* at 237, quoting *Matter of National Fuel Gas Distrib. Corp. v Pub. Serv. Commn. of the State of N.Y.*, 16 NY3d 360, 368 [2011]).

C. Respondents’ FOIL Response was Inadequate

Here, the record before the Court reflects that Respondents failed to provide any legal justification to Petitioner for substantially redacting the responsive records. Although Respondents, in their answer to the petition, deny Petitioner’s allegation that the District failed to cite any statutory exemption justifying the substantial redactions made to the produced

documents, nowhere in Respondents' papers is there any assertion affirmatively controverting Petitioner's allegation. Nor has the Court been provided with any such record evidence. The only pertinent exhibits filed by Respondents are copies of the initial email acknowledgment of Petitioner's FOIL request and subsequent extension notices, as well as a copy of the redacted records that were produced (*see* NYSCEF Doc. Nos. 27, 34). It is Respondents' burden to file the administrative record and "affidavits or other written proof showing such evidentiary facts as shall entitle [them] to a trial of any issue of fact" (CPLR § 7804[e]). As Respondents did not establish that a FOIL response was sent to Petitioner stating a specific statutory exemption or other justification for its redactions, the Court must conclude that there was no such response.

While Respondents now cite the attorney-client privilege to justify the redactions, it appears to the Court that the first such invocation of this statutory exemption was made in response to the petition in the instant proceeding. Importantly, though, the Court's review is limited to the grounds invoked by Respondents at the administrative level in their response to Petitioner's FOIL request (*see Matter of New York Civ. Liberties Union*, 45 NY3d at 232). The Court may not uphold a denial or a partial denial based upon legal grounds advanced for the first time during litigation (*see id.* at 237; *Matter of New York Civ. Liberties Union v Suffolk County*, 84 Misc 3d 952, 956-957 [Sup Ct, Suffolk County 2024]). "To provide the respondent the benefit of justifications it did not advance in the first instance 'contravenes Court of Appeals precedent as well as the spirit and purpose of FOIL'" (*Matter of Aron Law, PLLC v Town of Hempstead*, 242 AD3d 880, 882-883 [2d Dept 2025], quoting *Matter of Madeiros*, 30 NY3d at 75). Accordingly, and in the absence of any legal grounds advanced by Respondents to Petitioner at the administrative level, Respondents may not now rely upon POL § 87(2)(a) and CPLR § 4503 to justify their redactions and avoid disclosure (*see id.*).

D. The Court's In Camera Review

The Court directed Respondents to submit the subject records to the Court for *in camera* review. Respondents advised the Court that the records consist of monthly billing statements that include matters, some sensitive, that are wholly unrelated to and nonresponsive to Petitioner's FOIL request (*see* NYSCEF Doc. No. 37). Over Petitioner's objection, the Court allowed Respondents to leave redacted those portions of the records comprised of information that is entirely unrelated to and nonresponsive to the subject FOIL request (*see* NYSCEF Doc. Nos. 39-40). Notably, the Court's role in this review is not to determine what records, or portions thereof, are responsive in the first instance. Rather, the Court's role is to determine whether the legal grounds asserted for exemption of otherwise responsive records are valid (*see Matter of Fink*, 47 NY2d at 571; *Matter of Gould*, 89 NY2d at 275). Respondents were directed to leave all other portions of the records, including all responsive information to which Respondents claim exemption from disclosure as privileged, unredacted for the Court's *in camera* review.

Respondents submitted the records, consisting of monthly billing statements, to the Court as a single 381-page PDF document.² The Court's review reveals that the vast majority of the billing entries remained redacted, reflecting that most of the entries in the billing statements are unrelated to and nonresponsive to the subject FOIL request. Certain billing entries on the pages noted below were unredacted in the version submitted to the Court, reflecting responsive materials:

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	30	367 (366)

* See footnote 2.

Because the Court must limit its review in this proceeding to the legal grounds invoked by Respondents at the administrative level, and because there is no evidence in the record that Respondents invoked any such legal grounds in response to Petitioner's FOIL request, Respondents' redactions, representing a partial constructive denial of the FOIL request, cannot stand (*see Matter of New York Civ. Liberties Union*, 45 NY3d at 232, 237; *Matter of Aron Law, PLLC*, 242 AD3d at 882-883; *Matter of Madeiros*, 30 NY3d at 75).

² The copy of the redacted records filed as Exhibit A to Respondents' answer (NYSCEF Doc. No. 34) contains 380 pages, but the version submitted to the Court for *in camera* review contains 381 pages. The page numbered 33 of the statement dated February 11, 2022 (Exhibit A, p. 148) was erroneously included twice in the version submitted to the Court. This appears to be the reason for the discrepancy in page numbers starting at page 149 of the respective PDFs.

The table herein reflects the page numbers of the PDF submitted to the Court for *in camera* review. The corresponding page number of Exhibit A, if different, is noted in parentheses.

Based upon the foregoing, the Court directs Respondents to disclose to Petitioner the subject billing statements without redactions to the responsive portions. However, Respondents may keep redacted those portions that are wholly unrelated to and nonresponsive to Petitioner's FOIL request. In other words, Respondents' disclosure must conform to the version of the records submitted to the Court for *in camera* review.

E. Attorneys' Fees and Litigation Costs

Petitioner asks the Court to award reasonable attorneys' fee and litigation costs pursuant to POL § 89(4)(c) (*see* Petition, p. 7).

In an Article 78 proceeding stemming from a denial or constructive denial of a FOIL request, a petitioner may recover reasonable attorneys' fees and litigation costs from the respondent agency. The petitioner must "substantially prevail" in the proceeding for there to be any assessment of attorneys' fees and costs (*see* POL § 89(4)(c)). Such assessment is then discretionary if the agency failed to respond to a request or appeal within the statutory time, but mandatory if the court finds that the agency had no reasonable basis for denial (*see id.*; *Matter of Acme Bus Corp. v County of Suffolk*, 136 AD3d 896, 898-899 [2d Dept. 2016] ["The award of attorney's fees is intended to create a clear deterrent to unreasonable delays and denials of access..."] [internal citation and quotation marks omitted]; *Matter of New York Times Co. v City of New York Off. of the Mayor*, 194 AD3d 157, 166 [1st Dept. 2021] ["The legislature's amendment to the fees provision, which made a fees award mandatory rather than 'precatory,' was intended to give more teeth to the public's right of access under FOIL"]).

Notwithstanding the foregoing, a *pro se* petitioner is generally not entitled to an award of attorneys' fees (*see Matter of McCrory v Village of Mamaroneck*, 34 Misc 3d 603, 630 [Sup Ct, Westchester County 2011], citing *Matter of Leeds v Burns*, 205 AD2d 540, 540 [2d Dept 1994]). However, a *pro se* petitioner may be entitled to recover the reasonable costs incurred for bringing the proceeding (*see Matter of Baez v Brown*, 124 AD3d 881, 884-885 [2d Dept 2015]).

Petitioner, who has been *pro se* throughout this proceeding, is not entitled to an award of attorneys' fees. But the Court finds that Petitioner is entitled to recover reasonable costs incurred for bringing this proceeding. Notably, Petitioner substantially prevailed in this proceeding, insofar as the subject FOIL request is concerned, as he ultimately succeeded in obtaining the records responsive to his FOIL request (*see Matter of Edmond v Suffolk County*, 197 AD3d 1297, 1299 [2d Dept. 2021]; *Matter of LTTR Home Care, LLC v City of Mount Vernon*, 179 AD3d 798, 800 [2d Dept. 2020]). Further, the record before the Court reflects that Respondents failed to timely respond to Petitioner's administrative appeal of the District's document production. It is the Court's determination that an award totaling \$350.00, representing Petitioner's filing fees for bringing this proceeding, is appropriate under the circumstances.³

³ The fees applicable to Petitioner include \$210.00 for purchase of an index number; \$95.00 for the RJJ; and \$45.00 for the Notice of Petition (*see* CPLR §§ 8018[a], 8020[a]; Legal Fees, Westchester County Clerk, <https://westchesterclerkny.gov/legal-fees> [last accessed Aug. 31, 2026]).

The parties' remaining contentions, to the extent not rendered academic or explicitly addressed herein, have been considered and found to be unavailing.

Accordingly, for all the foregoing reasons, it is hereby

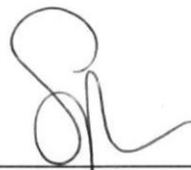
ORDERED that the petition (motion sequence #1) is granted to the extent noted above, and Respondents shall make disclosure to Petitioner as directed above; and it is further

ORDERED that Petitioner shall recover from Respondents the sum of \$350.00 for reasonable costs incurred in bringing this proceeding; and it is further

ORDERED that the Clerk of the Court shall enter judgment accordingly.

This constitutes the Decision, Order, and Judgment of the Court.

Dated: White Plains, New York
September 3, 2026



HON. SHERALYN PULVER
Acting Supreme Court Justice

To: All parties via NYSCEF filing

EXHIBIT B

October 2, 2026 Notice of Appeal, Informational Statement and accompanying papers

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER**

-----X
ROBERT A COX,

Petitioner,

-against-

CITY SCHOOL DISTRICT OF
NEW ROCHELLE, et al

Respondents.
-----X

**NOTICE
OF APPEAL**

Motion Seq. No. 1
Hon. Sheralyn Pulver

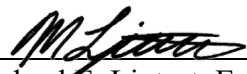
Index No. 57316/2026

PLEASE TAKE NOTICE that Respondents City School District of New Rochelle and Dr. Corey W. Reynolds, Superintendent of Schools, in his official capacity as FOIL Appeals Officer (the "District"), hereby appeals to the Appellate Division, Second Department, of the Supreme Court of the State of New York, from the Decision and Order of the Westchester County Supreme Court, Hon. Sheralyn Pulver, AJSC, filed with the Westchester County Clerk on September 3, 2026, which ruled on Motion Sequence #1 (Petitioner's petition for a judgment pursuant to Article 78 of the CPLR). This Appeal is taken from each and every part of said Decision and Order that granted relief in favor of Petitioner.

Dated: Harrison, New York
October 2, 2026

Yours, etc.
INGERMAN SMITH, L.L.P.

By:



Michael E. Liptrot, Esq.
Attorneys for Respondent
550 Mamaroneck Avenue, Suite 209
Harrison, New York 10528
(914) 777-1134

TO: Robert A. Cox
Pro Se Petitioner
11 Burling Lane
New Rochelle NY 10801
robertcox@talkofthesound.com

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
In the Matter of the Application of
ROBERT A COX,

Petitioner,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules

DECISION & ORDER

Index No.: 57316/2026
Motion Seq. #1

-against-

CITY SCHOOL DISTRICT OF NEW ROCHELLE and
DR. COREY REYNOLDS, in his official capacity as
Superintendent of Schools and FOIL Appeals Officer,

Respondents.

-----X

PULVER, J.,

Petitioner, Robert A. Cox ("Petitioner"), brought this proceeding, pursuant to Civil Practice Law and Rules ("CPLR") Article 78, seeking to annul responses made by the City School District of New Rochelle (the "District") and its Superintendent, Dr. Corey Reynolds (collectively, "Respondents") to three Freedom of Information Law ("FOIL") requests, and to compel further responses and document productions. Petitioner further seeks an award of attorneys' fees and costs pursuant to Public Officers Law ("POL") § 89(4)(c).

The Court read and considered the following papers electronically filed via NYSCEF in making its decision:

- Notice of Petition, Petition, Affirmation Robert Cox in Support, Exhibits A-F, Request for Judicial Intervention ("RJI"), Amended RJI, and Affirmation of Service (NYSCEF Doc. Nos. 1-11, 15-18).
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By this proceeding, Petitioner alleges that the District failed to comply with FOIL in that it made excessive and overbroad redactions to the produced records with no explanation or justification provided. Petitioner further contends that the District failed to provide a *Vaughn* index or otherwise cite any specific statutory exemptions to disclosure.¹

Discussion

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to demonstrate that the requested material indeed qualifies for exemption ... only where the material requested falls squarely within the ambit of one of these statutory exemptions may disclosure be withheld” (*id.* at 275 [internal citations and quotation marks omitted]. *See also Matter of Data Tree, LLC v Romaine*, 9 NY3d 454, 462 [2007]; *Matter of Jaronczyk v Mangano*, 121 AD3d 995, 996 [2d Dept 2014]).

“[T]he agency does not have carte blanche to withhold any information it pleases. Rather it is required to articulate particularized and specific justification and, if necessary, submit the requested materials to the court for *in camera* inspection, to exempt its records from disclosure” (*Matter of Fink v Lefkowitz*, 47 NY2d 567, 571 [1979]). “Conclusory assertions that certain records fall within a statutory exemption are not sufficient; evidentiary support is needed” (*Matter of Livson v Town of Greenburgh*, 141 AD3d 658, 660 [2d Dept. 2016], quoting *Matter of Dilworth v Westchester County Dept. of Correction*, 93 AD3d 722, 724 [2d Dept. 2012]).

An agency’s failure to comply with the procedural requirements of FOIL constitutes a constructive denial of a FOIL request (*see* POL § 89[4][a]).

B. Standard of Review

Judicial review of an agency’s determination of a FOIL request, presuming all administrative remedies have been exhausted, may be obtained by way of a proceeding under CPLR Article 78 (*see* POL § 89[4][b]). In such an Article 78 proceeding, the appropriate standard of review is whether the respondent’s determination “was affected by an error of law,” and not the more common “arbitrary and capricious” standard (*see Matter of Prall v New York City Dept. of Corr.*, 129 AD3d 734, 735 [2d Dept. 2015]; *Matter of Jewish Press, Inc. v New York City Police Dept.*, 190 AD3d 490, 490 [1st Dept. 2021]; CPLR § 7803[3]).

Further, “[j]udicial review of an administrative determination [of a FOIL request] is limited to the grounds invoked by the agency” (*Matter of New York Civ. Liberties Union v New York State Off. of Ct. Admin.*, 45 NY3d 226, 232 [2025], quoting *Matter of Madeiros v New York State Educ. Dept.*, 30 NY3d 67, 74 [2017]). “‘If the reasons an agency relies on do not reasonably support its determination, the administrative order must be overturned and it cannot be affirmed on an alternative ground that would have been adequate if cited by the agency’ ... An agency wishing to deny disclosure based on a FOIL exemption must do so expressly during the administrative process, and it cannot change its justification for the denial during the course of litigation” (*id.* at 237, quoting *Matter of National Fuel Gas Distrib. Corp. v Pub. Serv. Commn. of the State of N.Y.*, 16 NY3d 360, 368 [2011]).

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Here, the record before the Court reflects that Respondents failed to provide any legal justification to Petitioner for substantially redacting the responsive records. Although Respondents, in their answer to the petition, deny Petitioner’s allegation that the District failed to cite any statutory exemption justifying the substantial redactions made to the produced

documents, nowhere in Respondents' papers is there any assertion affirmatively controverting Petitioner's allegation. Nor has the Court been provided with any such record evidence. The only pertinent exhibits filed by Respondents are copies of the initial email acknowledgment of Petitioner's FOIL request and subsequent extension notices, as well as a copy of the redacted records that were produced (*see* NYSCEF Doc. Nos. 27, 34). It is Respondents' burden to file the administrative record and "affidavits or other written proof showing such evidentiary facts as shall entitle [them] to a trial of any issue of fact" (CPLR § 7804[e]). As Respondents did not establish that a FOIL response was sent to Petitioner stating a specific statutory exemption or other justification for its redactions, the Court must conclude that there was no such response.

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Petitioner asks the Court to award reasonable attorneys' fee and litigation costs pursuant to POL § 89(4)(c) (*see* Petition, p. 7).

In an Article 78 proceeding stemming from a denial or constructive denial of a FOIL request, a petitioner may recover reasonable attorneys' fees and litigation costs from the respondent agency. The petitioner must "substantially prevail" in the proceeding for there to be any assessment of attorneys' fees and costs (*see* POL § 89(4)(c)). Such assessment is then discretionary if the agency failed to respond to a request or appeal within the statutory time, but mandatory if the court finds that the agency had no reasonable basis for denial (*see id.*; *Matter of Acme Bus Corp. v County of Suffolk*, 136 AD3d 896, 898-899 [2d Dept. 2016] ["The award of attorney's fees is intended to create a clear deterrent to unreasonable delays and denials of access..."] [internal citation and quotation marks omitted]; *Matter of New York Times Co. v City of New York Off. of the Mayor*, 194 AD3d 157, 166 [1st Dept. 2021] ["The legislature's amendment to the fees provision, which made a fees award mandatory rather than 'precatory,' was intended to give more teeth to the public's right of access under FOIL"]).

Notwithstanding the foregoing, a *pro se* petitioner is generally not entitled to an award of attorneys' fees (*see Matter of McCrory v Village of Mamaroneck*, 34 Misc 3d 603, 630 [Sup Ct, Westchester County 2011], citing *Matter of Leeds v Burns*, 205 AD2d 540, 540 [2d Dept 1994]). However, a *pro se* petitioner may be entitled to recover the reasonable costs incurred for bringing the proceeding (*see Matter of Baez v Brown*, 124 AD3d 881, 884-885 [2d Dept 2015]).

Petitioner, who has been *pro se* throughout this proceeding, is not entitled to an award of attorneys' fees. But the Court finds that Petitioner is entitled to recover reasonable costs incurred for bringing this proceeding. Notably, Petitioner substantially prevailed in this proceeding, insofar as the subject FOIL request is concerned, as he ultimately succeeded in obtaining the records responsive to his FOIL request (*see Matter of Edmond v Suffolk County*, 197 AD3d 1297, 1299 [2d Dept. 2021]; *Matter of LTTR Home Care, LLC v City of Mount Vernon*, 179 AD3d 798, 800 [2d Dept. 2020]). Further, the record before the Court reflects that Respondents failed to timely respond to Petitioner's administrative appeal of the District's document production. It is the Court's determination that an award totaling \$350.00, representing Petitioner's filing fees for bringing this proceeding, is appropriate under the circumstances.³

³ The fees applicable to Petitioner include \$210.00 for purchase of an index number; \$95.00 for the RJJ; and \$45.00 for the Notice of Petition (*see* CPLR §§ 8018[a], 8020[a]; Legal Fees, Westchester County Clerk, <https://westchesterclerkny.gov/legal-fees> [last accessed Aug. 31, 2026]).

The parties' remaining contentions, to the extent not rendered academic or explicitly addressed herein, have been considered and found to be unavailing.

Accordingly, for all the foregoing reasons, it is hereby

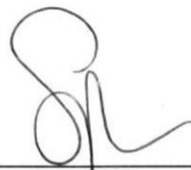
ORDERED that the petition (motion sequence #1) is granted to the extent noted above, and Respondents shall make disclosure to Petitioner as directed above; and it is further

ORDERED that Petitioner shall recover from Respondents the sum of \$350.00 for reasonable costs incurred in bringing this proceeding; and it is further

ORDERED that the Clerk of the Court shall enter judgment accordingly.

This constitutes the Decision, Order, and Judgment of the Court.

Dated: White Plains, New York
September 3, 2026



HON. SHERALYN PULVER
Acting Supreme Court Justice

To: All parties via NYSCEF filing

Supreme Court of the State of New York

Appellate Division: Second Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.

ROBERT A COX

- against -

CITY SCHOOL DISTRICT OF NEW ROCHELLE and
DR. COREY REYNOLDS, in his official capacity as
Superintendent of Schools and FOIL Appeals Officer

For Court of Original Instance

Date Notice of Appeal Filed

For Appellate Division

Case Type

- | | |
|--|--|
| ☐ Civil Action | ☒ CPLR article 78 Proceeding |
| ☐ CPLR article 75 Arbitration | ☐ Special Proceeding Other |
| ☐ Action Commenced under CPLR 214-g | ☐ Habeas Corpus Proceeding |

Filing Type

- | | |
|---|---|
| ☒ Appeal | ☐ Transferred Proceeding |
| ☐ Original Proceedings | ☐ CPLR Article 78 |
| ☐ CPLR Article 78 | ☐ Executive Law § 298 |
| ☐ Eminent Domain | ☐ CPLR 5704 Review |
| ☐ Labor Law 220 or 220-b | |
| ☐ Public Officers Law § 36 | |
| ☐ Real Property Tax Law § 1278 | |

Nature of Suit: Check up to three of the following categories which best reflect the nature of the case.

☒ Administrative Review	☐ Business Relationships	☐ Commercial	☐ Contracts
☐ Declaratory Judgment	☐ Domestic Relations	☐ Election Law	☐ Estate Matters
☐ Family Court	☐ Mortgage Foreclosure	☐ Miscellaneous	☐ Prisoner Discipline & Parole
☐ Real Property (other than foreclosure)	☐ Statutory	☐ Taxation	☐ Torts

Informational Statement - Civil

Appeal			
Paper Appealed From (Check one only):		If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.	
☐ Amended Decree ☐ Amended Judgement ☐ Amended Order ☐ Decision ☐ Decree	☐ Determination ☐ Finding ☐ Interlocutory Decree ☐ Interlocutory Judgment ☐ Judgment	☐ Order ☒ Order & Judgment ☐ Partial Decree ☐ Resettled Decree ☐ Resettled Judgment	☐ Resettled Order ☐ Ruling ☐ Other (specify):
Court: Supreme Court		County: Westchester	
Dated: September 3, 2026		Entered: September 3, 2026	
Judge (name in full): Sheralyn Pulver		Index No.: 57316/2026	
Stage: ☐ Interlocutory ☒ Final ☐ Post-Final		Trial: ☐ Yes ☒ No If Yes: ☐ Jury ☐ Non-Jury	
Prior Unperfected Appeal and Related Case Information			
Are any appeals arising in the same action or proceeding currently pending in the court? ☐ Yes ☒ No If Yes, please set forth the Appellate Division Case Number assigned to each such appeal. Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case:			
Original Proceeding			
Commenced by: ☐ Order to Show Cause ☒ Notice of Petition ☐ Writ of Habeas Corpus			Date Filed: 02/11/2026
Statute authorizing commencement of proceeding in the Appellate Division:			
Proceeding Transferred Pursuant to CPLR 7804(g)			
Court: Choose Court		County: Choose County	
Judge (name in full):		Order of Transfer Date:	
CPLR 5704 Review of Ex Parte Order:			
Court: Choose Court		County: Choose County	
Judge (name in full):		Dated:	
Description of Appeal, Proceeding or Application and Statement of Issues			
Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed. Respondents City School District of New Rochelle and Dr. Corey W. Reynolds, Superintendent of Schools, in his official capacity as FOIL Appeals Officer (the fiDistrictfl) appeal the Decision and Order of the Westchester County Supreme Court, Hon. Sheralyn Pulver, AJSC, dated September 3, 2026. The Decision determined the District's FOIL response was inadequate, directed the District to disclose unredacted legal invoices, and awarded Respondent court filing costs.			

Informational Statement - Civil

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

The lower court erred in determining the District's FOIL response was inadequate. Moreover, the lower court improperly found that the District waived attorney client privilege by failing to explicitly invoke the privilege in its FOIL response. The lower court erred in determining that petitioner substantially prevailed in the proceeding and was entitled to an award of the costs of bringing suit. The court below ignored and/or misinterpreted the underlying facts and misapplied the law. The District seeks reversal of the lower court's decision and for Petitioner's action to be dismissed in its entirety.

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	Robert A Cox	Petitioner	Respondent
2	City School District of New Rochelle	Respondent	Appellant
3	Dr. Corey Reynolds, Superintendent, in his official capacity as FOIL Appeals Officer	Respondent	Appellant
4			
5			
6			
7			
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12			
13			
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15			
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20			

Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: Ingerman Smith, LLP

Address: 550 Mamaroneck Avenue, Suite 209

City: Harrison

State: New York

Zip: 10528

Telephone No: (914) 777-1134

E-mail Address: mliptrot@ingermansmith.com; mranieri@ingermansmith.com; gmountanos@ingermansmith.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above): New Rochelle City School District, Dr. Corey Reynolds

Attorney/Firm Name: Robert A Cox

Address: 11 Burling Lane

City: New Rochelle

State: NY

Zip: 10801

Telephone No:

E-mail Address: robertcox@talkofthesound.com

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☒ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

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Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

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Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Informational Statement - Civil

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
ROBERT A COX,

Petitioner,

-against-

CITY SCHOOL DISTRICT OF
NEW ROCHELLE, et al

Respondents.
-----X

**AFFIRMATION
OF SERVICE**

Motion Seq. No. 1
Hon. Sheralyn Pulver

Index No. 57316/2026

I, MICHAEL LIPTROT, affirm under penalties of perjury under the laws of the State of New York, which may include a fine or imprisonment, that the foregoing is true and I understand that this document may be filed in any action or proceeding in court: I am an attorney duly licensed to practice in the State of New York. I am an associate attorney at Ingerman Smith, LLP, 550 Mamaroneck Avenue, Harrison, New York 10528. On October 2, 2026, I served the within Notice of Appeal and Informational Statement on:

Robert A. Cox
Pro Se Petitioner
11 Burling Lane
New Rochelle NY 10801
robertcox@talkofthesound.com

At the mailing address designated by them for such purpose, by depositing a true copy thereof, enclosed in a postpaid wrapper addressed as shown above, into the custody of the United States Postal Service for delivery via first class mail.

Dated: Harrison, New York
October 2, 2026


Michael Liptrot

EXHIBIT C

October 5, 2026 Second Department docket notification (Docket No. 2026-10900)

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : SECOND DEPARTMENT

October 05, 2026

Robert A Cox
11 Burling Lane
New Rochelle, NY 10801

A file has been opened in the case of:

TITLE: Matter of Cox v City School District of New Rochelle
COURT: Supreme COUNTY: Westchester PAPER: Order
DATED: 09/03/2026 INDEX NO.: 57316/2026

This case has been assigned the following number on the docket
of this court:

2026-10900

ALL PAPERS AND CORRESPONDENCE RELATING TO THIS MATTER MUST
HEREAFTER BEAR THIS CASE NUMBER.

THIS LETTER NOTIFICATION OF THE ASSIGNED DOCKET NUMBER DOES NOT
RELIEVE THE APPELLANT OF THE OBLIGATION TO INITIALIZE THE APPEAL ON
NYSCEF. IF THIS MATTER IS REQUIRED TO BE E-FILED ON NYSCEF, THE
APPELLANT MUST TAKE ALL NECESSARY STEPS TO INITIALIZE IT ON NYSCEF
IN THE APPELLATE MODULE.

Darrell M. Joseph
Clerk of the Court

EXHIBIT D

September 29, 2026 filed Affirmation of Service of Decision, Order and Judgment

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

In the Matter of the Application of

ROBERT A COX,

Petitioner,

Index No.

57316/2026

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules

-against-

CITY SCHOOL DISTRICT OF NEW ROCHELLE and DR. COREY
REYNOLDS, in his official capacity as Superintendent of Schools and FOIL
Appeals Officer,
Respondents.

AFFIRMATION OF SERVICE

I, Andrew Newman, affirm the following to be true under the penalties of perjury:

1. I am over 18 years of age and am not a party to this proceeding.
2. On September 29, 2026, at approximately 11:56 (a.m.) p.m., I personally delivered two sealed envelopes at the offices of the City School District of New Rochelle, 515 North Avenue, New Rochelle, New York 10801.
3. One envelope was addressed to the City School District of New Rochelle. That envelope contained the certified copy issued by the Westchester County Clerk of the Decision, Order, and Judgment dated September 3, 2026, in this proceeding.
4. The second envelope was addressed to Dr. Corey Reynolds, Superintendent of Schools and FOIL Appeals Officer. That envelope contained a photocopy of the same County Clerk-certified Decision, Order, and Judgment.
5. I delivered both envelopes, by personal hand delivery, to the District Clerk of the City School District of New Rochelle. I asked that person to accept one envelope for the District and one envelope for Dr. Reynolds in his official capacity as Superintendent of Schools and FOIL Appeals Officer. That person accepted the envelopes.

Name: MIMI DONILIATitle/position: District Clerk (District Clerk)

The person who accepted the envelopes appeared to me to be:

Sex/gender: FEMALE Race/skin: Brown Hair: BLACKApprox. age: 40 Height: 5'5" Weight: 130 lbs

Other identifying features: _____

I affirm this 29th day of September, 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, except as to matters alleged on information and belief and as to those matters I believe it to be true, and I understand that this document may be filed in an action or proceeding in a court of law.

Signature: Andrew Newman

Print name: Andrew Newman

EXHIBIT E

August 18, 2026 Supreme Court in-camera review direction (NYSCEF Doc. No. 39)

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER
JUDGE PULVER, SHERALYN
MOTION JUDGE PULVER, SHERALYN**



Robert A Cox

Index # 57316/2026

Motion No. 1

- v. -

City School District of New Rochelle et al

COURT NOTICE

The Court is in receipt of Respondents' letter concerning the prior Court Notice (NYSCEF Doc. No. 36), as well as Petitioner's rebuttal letter in response thereto (NYSCEF Doc. Nos. 37 and 38). Upon review and consideration, the Court's directive to Respondents is amended as follows:

Respondents shall submit the records in response to Petitioner's FOIL request, which are at issue in this proceeding (Ex. A to Answer, NYSCEF Doc. No. 34), to the Court for in camera review. Respondents may leave redacted only those entries in the records comprised of information that is entirely unrelated to and unresponsive to the FOIL request for "[a]ll invoices and legal services provided to the District in reference to Shrub Oak International School (2019 to Present)." All other portions of the records, including all information to which Respondents claim exemption from disclosure on the asserted basis of privilege, must be unredacted in their entirety for the Court's in camera review. The submission may be made in hard copy or electronically to the attention of Principal Law Clerk David Rosenberg and must be received by the Court no later than August 24, 2025.

DATED 08/18/2026

FILED By David A Rosenberg

EXHIBIT F

Respondents' March 27, 2026 Affirmation in Support of Motion to Dismiss (NYSCEF Doc.
No. 26)

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER**

-----X

ROBERT A COX,

Plaintiff,

-against-

**AFIRMATION IN SUPPORT
OF MOTION TO DISMISS**

Index No. 57316/2026

CITY SCHOOL DISTRICT OF
NEW ROCHELLE, et al

Defendant.

-----X

MICHAEL LIPROT, an attorney duly admitted to practice law before the Courts of the State of New York, hereby affirms that on this 27th day of March, 2026, under penalties of perjury under the laws of the State of New York, which may include a fine or imprisonment that the foregoing is true and I understand that this document may be filed in any action or proceeding in court:

1. I am an associate of the firm Ingerman Smith, LLP, attorneys for the Respondent, CITY SCHOOL DISTRICT OF NEW ROCHELLE (the "School District"). As such, I am fully familiar with the facts and circumstances surrounding this proceeding.

2. I submit this affirmation in support of the School District's motion to dismiss the Petition and the Article 78 Proceeding.

3. The School District moves to dismiss the petition pursuant to CPLR 3211(a)(1) and/or CPLR 7804(f) as a defense is founded on documentary evidence.

4. Additionally, the School District moves to dismiss the petition in this proceeding pursuant to CPLR 3211(a)(2) and/or CPLR 7804(f) on the grounds that this Court lacks subject matter jurisdiction as there has been no final agency denial of the requested materials on behalf of the School District.

5. The School District further moves to dismiss the petition pursuant to CPLR 3211(a)(7) and/or CPLR 7804(f) as the petitioner fails to state a cause of action.

FACTUAL BACKGROUND

6. As more fully set forth below, the School District has substantially complied with all responsive timelines set forth in the Public Officers Law, despite the petitioner's baseless claims to the contrary. Further, all responsive materials concerning the petitioner's Freedom of Information Law ("FOIL") request have been produced, with necessary and appropriate redactions, to the petitioner. Yet, the petitioner pursues this legal action against the School District, diverting limited and finite resources away from schoolchildren and into this proceeding. The School District therefore respectfully submits that this matter should be dismissed in its entirety.

7. The School District is a small city school district located in New Rochelle, New York.

8. The District serves nearly 10,000 students, of which approximately 60% are deemed "economically disadvantaged" by the New York State Education Department.

9. The District continues to face significant budgetary constraints. For myriad reasons, some entirely out of the School District's control (e.g. rising health care costs, inflation, a reduction in anticipated state aid), the School District faces a budget deficit of over twenty million dollars.

<https://www.nred.org/o/nrps/page/budget-2026-2027>

10. The foregoing makes having to defend against the instant baseless petition that much more problematic.

11. On October 8, 2024, the petitioner submitted a FOIL request to the School District via email seeking the following information: "All invoices and payments for legal services provided to the District in reference Shrub Oak International School (2019 to Present)". ("Legal Invoices FOIL") [[NYSCEF #1](#)]

12. On October 8, 2024, the petitioner also submitted a FOIL request to the School District via email seeking the following information: "All emails to/from Lauren Koffler of Shrub Oak International School to/from the City School District of New Rochelle (2019 to Present)". ("Koffler FOIL") [[NYSCEF #1](#)]

13. On October 8, 2024, the petitioner submitted a third FOIL request to the School District via email seeking the following information: "All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)". ("Aide Payments FOIL") [[NYSCEF #1](#)]

14. On October 16, 2024, five (5) business days after the petitioner submitted the requests¹, the School District acknowledged each of the petitioner's foregoing requests and, in emails addressing each request separately, notified the petitioner that it will respond to the request within twenty (20) business days.

15. Following its acknowledgment of the initial FOIL requests, the School District commenced a search of its large technology system to find possible responsive records to petitioner's FOIL requests.

16. As stated in the petitioner's instant petition, the School District duly notified petitioner of the need to extend the time to provide its response in accordance with the Public Officers Law. [[NYSCEF #1](#)]

17. The School District advised the petitioner of the reason for the time necessary to respond to the FOIL requests as follows: "Due to the voluminous nature of the materials sought and the potential need for redactions, the District will require an additional twenty (20) business days from the date of this acknowledgment letter. However, if circumstances prevent the disclosure of the materials sought within twenty (20) business days from the date of this acknowledgment letter, the District will contact you in writing to provide a reason for the inability to grant the request within such time period and a reasonable date certain of when the request will be granted, in whole or in part."

¹ October 14, 2024, was a federal holiday (Indigenous People's Day).

18. Attached as **Exhibit "A"** is a copy of the School District's initial acknowledgement of the Legal Invoices FOIL and extension notices regarding same.

19. Attached as **Exhibit "B"** is a copy of the School District's initial acknowledgement of the Koffler FOIL and extension notices regarding same.

20. Attached as **Exhibit "C"** is a copy of the School District's initial acknowledgement of the Aide Payments FOIL and extension notices regarding same.

21. With regard to the Aide Payments FOIL, the School District did not find any records within its own possession and had to reach out to its third-party vendors to inquire whether they possessed any responsive material. The responses from the third-party vendors required follow-up to confirm there were no responsive records. After the School District received definitive confirmation that no records exist, on November 6, 2025, the School District timely notified the petitioner and provided a certification to that effect in accordance with the Public Officers Law. [[NYSCEF #10](#)]

22. The petitioner never appealed the School District's Superintendent with respect to the School District's response to the Aide Payments FOIL.

23. The School District's search for records responsive to petitioner's Legal Invoice FOIL and Koffler FOIL returned hundreds of possible records encompassing over a thousand pages for disclosure. As a result, the School District undertook a review of each page to determine if it was responsive, disclosable,

and/or whether information needed to be redacted in accordance with the Public Officers Law.

24. On or about December 29, 2025, the petitioner submitted two separate appeals pertaining to the Legal Invoices FOIL and Koffler FOIL, alleging in both instances a constructive denial of each FOIL request. Petitioner submitted these appeals despite the School District having previously provided the petitioner with notice of its need for an extension of time to respond to both FOIL requests due to the voluminous nature of the materials sought and the need for redaction, and setting a due date of January 12, 2026.

25. Accordingly, on or about January 12, 2026, the School District's FOIL Officer provided its response to the Koffler FOIL. The response included five hundred forty-three (543) pages. Redactions were necessary as the records included information such as student and/or parent names, addresses, etc., that would constitute an unwarranted invasion of privacy in accordance with Public Officers Law § 87(2)(b) and/or were protected from disclosure by federal statute, i.e. the Family Educational Rights and Privacy Act ("FERPA"). In response to the specific objection noted by petitioner, i.e. that the School District did not disclose a portion of a student's Individualized Education Program, such information is obviously exempt from disclosure by FERPA.

26. Thereafter, on the following business day, on January 13, 2026, the School District's FOIL Officer provided its response to the Legal Invoices FOIL. The response included three hundred eighty (380) pages. Due to the broad

description of the legal invoices sought, significant redactions were necessary to exclude non-responsive billing entries. With regard to responsive billing entries, redactions were made to protect attorney-client privilege in accordance with CPLR 4503(a)(1), which constitutes a valid exception under Public Officers Law § 87(2)(a).

27. While the District acknowledges it did not directly respond to the petitioner's appeals, the foregoing responses to the initial FOIL requests were provided within ten (10) business days of the said appeals.

28. Furthermore, notwithstanding the petitioner's claim of a constructive denial, at no time did the District deny the initial FOIL requests and in fact repeatedly communicated to the petitioner that a response was forthcoming. Moreover, the petitioner's appeals were submitted prior to the expiration of the time period by which the School District had previously notified the petitioner that a response would be forthcoming.

29. Petitioner did not appeal to the Superintendent following the School District's responses on January 12 and January 13, 2026.

30. Instead, on or about February 11, 2026, petitioner commenced this Article 78 proceeding, filing an unsigned and unverified petition [[NYSCEF #1](#)], notice of petition [[NYSCEF #2](#)], and unsigned and unsworn affirmation [[NYSCEF #3](#)], and exhibits.

31. Thereafter, the undersigned requested an extension of time to respond to the petition, which was granted, setting March 27, 2026, as the deadline to oppose the petition. [[NYSCEF #14](#)]

32. The petitioner then filed an “amended” petition and related documents, all of which are identical to the initial filings. Notably, the papers are still not signed, verified, or otherwise sworn to. Petitioner also filed a letter explaining the reason for his repeat filing was due to an issue with service. However, the School District does not dispute service of the initial pleadings and indeed the letter submitted by the undersigned to this Court acknowledged service of the papers. As the petition has not been amended, it is respectfully requested that the amended petition, inclusive of NYSCEF Docs 15-18, be disregarded and/or rejected as errant, inappropriate, duplicative, and irrelevant.

33. In any case, the matter is clearly moot given the record production and/or not appropriately before this Court due to the petitioner’s failure to exhaust his administrative remedies.

34. As such, the School District respectfully submits that the instant proceeding be dismissed and petitioner’s petition dismissed in its entirety.

ARGUMENT

PETITIONER HAS RECEIVED ALL REQUESTED RECORDS
AND THE MATTER IS MOOT.

35. Courts have routinely held that when an agency provides the requested record in response to a FOIL request, claims of nondisclosure become moot. *Save Monroe Ave Inc v. New York State Dept of Transportation*, 197 AD3d 808 (3d Dept 2021); *Cobado v Benziger*, 163 AD3d 1103, 1105 (3d Dept 2018); *Braxton v Commr., New York City Police Dept.*, 283 AD2d 253 (1st Dept 2001).

36. As noted above, the petitioner received all requested records on January 12 and January 13, 2026.

37. The District, in good faith, pulled voluminous records, redacted them appropriately, and disclosed them to the petitioner.

38. Accordingly, this matter is now moot and all claims relating to an alleged failure to produce records should be dismissed entirely. *Rattley v NY City Police Dept*, 96 NY2d 873 (2001).

THIS COURT LACKS SUBJECT MATTER JURISDICTION
AS THERE WAS NO DENIAL TO AN APPEAL.

39. A FOIL request is only ripe for judicial intervention after an agency unambiguously communicates to an applicant that the agency has reached its final decision and the applicant exhausts all other administrative remedies. *Carter v State Exec. Dept, Div. of Parole*, 95 NY2d 267 (2000). The District did not, at any point, deny the petitioner's request for records. Indeed, the District notified the

petitioner on multiple occasions of the need for an extension of time due to the voluminous nature of the records sought and the need for redaction..

40. Courts have routinely held “there is no specific time period in which the agency must grant access to the records.” *Data Tree, LLC v Romaine*, 9 NY3d 454, 465 (2007).

41. The reasonableness of a delay “must be gauged under the circumstances of the request.” *Save Monroe, supra*, at 810. The determination of a reasonable timeframe includes “[consideration of] the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency, and similar factors that bear on an agency's ability to grant access to records promptly and within a reasonable time.” 21 NYCRR 1401.5(d).

42. The District undertook an extensive search of its voluminous records to find any responsive documents and provided the petitioner with hundreds of pages of responsive records on or before January 13, 2026. The petitioner did not appeal to the School District Superintendent following its response to his FOIL requests.

43. The School District respectfully submits that the total time it took to provide the petitioner with responsive records was reasonable under the circumstances. The FOIL requests were broad in scope and sought records going

back five (5) years. The records recovered after a diligent search included sensitive and/or privileged material that required extensive redaction.

44. Furthermore, the District received numerous FOIL requests throughout each year demanding production of various materials. The petitioner is not the only individual who submits FOIL requests which must be reviewed, searched for, and redacted as necessary. The School District addresses each FOIL request in a manner as efficiently and orderly as possible.

CONCLUSION

45. The proceeding should be dismissed because petitioner failed to state any cognizable claim inasmuch as petition has failed to state a cause of action under the Public Officers Law and in any event the matter is moot.

46. The proceeding should further be dismissed as the documentary evidence supports the School District's claim that the School District has produced all records responsive to the petitioner's request.

47. Additionally, the School District respectfully seeks dismissal of this entire proceeding on the grounds that this Court lacks subject matter jurisdiction, as there has not been a denial to any of the petitioner's FOIL requests.

48. Attorney's fees should be denied under the circumstances as petitioner is self-represented and is not an attorney.

49. Furthermore, to the extent that this Motion is denied, the School District respectfully requests a reasonable time within which to submit its Verified Answer pursuant to CPLR 3211(f).

50. Accordingly, it is respectfully requested that the Court deny grant this Motion and dismiss petitioner's petition in its entirety.

51. No prior application has been made for the relief sought herein.

Dated: March 27, 2026
Harrison, New York

Respectfully Submitted,

BY:



Michael E. Liptrot, Esq.
INGERMAN SMITH, LLP
Attorneys for Respondent
CITY SCHOOL DISTRICT
OF NEW ROCHELLE

EXHIBIT G

April 8, 2022 NYSED email: “Nonapproved schools”

From: [KimLori Devine](#)
To: [Yvonne Palmer](#)
Subject: Nonapproved schools
Date: Friday, April 8, 2022 10:56:40 AM

Good morning Dr. Palmer,

Below please find the information you requested.

On 5/5/20 and 5/6/20, NYSED staff spoke to Dara Joseph and Michelle Fret by phone regarding a New Rochelle student who was attending Shrub Oak. Shrub Oak is not an approved NYS school. NYSED informed New Rochelle that a Committee on Special Education (CSE) cannot make a recommendation to a nonapproved school. Additionally, NYSED does not have oversight of nonapproved schools and there is no funding mechanism via NYS for students placed in a nonapproved school.

Kind regards,

KimLori

KimLori Devine, M.S.Ed. SDL
Regional Associate, NYSED Special Education Quality Assurance
Hudson Valley Regional Office
1 Park Place
Peekskill, New York 10566

Pronouns: she/her/hers

 914.940.2900

 914.402.2180

Confidentiality Notice

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EXHIBIT H

May 26, 2020 NYSED email concerning New Rochelle students attending Shrub Oak

From: [KimLori Devine](#)
To: [Dara Joseph \(djoseph@nredlearn.org\)](mailto:djoseph@nredlearn.org)
Subject: Follow up regarding Shrub Oak
Date: Tuesday, May 26, 2020 1:07:00 PM

Hi Dara,

We will be reaching out to your superintendent to discuss concerns related to New Rochelle students attending Shrub Oak. I'm reaching out to you first to see if you'd like to be included on the call.

KimLori

KimLori Devine
Regional Associate, Hudson Valley Regional Office
1 Park Place
Peekskill, New York 10566
 914.940.2900
 914.402.2180

EXHIBIT I

District NVISION Vendor History Report for Shrub Oak International School, 2018-2024

CITY SCH DIST OF NEW ROCHELLE



Vendor History Report From 1/1/2018 - 6/30/2024

PO Number	Date	Schedule	Type	Temp	Check / Ref #	Invoice / Memo	Account	Placed	Liquidated	Expensed
SHRUB OAK INTERNATIONAL SCHOOL - 15212										
<None>										
	07/13/2021	A - 1	CD	☐		PO#210738.JUNE2659		0.00	0.00	16,941.67
	07/13/2021	A - 1	CD	☐		PO#210738.JUNE2660		0.00	0.00	14,144.38
	07/13/2021	A - 1	CD	☐		PO#210738.JUNE2667		0.00	0.00	9,144.83
	08/03/2022	A - 6	CD	☐		PO#220972.JUNE#3457		0.00	0.00	11,456.75
	08/03/2022	A - 6	CD	☐		PO#220972.JUNE#3445		0.00	0.00	18,696.34
	08/03/2022	A - 6	CD	☐		PO#220972.JUNE#3444		0.00	0.00	25,465.18
	07/11/2023	A - 3	CD	☐		PO#231242.APRIL.4602		0.00	0.00	18,696.33
	07/11/2023	A - 3	CD	☐		PO#231242.JUNE 4803		0.00	0.00	18,696.33
	07/26/2023	A - 4	CD	☐		PO#231242.JUNE#4802		0.00	0.00	34,821.83
Account Totals:								0.00	0.00	168,063.64
Purchase Order Totals:								0.00	0.00	168,063.64
192798										
	12/27/2018	A - 1	EN	☐				150,000.00	0.00	0.00
	02/28/2019	A - 31	CD	☐		JAN 1 OF 12:1708		0.00	12,500.00	12,500.00
	02/28/2019	A - 31	CD	☐		FEB 2 OF 12:1720		0.00	12,500.00	12,500.00
	03/14/2019	A - 32	CD	☐		MARCH:1730		0.00	12,500.00	12,500.00
	05/10/2019	A - 38	CD	☐		4TH OF 12#1749		0.00	12,500.00	12,500.00
	06/21/2019	A - 42	CD	☐		5 OF 12:1765		0.00	12,500.00	12,500.00
	06/30/2019	A - 45	CD	☐		6 OF 12: 1787		0.00	12,500.00	12,500.00
Account Totals:								150,000.00	75,000.00	75,000.00
Purchase Order Totals:								150,000.00	75,000.00	75,000.00
192798										
	07/01/2019	H10 - 1	EN	☐		MEMO ENTRY: C/F PO		75,000.00	0.00	0.00
	08/27/2019	A - 6	CD	☐		7 OF 12 1811		0.00	12,500.00	12,500.00
	10/10/2019	A - 11	CD	☐		1881 ADD/TL #7		0.00	625.00	625.00
	10/10/2019	A - 11	CD	☐		1852 #8		0.00	12,500.00	12,500.00
	10/10/2019	A - 11	CD	☐		1882 ADD/TL #8		0.00	625.00	625.00

CITY SCH DIST OF NEW ROCHELLE



Vendor History Report From 1/1/2018 - 6/30/2024

PO Number	Date	Schedule	Type	Temp	Check / Ref #	Invoice / Memo	Account	Placed	Liquidated	Expensed
	11/12/2019	A - 2	EN	☐		Cancel PO		0.00	48,750.00	0.00
Account Totals:								75,000.00	75,000.00	26,250.00
Purchase Order Totals:								75,000.00	75,000.00	26,250.00
202331	10/18/2019	A - 2	EN	☐				407,000.00	0.00	0.00
	11/08/2019	A - 14	CD	☐		SEPT:1879		0.00	8,312.50	8,312.50
	11/08/2019	A - 14	CD	☐		SEPT:1855		0.00	13,125.00	13,125.00
	11/12/2019	A - 2	EN	☐		PARTIAL LIQUIDATIO PER YOUR REQUEST		0.00	16,625.00	0.00
	01/09/2020	A - 22	CD	☐		OCT:1926		0.00	12,479.17	12,479.17
	01/09/2020	A - 22	CD	☐		NOV:1927		0.00	12,479.17	12,479.17
	01/09/2020	A - 22	CD	☐		NOV:1920		0.00	8,312.50	8,312.50
	01/09/2020	A - 22	CD	☐		OCT:1919		0.00	8,312.50	8,312.50
	01/24/2020	A - 23	CD	☐		NOV:1918		0.00	13,125.00	13,125.00
	01/24/2020	A - 23	CD	☐		DEC:1940		0.00	8,312.50	8,312.50
	01/24/2020	A - 23	CD	☐		DEC:1941		0.00	12,479.17	12,479.17
	01/24/2020	A - 23	CD	☐		OCT:1911		0.00	13,125.00	13,125.00
	01/24/2020	A - 23	CD	☐		DEC:1939		0.00	13,125.00	13,125.00
	03/26/2020	A - 31	CD	☐		FEB:1997		0.00	2,078.13	2,078.13
	03/26/2020	A - 31	CD	☐		FEB:1971		0.00	13,125.00	13,125.00
	03/26/2020	A - 31	CD	☐		FEB:1972		0.00	14,666.67	14,666.67
	03/26/2020	A - 31	CD	☐		FEB:1973		0.00	12,479.17	12,479.17
	03/26/2020	A - 31	CD	☐		JAN:1959		0.00	14,666.67	14,666.67
	03/26/2020	A - 31	CD	☐		JAN:1969		0.00	13,125.00	13,125.00
	03/26/2020	A - 31	CD	☐		JAN:1970		0.00	12,479.17	12,479.17
	04/09/2020	A - 32	CD	☐		MARCH 2019		0.00	8,312.52	8,312.52
	04/09/2020	A - 32	CD	☐		MARCH 2017		0.00	14,666.67	14,666.67
	04/09/2020	A - 32	CD	☐		MARCH 2016		0.00	13,125.00	13,125.00
	04/09/2020	A - 32	CD	☐		MARCH 2018		0.00	12,479.17	12,479.17
	05/12/2020	A - 35	CD	☐		APRIL 2082		0.00	12,479.17	12,479.17
	05/12/2020	A - 35	CD	☐		APRIL 2084		0.00	13,125.00	13,125.00
	05/12/2020	A - 35	CD	☐		APRIL 2083		0.00	14,666.67	14,666.67

COX-0050

CITY SCH DIST OF NEW ROCHELLE



Vendor History Report From 1/1/2018 - 6/30/2024

PO Number	Date	Schedule	Type	Temp	Check / Ref #	Invoice / Memo	Account	Placed	Liquidated	Expensed
	05/12/2020	A - 35	CD	☐		APRIL:2081		0.00	8,312.52	8,312.52
	06/30/2020	A - 43	CD	☐		MAY:2101		0.00	8,312.52	8,312.52
	06/30/2020	A - 43	CD	☐		MAY:2100		0.00	12,479.17	12,479.17
	06/30/2020	A - 43	CD	☐		MAY:2099		0.00	14,666.67	14,666.67
	06/30/2020	A - 43	CD	☐		MAY:2098		0.00	13,125.00	13,125.00
	06/30/2020	A - 43	CD	☐		JUNE:2131		0.00	8,312.52	8,312.52
	06/30/2020	A - 43	CD	☐		JUNE:2129		0.00	14,666.67	14,666.67
	06/30/2020	A - 43	CD	☐		JUNE:2130		0.00	12,479.17	12,479.17
	06/30/2020	A - 2	EN	☐		RATE ADJUSTMENTS		35,183.00	0.00	0.00
	06/30/2020	A - 44	CD	☐		JUNE:2128		0.00	13,125.00	13,125.00
	06/30/2020	A - 44	CD	☐		NOV 19:1920		0.00	6,354.17	6,354.17
	06/30/2020	A - 44	CD	☐		SEPT 19:1879		0.00	6,354.17	6,354.17
	06/30/2020	A - 44	CD	☐		OCT 19:1919		0.00	6,354.17	6,354.17
	06/30/2020	A - 44	CD	☐		DEC 19:1940		0.00	6,354.73	6,354.17

Account Totals: 442,183.00 442,183.00 425,557.44

Purchase Order Totals: 442,183.00 442,183.00 425,557.44

202572

	11/06/2019	A - 2	EN	☐				16,625.00	0.00	0.00
	11/08/2019	A - 14	CD	☐		1878 AUGUST 2019		0.00	8,312.50	8,312.50
	11/08/2019	A - 14	CD	☐		1877 JULY 2019		0.00	8,312.50	8,312.50
	06/30/2020	A - 16	JE	☐		Accounts Payable		0.00	12,709.00	12,709.00
	06/30/2020	A - 2	EN	☐		RATE ADJUSTMENTS		12,709.00	0.00	0.00

Account Totals: 29,334.00 29,334.00 29,334.00

Purchase Order Totals: 29,334.00 29,334.00 29,334.00

210302

	08/21/2020	A - 1	EN	☐				76,124.00	0.00	0.00
	10/05/2020	A - 1	EN	☐				43,402.00	0.00	0.00
	10/05/2020	A - 10	CD	☐		2166 JULY '20		0.00	14,531.25	14,531.25

CITY SCH DIST OF NEW ROCHELLE



Vendor History Report From 1/1/2018 - 6/30/2024

PO Number	Date	Schedule	Type	Temp	Check / Ref #	Invoice / Memo	Account	Placed	Liquidated	Expensed
10/05/2020	A - 10	CD	☐			2216 AUG '20		0.00	14,531.25	14,531.25
10/05/2020	A - 10	CD	☐			2170 JULY '20		0.00	21,941.67	21,941.67
10/05/2020	A - 10	CD	☐			2217AUG '20		0.00	21,941.67	21,941.67
10/05/2020	A - 10	CD	☐			2219 AUG '20		0.00	9,144.83	9,144.83
10/05/2020	A - 10	CD	☐			2179 JULY '20		0.00	9,144.83	9,144.83
10/05/2020	A - 10	CD	☐			2218 AUG '20		0.00	14,144.83	14,144.83
10/05/2020	A - 10	CD	☐			2171 JULY '20		0.00	14,144.83	14,144.83
05/21/2021	A - 1	EN	☐			Cancel PO		0.00	0.84	0.00
Account Totals:								119,526.00	119,526.00	119,525.16

Purchase Order Totals:

119,526.00

119,526.00

119,525.16

210738

10/07/2020	A - 1	EN	☐					668,226.00	0.00	0.00
10/16/2020	A - 10	CD	☐			SEPT:2251		0.00	14,531.25	14,531.25
10/16/2020	A - 10	CD	☐			SEPT:2252		0.00	21,941.67	21,941.67
10/16/2020	A - 10	CD	☐			SEPT:2253		0.00	14,144.83	14,144.83
10/16/2020	A - 10	CD	☐			SEPT:2254		0.00	9,144.83	9,144.83
11/12/2020	A - 12	CD	☐			OCT:2294		0.00	14,144.83	14,144.83
11/12/2020	A - 12	CD	☐			OCT:2296		0.00	16,941.67	16,941.67
11/12/2020	A - 12	CD	☐			OCT:2299		0.00	7,265.63	7,265.63
11/12/2020	A - 12	CD	☐			OCT:2293		0.00	9,144.83	9,144.83
12/10/2020	A - 16	CD	☐			NOV:2346		0.00	9,144.83	9,144.83
12/10/2020	A - 16	CD	☐			NOV:2335		0.00	16,941.67	16,941.67
12/10/2020	A - 16	CD	☐			NOV:2336		0.00	14,144.38	14,144.38
01/21/2021	A - 20	CD	☐			DEC:2397		0.00	9,144.83	9,144.83
01/21/2021	A - 20	CD	☐			DEC:2381		0.00	14,144.38	14,144.38
01/21/2021	A - 20	CD	☐			DEC:2380		0.00	16,941.67	16,941.67
02/22/2021	A - 21	CD	☐			JAN:2420		0.00	16,941.67	16,941.67
02/22/2021	A - 21	CD	☐			JAN:2427		0.00	9,144.83	9,144.83
02/22/2021	A - 21	CD	☐			JAN:2421		0.00	14,144.38	14,144.38
03/15/2021	A - 1	EN	☐			Liquidate PO		0.00	79,800.00	0.00
03/24/2021	A - 26	CD	☐			FEB 2021:2479		0.00	9,144.83	9,144.83

CITY SCH DIST OF NEW ROCHELLE



Vendor History Report From 1/1/2018 - 6/30/2024

PO Number	Date	Schedule	Type	Temp	Check / Ref #	Invoice / Memo	Account	Placed	Liquidated	Expensed
	03/24/2021	A - 26	CD	☐		FEB 2021:2470		0.00	14,144.38	14,144.38
	03/24/2021	A - 26	CD	☐		FEB 2021:2469		0.00	16,941.67	16,941.67
	03/25/2021	A - 1	EN	☐		PER YOUR REQUEST		0.00	42,900.00	0.00
	04/06/2021	A - 1	EN	☐		PER YOUR REQUEST		0.00	75,000.00	0.00
	04/09/2021	A - 28	CD	☐		MARCH:2509		0.00	14,144.38	14,144.38
	04/09/2021	A - 28	CD	☐		MARCH:2508		0.00	16,941.67	16,941.67
	04/09/2021	A - 28	CD	☐		MARCH:2517		0.00	9,144.83	9,144.83
	05/11/2021	A - 31	CD	☐		APRIL:2565		0.00	9,144.83	9,144.83
	05/11/2021	A - 31	CD	☐		APRIL:2556		0.00	16,941.67	16,941.67
	05/11/2021	A - 31	CD	☐		APRIL:2557		0.00	14,144.38	14,144.38
	06/09/2021	A - 34	CD	☐		MAY:2596		0.00	14,144.38	14,144.38
	06/09/2021	A - 34	CD	☐		MAY:2605		0.00	9,144.83	9,144.83
	06/09/2021	A - 34	CD	☐		MAY:2595		0.00	16,941.67	16,941.67
	06/30/2021	F - 2	JE	☐		Accounts Payable		0.00	40,230.88	40,230.88
Account Totals:								668,226.00	626,806.58	429,106.58

Purchase Order Totals: 668,226.00 626,806.58 429,106.58

210738

07/01/2021	F - 1	EN	☐	MEMO ENTRY: C/F PO	A 2250.470-39-0000	41,419.42	0.00	0.00
10/29/2021	A - 1	EN	☐	Cancel PO	A 2250.470-39-0000	0.00	41,419.42	0.00
Account Totals:						41,419.42	41,419.42	0.00

Purchase Order Totals: 41,419.42 41,419.42 0.00

220971

07/19/2021	A - 1	EN	☐				112,763.00	0.00	0.00
08/26/2021	A - 12	CD	☐		JULY:2718		0.00	16,387.50	16,387.50
08/26/2021	A - 12	CD	☐		JULY:2727		0.00	9,144.83	9,144.83
08/26/2021	A - 12	CD	☐		JULY:2717		0.00	25,465.00	25,465.00
09/27/2021	A - 16	CD	☐		AUG:2775		0.00	25,465.00	25,465.00
09/27/2021	A - 16	CD	☐		AUG:2783		0.00	11,456.75	11,456.75
09/27/2021	A - 1	EN	☐		Cancel PO		0.00	24,843.92	0.00

CITY SCH DIST OF NEW ROCHELLE



Vendor History Report From 1/1/2018 - 6/30/2024

PO Number	Date	Schedule	Type	Temp	Check / Ref #	Invoice / Memo	Account	Placed	Liquidated	Expensed
Account Totals:								112,763.00	112,763.00	87,919.08
Purchase Order Totals:								112,763.00	112,763.00	87,919.08
220972										
07/19/2021	A - 1	EN	☐				A 2250.470-39-0000	563,814.00	0.00	0.00
10/14/2021	A - 18	CD	☐			SEPTEMBER:157	A 2250.470-39-0000	0.00	25,465.00	25,465.00
10/14/2021	A - 18	CD	☐			SEPT:167		0.00	11,456.75	11,456.75
10/14/2021	A - 18	CD	☐			SEPT:158		0.00	16,387.50	16,387.50
11/10/2021	A - 24	CD	☐			OCT:2855		0.00	16,387.50	16,387.50
11/10/2021	A - 24	CD	☐			OCT:2854		0.00	25,465.00	25,465.00
11/10/2021	A - 24	CD	☐			OCT:2862		0.00	11,456.75	11,456.75
11/29/2021	A - 1	EN	☐			PER R. CALLANDS		0.00	30,000.00	0.00
12/20/2021	A - 32	CD	☐			NOV:2912		0.00	16,387.50	16,387.50
12/20/2021	A - 32	CD	☐			NOV:2934		0.00	11,456.75	11,456.75
12/20/2021	A - 32	CD	☐			NOV:2910		0.00	25,465.00	25,465.00
01/12/2022	A - 34	CD	☐			DEC:2995		0.00	11,456.75	11,456.75
01/12/2022	A - 34	CD	☐			DEC:2984		0.00	16,387.50	16,387.50
01/12/2022	A - 34	CD	☐			DEC:2983		0.00	25,465.18	25,465.18
02/08/2022	A - 40	CD	☐			JAN:3089		0.00	11,456.75	11,456.75
02/08/2022	A - 40	CD	☐			DEC:3078		0.00	16,387.50	16,387.50
02/08/2022	A - 40	CD	☐			DEC:3077		0.00	25,465.18	25,465.18
03/23/2022	A - 48	CD	☐			FEB:3151		0.00	11,456.75	11,456.75
03/23/2022	A - 48	CD	☐			FEB:3150		0.00	25,465.18	25,465.18
03/25/2022	A - 1	EN	☐			Liquidate PO		0.00	70,000.00	0.00
04/19/2022	A - 1	EN	☐					20,000.00	0.00	0.00
04/22/2022	A - 54	CD	☐			MARCH:3242		0.00	11,456.75	11,456.75
04/22/2022	A - 54	CD	☐			MARCH:3222		0.00	25,465.18	25,465.18
05/24/2022	A - 63	CD	☐			APRIL:3312		0.00	11,456.75	11,456.75
05/24/2022	A - 63	CD	☐			APRIL:3293		0.00	25,465.18	25,465.18
06/21/2022	A - 68	CD	☐			MAY:3383		0.00	13,872.67	13,872.67

COX-0054

CITY SCH DIST OF NEW ROCHELLE



Vendor History Report From 1/1/2018 - 6/30/2024

PO Number	Date	Schedule	Type	Temp	Check / Ref #	Invoice / Memo	Account	Placed	Liquidated	Expensed
	06/21/2022	A - 68	CD	☐		MAY:3364		0.00	25,465.18	25,465.18
	06/21/2022	A - 68	CD	☐		MAY:3377		0.00	11,456.75	11,456.75
	06/30/2022	F - 2	JE	☐		Accounts Payable		0.00	55,618.27	55,618.27
	06/30/2022	A - 1	EN	☐		Liquidate PO		0.00	88.73	0.00
Account Totals:								583,814.00	583,814.00	483,725.27

Purchase Order Totals: 583,814.00 583,814.00 483,725.27

230008

07/01/2022	A - 2	EN	☐					65,548.00	0.00	0.00
07/21/2022	A - 2	EN	☐			Cancel PO		0.00	65,548.00	0.00
Account Totals:								65,548.00	65,548.00	0.00

07/21/2022	A - 2	EN	☐			PER MELISSA DENNARD		65,548.00	0.00	0.00
10/13/2022	A - 21	CD	☐			JULY:3562		0.00	34,821.83	34,821.83
10/13/2022	A - 21	CD	☐			JULY:3563		0.00	18,696.33	18,696.33
10/13/2022	A - 21	CD	☐			JULY:3576		0.00	12,029.67	12,029.67
01/20/2023	A - 2	EN	☐			Cancel PO		0.00	0.17	0.00
Account Totals:								65,548.00	65,548.00	65,547.83

Purchase Order Totals: 131,096.00 131,096.00 65,547.83

231242

07/22/2022	A - 2	EN	☐					655,478.50	0.00	0.00
10/13/2022	A - 21	CD	☐			SEPT:3807		0.00	34,821.83	34,821.83
10/13/2022	A - 21	CD	☐			SEPT:3820		0.00	12,029.67	12,029.67
10/13/2022	A - 21	CD	☐			SEPT:3808		0.00	18,696.33	18,696.33
12/16/2022	A - 32	CD	☐			NOV:4026		0.00	34,821.83	34,821.83
12/16/2022	A - 32	CD	☐			OCT:3889		0.00	34,821.83	34,821.83
12/16/2022	A - 32	CD	☐			OCT:3891		0.00	18,696.33	18,696.33
12/16/2022	A - 32	CD	☐			NOV:4027		0.00	18,696.33	18,696.33
12/16/2022	A - 32	CD	☐			OCT:3903		0.00	12,029.67	12,029.67
01/17/2023	A - 37	CD	☐			DEC:4148		0.00	18,696.33	18,696.33

COX-0055

CITY SCH DIST OF NEW ROCHELLE



Vendor History Report From 1/1/2018 - 6/30/2024

PO Number	Date	Schedule	Type	Temp	Check / Ref #	Invoice / Memo	Account	Placed	Liquidated	Expensed
	01/17/2023	A - 37	CD	☐		DEC:4159		0.00	12,029.67	12,029.67
	01/17/2023	A - 37	CD	☐		DEC:4147		0.00	34,821.83	34,821.83
	02/14/2023	A - 45	CD	☐		JAN:4245		0.00	34,821.83	34,821.83
	02/28/2023	A - 46	CD	☐		JAN:4259		0.00	12,029.67	12,029.67
	02/28/2023	A - 46	CD	☐		JAN:4246		0.00	18,696.33	18,696.33
	03/15/2023	A - 50	CD	☐		FEB:4352		0.00	18,696.33	18,696.33
	03/15/2023	A - 50	CD	☐		FEB:4351		0.00	34,821.83	34,821.83
	03/29/2023	A - 51	CD	☐		FEB:4286		0.00	12,029.67	12,029.67
	03/29/2023	A - 51	CD	☐		MARCH:4286		0.00	12,029.67	12,029.67
	04/14/2023	A - 2	EN	☐		Liquidate PO		0.00	68,000.00	0.00
	04/25/2023	A - 58	CD	☐		MARCH:4466		0.00	18,696.33	18,696.33
	04/25/2023	A - 58	CD	☐		NOV:4058		0.00	12,029.67	12,029.67
	04/25/2023	A - 58	CD	☐		MARCH:4465		0.00	34,821.83	34,821.83
	05/23/2023	A - 65	CD	☐		APRIL:4601		0.00	34,821.83	34,821.83
	06/20/2023	A - 69	CD	☐		MAY:4720		0.00	18,696.33	18,696.33
	06/20/2023	A - 69	CD	☐		MAY:4719		0.00	34,821.83	34,821.83
	06/30/2023	A - 2	EN	☐		Increase PO		31,910.79	0.00	0.00
	06/30/2023	F - 2	JE	☐		Accounts Payable		0.00	72,214.49	72,214.49
Account Totals:								687,389.29	687,389.29	619,389.29

Purchase Order Totals: 687,389.29 687,389.29 619,389.29

231243

	07/22/2022	A - 2	EN	☐				65,547.85	0.00	0.00
	10/13/2022	A - 21	CD	☐		AUGUST:3708		0.00	12,029.67	12,029.67
	10/13/2022	A - 21	CD	☐		AUGUST:3710		0.00	18,696.33	18,696.33
	10/13/2022	A - 21	CD	☐		AUG:3709		0.00	34,821.85	34,821.83
Account Totals:								65,547.85	65,547.85	65,547.83

Purchase Order Totals: 65,547.85 65,547.85 65,547.83

241517

	07/28/2023	A - 1	EN	☐			A 2250 472-00-0000	447,200.00	0.00	0.00
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CITY SCH DIST OF NEW ROCHELLE



Vendor History Report From 1/1/2018 - 6/30/2024

PO Number	Date	Schedule	Type	Temp	Check / Ref #	Invoice / Memo	Account	Placed	Liquidated	Expensed
	11/06/2023	A - 22	CD	☐		SEPT:5162		0.00	37,226.67	37,226.67
	01/10/2024	A - 34	CD	☐		NOV:5370		0.00	37,266.67	37,266.67
	01/10/2024	A - 34	CD	☐		OCT:5268		0.00	37,266.67	37,266.67
	01/10/2024	A - 34	CD	☐		BAL OWED SEPT INV:5162		0.00	40.00	40.00
	02/05/2024	A - 40	CD	☐		DEC:T6R4X7A4B279		0.00	37,266.67	37,266.67
	02/21/2024	A - 41	CD	☐		JAN:T6R4X7A4B407		0.00	37,266.67	37,266.67
	03/19/2024	A - 46	CD	☐		FEBRUARY:T6R4X7A4B517		0.00	37,266.67	37,266.67
	04/24/2024	A - 51	CD	☐		MARCH:T6R4X7A4B625		0.00	37,266.67	37,266.67
Account Totals:								447,200.00	260,866.69	260,866.69

Purchase Order Totals: 447,200.00 260,866.69 260,866.69

241527

10/16/2023	A - 1	EN	☐		Increase PO		17,733.33	0.00	0.00	
10/17/2023	A - 1	EN	☐		Increase PO		19,533.34	0.00	0.00	
10/24/2023	A - 19	CD	☐		AUG:5036		0.00	37,266.67	37,266.67	
							37,266.67	37,266.67	37,266.67	
07/28/2023	A - 1	EN	☐				55,000.00	0.00	0.00	
08/01/2023	A - 1	EN	☐		Cancel PO		0.00	55,000.00	0.00	
							55,000.00	55,000.00	0.00	
08/01/2023	A - 1	EN	☐		Increase PO		55,000.00	0.00	0.00	
08/22/2023	A - 8	CD	☐		JULY:4920		0.00	37,266.67	37,266.67	
10/16/2023	A - 1	EN	☐		Cancel PO		0.00	17,733.33	0.00	
Account Totals:							55,000.00	55,000.00	37,266.67	

Purchase Order Totals: 147,266.67 147,266.67 74,533.34

Vendor Totals: 3,700,765.23 3,398,012.50 2,930,366.15

Outstanding: 302,752.73

EXHIBIT J

District Shrub Oak transportation expenditure records

SHRUB OAKS EXPENDITURES 2018-2023

2018-19 SCHOOL YEAR	DID NOT SERVICE SHRUB OAKS
SUMMER 2019	DID NOT SERVICE SHRUB OAKS
2019-20 SCHOOL YEAR	\$28,261.58
SUMMER 2020	\$18,388.00
2020-21 SCHOOL YEAR	\$77,665.07
SUMMER 2021	\$10,757.55
2021-22 SCHOOL YEAR	\$68,312.90
SUMMER 2022	\$11,829.90
2022-23 SCHOOL YEAR	\$101,837.39
SUMMER 2023	<u>\$4,248.51</u>
	\$321,300.90

Transportation started for Shrub Oaks October 22, 2019

SHRUB OAK EXPENDITURES 2018-2024

	2018-19		2019-20		2020-21		2021-22		2022-23		2023-24	
	VEHICLE	MONITOR	VEHICLE	MONITOR	VEHICLE	MONITOR	VEHICLE	MONITOR	VEHICLE	MONITOR	VEHICLE	MONITOR
JULY							\$5,583.91	\$1,464.14			\$2,412.09	
AUG							\$2,938.90	\$770.60	\$1,366.20	\$454.59	\$2,412.09	
SEPT									\$7,480.00	\$1,232.96	\$515.90	\$190.33
OCT									\$8,360.00	\$1,232.96	\$1,031.80	\$380.64
NOV									\$8,360.00	\$2,781.79	\$257.96	\$95.16
DEC									\$7,480.00	\$1,232.96	\$386.93	\$142.75
JAN											\$257.95	\$95.17
FEB											\$386.93	\$142.75
MARCH											\$515.90	\$190.33
APRIL											\$644.88	\$237.91
MAY											\$644.88	\$237.91
JUNE											\$386.93	\$142.75
							\$8,522.81	\$2,234.74	\$33,046.20	\$6,935.26	\$9,854.24	\$1,855.70

EXHIBIT K

October 8, 2024 FOIL request for aide records and November 6, 2025 District response

Re: FOIL: aides who were assigned to travel with students to/from Shrub Oak

From Milagros Bonilla <foil@nredlearn.org>
To Robert A. Cox <robertcox@talkofthesound.com>
CC Corey Reynolds <creynolds@nredlearn.org>
Date Thursday, 6 November 2025 at 22:35

Dear Mr. Cox:

This responds to your October 8, 2024, request under New York's Freedom of Information Law (Public Officers Law ("POL") Article 6), seeking the following: "All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)". The District acknowledged your request on October 16, 2024. At various times the District notified you of the need to extend the time to respond to your request, most recently indicating it would respond to your request by November 7, 2025.

As an initial matter, an agency need not create records or reports to satisfy a request, for FOIL pertains to existing records. See Public Officers Law §89(3).

In response to the specific records identified in your request, the District conducted a thorough search of both electronic and physical files maintained. The District contacted First Student, Inc., the bus company that serviced the route during the applicable time period, and they confirmed they are not in possession of responsive records. Accordingly, after said diligent search, no responsive records were located. The District is not in possession of any timesheets of paychecks for aides assigned to travel to/from Shrub Oak between 2019 and October 8, 2024.

This letter shall serve to certify that no records exist in response to your FOIL request in accordance with Public Officers Law Section 89.

Sincerely,
Freedom of Information Officer (FOIL)
City School District of New Rochelle
515 North Avenue
New Rochelle, NY 10801
[914-576-4219](tel:914-576-4219)

On Thu, Oct 9, 2025 at 3:40 PM CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox:

I am writing to you in regard to your FOIL request re:

- **All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)**

Due to the voluminous nature of the materials sought and the potential need for redactions, the District will require an additional twenty (20) business days from the date of this acknowledgment letter. However, if circumstances prevent the disclosure of the materials sought within twenty (20) business days from the date of this acknowledgment letter, the District

will contact you in writing to provide a reason for the inability to grant the request within such time period and a reasonable date certain of when the request will be granted, in whole or in part.

Due Date: November 7, 2025

Sincerely,

Freedom of Information Officer

City School District of New Rochelle

515 North Avenue

New Rochelle, NY 10801

[914-576-4219](tel:914-576-4219)

On Thu, Sep 11, 2025 at 5:45 PM CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox:

I am writing to you in regard to your FOIL request re:

- **All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)**

Due to the voluminous nature of the materials sought and the potential need for redactions, the District will require an additional twenty (20) business days from the date of this acknowledgment letter. However, if circumstances prevent the disclosure of the materials sought within twenty (20) business days from the date of this acknowledgment letter, the District will contact you in writing to provide a reason for the inability to grant the request within such time period and a reasonable date certain of when the request will be granted, in whole or in part.

Due Date: October 9, 2025

Sincerely,

Freedom of Information Officer

City School District of New Rochelle

515 North Avenue

New Rochelle, NY 10801

[914-576-4219](tel:914-576-4219)

On Wed, Aug 13, 2025 at 3:30 PM CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox:

I am writing to you in regard to your FOIL request re:

- **All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)**

Due to the voluminous nature of the materials sought and the potential need for redactions, the District will require an additional twenty (20) business days from the date of this acknowledgment letter. However, if circumstances prevent the disclosure of the materials sought within twenty (20) business days from the date of this acknowledgment letter, the District

will contact you in writing to provide a reason for the inability to grant the request within such time period and a reasonable date certain of when the request will be granted, in whole or in part.

Due Date: September 11, 2025

Sincerely,
Freedom of Information Officer
City School District of New Rochelle
515 North Avenue
New Rochelle, NY 10801
[914-576-4219](tel:914-576-4219)

On Wed, Jul 16, 2025 at 2:47 PM CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox:

I am writing to you in regard to your FOIL request re:

- **All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)**

Due to the voluminous nature of the materials sought and the potential need for redactions, the District will require an additional twenty (20) business days from the date of this acknowledgment letter. However, if circumstances prevent the disclosure of the materials sought within twenty (20) business days from the date of this acknowledgment letter, the District will contact you in writing to provide a reason for the inability to grant the request within such time period and a reasonable date certain of when the request will be granted, in whole or in part.

Due Date: August 13, 2025

Sincerely,
Freedom of Information Officer
City School District of New Rochelle
515 North Avenue
New Rochelle, NY 10801
[914-576-4219](tel:914-576-4219)

On Mon, Jul 7, 2025 at 4:13 AM Robert Cox <robertcox@talkofthesound.com> wrote:

For the record,

You are lying and stonewalling and have been for 9 months.

If an agency cannot fulfill the request within five business days, it must provide a written acknowledgment with a stated timeframe for response. This timeframe must be "reasonable under the circumstances of the request." The law does not define "reasonable" explicitly but implies it should align with the complexity or volume of the request. FOIL does not list a lack of staff as a valid reason for delaying compliance. In

fact, Public Officers Law §87(1) explicitly states that an agency cannot deny a request on the basis that it is "voluminous" or "burdensome" due to insufficient staffing, provided the agency can engage an outside professional service to assist with copying or other tasks (with costs recoverable from the requester).

Your bogus pretext for delaying my request is expressly prohibited under the law.

Please produce the records.

Robert Cox

[+353 \(89\) 972 0669](tel:+353899720669)

(If you are not in Europe, look me up in WhatsApp)

TALK OF THE SOUND

Publisher and Managing Editor

Talk of the Sound

Member, New York Press Club

Web Site: www.talkofthesound.com

X: @talkofthesound

On Mon, Jun 16, 2025 at 21:31, CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox :

I am writing to you in regard to your FOIL request re:

- **All timesheets and paychecks for aides who were assigned to travel with**

students to/from Shrub Oak International School (2019 to Present)

Due to the voluminous nature of the materials sought and the potential need for redactions, the District will require an additional twenty (20) business days from the date of this acknowledgment letter. However, if circumstances prevent the disclosure of the materials sought within twenty (20) business days from the date of this acknowledgment letter, the District will contact you in writing to provide a reason for the inability to grant the request within such time period and a reasonable date certain of when the request will be granted, in whole or in part.

Due Date: July16, 2025

Sincerely,
Freedom of Information Officer
City School District of New Rochelle
515 North Avenue
New Rochelle, NY 10801
[914-576-4219](tel:914-576-4219)

On Fri, May 23, 2025 at 4:50 PM CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox :

I am writing to you in regard to your FOIL request re:

- **All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)**

Due to the voluminous nature of the materials sought and the potential need for redactions, the

District will require an additional twenty (20) business days from the date of this acknowledgment letter. However, if circumstances prevent the disclosure of the materials sought within twenty (20) business days from the date of this acknowledgment letter, the District

will contact you in writing to provide a reason for the inability to grant the request within such time period and a reasonable date certain of when the request will be granted, in whole or in part.

Due Date: June16, 2025

Sincerely,
Freedom of Information Officer
City School District of New Rochelle
515 North Avenue
New Rochelle, NY 10801
[914-576-4219](tel:914-576-4219)

On Thu, Apr 17, 2025 at 4:30 PM CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox :

I am writing to you in regard to your FOIL request re:

- **All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)**

Due to the voluminous nature of the materials sought and the potential need for redactions, the

District will require an additional twenty (20) business days from the date of this acknowledgment letter. However, if circumstances prevent the disclosure of the materials sought within twenty (20) business days from the date of this acknowledgment letter, the District

will contact you in writing to provide a reason for the inability to grant the request within such

time period and a reasonable date certain of when the request will be granted, in whole or in part.

Due Date: May 16, 2025

Sincerely,
Freedom of Information Officer
City School District of New Rochelle
515 North Avenue
New Rochelle, NY 10801
[914-576-4219](tel:914-576-4219)

On Fri, Mar 21, 2025 at 4:56 PM CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox :

I am writing to you in regard to your FOIL request re:

- **All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)**

Due to the voluminous nature of the materials sought and the potential need for redactions, the

District will require an additional twenty (20) business days from the date of this acknowledgment letter. However, if circumstances prevent the disclosure of the materials

sought within twenty (20) business days from the date of this acknowledgment letter, the District

will contact you in writing to provide a reason for the inability to grant the request within such

time period and a reasonable date certain of when the request will be granted, in whole or in part.

Due Date: April 17, 2025

Sincerely,

Freedom of Information Officer
City School District of New Rochelle
515 North Avenue
New Rochelle, NY 10801
[914-576-4219](tel:914-576-4219)

On Fri, Jan 17, 2025 at 4:30 PM CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox :

I am writing to you in regard to your FOIL request re:

- **All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)**

Due to the voluminous nature of the materials sought and the potential need for redactions, the District will require an additional twenty (20) business days from the date of this acknowledgment letter. However, if circumstances prevent the disclosure of the materials sought within twenty (20) business days from the date of this acknowledgment letter, the District will contact you in writing to provide a reason for the inability to grant the request within such time period and a reasonable date certain of when the request will be granted, in whole or in part.

Due Date: February 19, 2025

Sincerely,
Freedom of Information Officer
City School District of New Rochelle
515 North Avenue
New Rochelle, NY 10801
[914-576-4219](tel:914-576-4219)

On Mon, Dec 16, 2024 at 4:58 PM CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox :

I am writing to you in regard to your FOIL request re:

- **All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)**

Due to the voluminous nature of the materials sought and the potential need for redactions, the District will require an additional twenty (20) business days from the date of this acknowledgment letter. However, if circumstances prevent the disclosure of the materials

sought within twenty (20) business days from the date of this acknowledgment letter, the District will contact you in writing to provide a reason for the inability to grant the request within such time period and a reasonable date certain of when the request will be granted, in whole or in part.

Sincerely,
Freedom of Information Officer
City School District of New Rochelle
515 North Avenue
New Rochelle, NY 10801
[914-576-4219](tel:914-576-4219)

On Fri, Nov 15, 2024 at 4:05 AM Robert Cox <robertcox@talkofthesound.com> wrote:

Again...

Thank you for telling me.

Have a nice weekend.

Bob Cox

On Thu, Nov 14, 2024 at 21:30, CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox:

I acknowledge receipt of your Freedom of Information Law ("FOIL") request dated

Tuesday, October 8, 2024, which I received via e-mail on Tuesday, October 8, 2024 re:

- **All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)**

Due to the nature of the materials sought, the District will respond to your request by either granting or denying the request in whole or in part within approximately twenty (20) business days from the date of this acknowledgment. However, if circumstances prevent the disclosure of the materials sought within twenty (20) business days from the date of this acknowledgment, the District will contact you in writing to provide a reason for the inability to grant the request within

such time period and a reasonable date certain of when the request will be granted, in whole or in part.

Please be advised that the District charges the statutorily permitted fee of \$0.25 per page for duplication of records requested under FOIL - for hard-copies and/or redactions, if any, and if applicable.

Sincerely,
Freedom of Information Officer (FOIL)
City School District of New Rochelle
515 North Avenue
New Rochelle, NY 10801
[914-576-4219](tel:914-576-4219)

On Wed, Oct 16, 2024 at 4:30 PM CSDNR Foil <foil@nredlearn.org> wrote:

Dear Mr. Robert Cox:

I acknowledge receipt of your Freedom of Information Law ("FOIL") request dated

Tuesday, October 8, 2024, which I received via e-mail on Tuesday, October 8, 2024 re:

- **All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)**

Due to the nature of the materials sought, the District will respond to your request by either granting or denying the request in whole or in part within approximately twenty (20) business days from the date of this acknowledgment. However, if circumstances prevent the disclosure of the materials sought within twenty (20) business days from the date of this acknowledgment, the District will contact you in writing to provide a reason for the inability to grant the request within such time period and a reasonable date certain of when the request will be granted, in whole or in part.

Please be advised that the District charges the statutorily permitted fee of \$0.25 per page for duplication of records requested under FOIL - for hard-copies and/or redactions, if any, and if applicable.

Sincerely,

Freedom of Information Officer (FOIL)
City School District of New Rochelle
515 North Avenue
New Rochelle, NY 10801
[914-576-4219](tel:914-576-4219)

On Tue, Oct 8, 2024 at 6:29 AM Robert Cox <
robertcox@talkofthesound.com> wrote:

This is a public records request.

I would like to obtain the following records:

All timesheets and paychecks for aides who were assigned to travel with students to/from Shrub Oak International School (2019 to Present)

I would like the fulfillment of my request to adhere to the new standards required under recent amendments to the New York State Freedom of Information Law which were intended to bring FOIL into the digital era.

Whenever and wherever possible I would like records provided pertaining to my records request to be converted to and delivered in standard, cross-platform, non-proprietary electronic/digital formats. For paper records that must be duplicated, I would like them duplicated by scanning not photocopying and saved in Adobe Acrobat PDF (i.e., .pdf). For audio records, I would like them exported/saved into a standard audio format (i.e., .mp3). For video records, I would like them exported/saved into standard video format (i.e., .mp4). For electronic database records, I would like them converted into Microsoft Excel (i.e., .xls) I would like all communications including the delivery of documents to take place via email as much as is possible based on the nature and size of the available records. Other online digital delivery methods such as Dropbox are also acceptable.

The New York State Committee on Open Government has issued numerous advisory opinions to the effect that an agency can not require that a request be made on a prescribed form. The Freedom of Information Law, §89(3), as well as the regulations promulgated by the Committee (§1401.5), require that an agency respond to a request that reasonably describes the record sought within five business days of the receipt of a request. As such, neither the Law nor the regulations refer to,

require or authorize the use of standard forms. Accordingly, it has consistently been advised that any written request that reasonably describes the records sought should suffice.

I willing to pay any necessary, required statutory costs but for any costs that exceed \$20.00 I would like prior notification of the estimated cost to comply with this records request so I do not get any big surprises. I am willing to entertain any reasonable request to tailor or narrow my request to make compliance easier. I can be charged for the time required to "prepare" records at the lowest hourly rate for the lowest-paid person capable of doing the work but I cannot be charged for "search" time or for any costs related to work done by a machine (e.g., a machine that scans and converts paper documents to PDF files, exporting a digital video file from a video surveillance system, duplicating an audio cassette recording, burning files onto a CD) or for any costs not specified under the statute.

I would like the Records Access Officer to certify that the records are genuine.

Robert Cox
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EXHIBIT L

New York State Education Department
State Review Officer Decision No. 21-158
August 18, 2021



The University of the State of New York

The State Education Department

State Review Officer

www.sro.nysed.gov

No. 21-158

Application of a STUDENT WITH A DISABILITY, by his parent, for review of a determination of a hearing officer relating to the provision of educational services by the Board of Education of the City School District of New Rochelle

Appearances:

Legal Services of the Hudson Valley, attorneys for petitioner, by Mary Grace Ferone, Esq. and Alexandra Schweitzer, Esq.

Ingerman Smith, LLP, attorneys for respondent, by Alessandra Pellegrino Pulit, Esq.

DECISION

I. Introduction

This proceeding arises under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400-1482) and Article 89 of the New York State Education Law. Petitioner (the parent) appeals from the decision of an impartial hearing officer (IHO) which found the district offered the student an appropriate residential program for the student for the 2020-21 school year. The appeal must be dismissed.

II. Overview—Administrative Procedures

When a student in New York is eligible for special education services, the IDEA calls for the creation of an individualized education program (IEP), which is delegated to a local Committee on Special Education (CSE) that includes, but is not limited to, parents, teachers, a school psychologist, and a district representative (Educ. Law § 4402; *see* 20 U.S.C. § 1414[d][1][A]-[B]; 34 CFR 300.320, 300.321; 8 NYCRR 200.3, 200.4[d][2]). If disputes occur between parents and school districts, incorporated among the procedural protections is the opportunity to engage in mediation, present State complaints, and initiate an impartial due process hearing (20 U.S.C. §§ 1221e-3, 1415[e]-[f]; Educ. Law § 4404[1]; 34 CFR 300.151-300.152, 300.506, 300.511; 8 NYCRR 200.5[h]-[l]).

New York State has implemented a two-tiered system of administrative review to address disputed matters between parents and school districts regarding "any matter relating to the identification, evaluation or educational placement of a student with a disability, or a student suspected of having a disability, or the provision of a free appropriate public education to such student" (8 NYCRR 200.5[i][1]; see 20 U.S.C. § 1415[b][6]-[7]; 34 CFR 300.503[a][1]-[2], 300.507[a][1]). First, after an opportunity to engage in a resolution process, the parties appear at an impartial hearing conducted at the local level before an IHO (Educ. Law § 4404[1][a]; 8 NYCRR 200.5[j]). An IHO typically conducts a trial-type hearing regarding the matters in dispute in which the parties have the right to be accompanied and advised by counsel and certain other individuals with special knowledge or training; present evidence and confront, cross-examine, and compel the attendance of witnesses; prohibit the introduction of any evidence at the hearing that has not been disclosed five business days before the hearing; and obtain a verbatim record of the proceeding (20 U.S.C. § 1415[f][2][A], [h][1]-[3]; 34 CFR 300.512[a][1]-[4]; 8 NYCRR 200.5[j][3][v], [vii], [xii]). The IHO must render and transmit a final written decision in the matter to the parties not later than 45 days after the expiration period or adjusted period for the resolution process (34 CFR 300.510[b][2], [c], 300.515[a]; 8 NYCRR 200.5[j][5]). A party may seek a specific extension of time of the 45-day timeline, which the IHO may grant in accordance with State and federal regulations (34 CFR 300.515[c]; 8 NYCRR 200.5[j][5]). The decision of the IHO is binding upon both parties unless appealed (Educ. Law § 4404[1]).

A party aggrieved by the decision of an IHO may subsequently appeal to a State Review Officer (SRO) (Educ. Law § 4404[2]; see 20 U.S.C. § 1415[g][1]; 34 CFR 300.514[b][1]; 8 NYCRR 200.5[k]). The appealing party or parties must identify the findings, conclusions, and orders of the IHO with which they disagree and indicate the relief that they would like the SRO to grant (8 NYCRR 279.4). The opposing party is entitled to respond to an appeal or cross-appeal in an answer (8 NYCRR 279.5). The SRO conducts an impartial review of the IHO's findings, conclusions, and decision and is required to examine the entire hearing record; ensure that the procedures at the hearing were consistent with the requirements of due process; seek additional evidence if necessary; and render an independent decision based upon the hearing record (34 CFR 300.514[b][2]; 8 NYCRR 279.12[a]). The SRO must ensure that a final decision is reached in the review and that a copy of the decision is mailed to each of the parties not later than 30 days after the receipt of a request for a review, except that a party may seek a specific extension of time of the 30-day timeline, which the SRO may grant in accordance with State and federal regulations (34 CFR 300.515[b], [c]; 8 NYCRR 200.5[k][2]).

III. Facts and Procedural History

The parties' familiarity with the detailed facts and procedural history of the case and the IHO's decision is presumed, and they will not be recited here. In brief, the CSE convened on September 10, 2020, to identify a State-approved residential placement for the student for the 2020-21 school year (see generally Dist. Ex. 11). The parent disagreed with the particular school site to which the district assigned the student to attend and, in a due process complaint notice dated October 29, 2020, alleged that the district failed to offer the student a free appropriate public education (FAPE) in the least restrictive environment (LRE) for the 2020-21 school year (see Dist. Ex. 1). The parent requested that the student stay in his then-current placement at Shrub Oak during the course of the hearing (id. at pp. 1, 4).

An impartial hearing convened on February 24, 2021 and concluded on April 8, 2021 after five days of proceedings (Tr. pp. 1-442). In a decision dated June 8, 2021, the IHO determined that the district offered the student a FAPE for the 2020-21 school year and, having so found, declined to consider the parent's request that the district be required to maintain the student's attendance at the Shrub Oak residential school for the 2020-21 school year (IHO Decision at pp. 1-18).¹ In addition, the IHO found that equitable considerations did not weigh in favor of an award of relief (*id.* at p. 17). Based on the last agreed upon IEP, the IHO also found that the student's day placement at Shrub Oak was the student's stay-put placement for the pendency of the proceeding (*id.* at p. 12).

IV. Appeal for State-Level Review

The parties' familiarity with the particular issues for review on appeal in the parent's request for review and the district's answer thereto is also presumed and they will not be recited here. The gravamen of the parent's appeal is whether the IHO erred by failing to consider the appropriateness of the student's placement at Shrub Oak.

V. Applicable Standards

Two purposes of the IDEA (20 U.S.C. §§ 1400-1482) are (1) to ensure that students with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and (2) to ensure that the rights of students with disabilities and parents of such students are protected (20 U.S.C. § 1400[d][1][A]-[B]; see generally *Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230, 239 [2009]; *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 206-07 [1982]).

A FAPE is offered to a student when (a) the board of education complies with the procedural requirements set forth in the IDEA, and (b) the IEP developed by its CSE through the IDEA's procedures is reasonably calculated to enable the student to receive educational benefits (*Rowley*, 458 U.S. at 206-07; *T.M. v. Cornwall Cent. Sch. Dist.*, 752 F.3d 145, 151, 160 [2d Cir. 2014]; *R.E. v. New York City Dep't of Educ.*, 694 F.3d 167, 189-90 [2d Cir. 2012]; *M.H. v. New York City Dep't of Educ.*, 685 F.3d 217, 245 [2d Cir. 2012]; *Cerra v. Pawling Cent. Sch. Dist.*, 427 F.3d 186, 192 [2d Cir. 2005]). "[A]dequate compliance with the procedures prescribed would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP" (*Walczak v. Fla. Union Free Sch. Dist.*, 142 F.3d 119, 129 [2d Cir. 1998], quoting *Rowley*, 458 U.S. at 206; see *T.P. v. Mamaroneck Union Free Sch. Dist.*, 554 F.3d 247, 253 [2d Cir. 2009]). The Supreme Court has indicated that "[t]he IEP must aim to enable the child to make progress. After all, the essential function of an IEP is to set out a plan for pursuing academic and functional advancement" (*Endrew F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. ___, 137 S. Ct. 988, 999 [2017]). While the Second Circuit has emphasized that school districts must comply with the checklist of procedures for developing a student's IEP and indicated that "[m]ultiple procedural violations may cumulatively result in the denial of a FAPE even if the violations considered individually do not" (*R.E.*, 694 F.3d at 190-91), the Court has also explained that not all procedural

¹ The IHO decision is not paginated; for the purposes of this decision, the pages will be cited by reference to their consecutive pagination with the cover page as page one (see IHO Decision at pp. 1-18).

errors render an IEP legally inadequate under the IDEA (M.H., 685 F.3d at 245; A.C. v. Bd. of Educ. of the Chappaqua Cent. Sch. Dist., 553 F.3d 165, 172 [2d Cir. 2009]; Grim v. Rhinebeck Cent. Sch. Dist., 346 F.3d 377, 381 [2d Cir. 2003]). Under the IDEA, if procedural violations are alleged, an administrative officer may find that a student did not receive a FAPE only if the procedural inadequacies (a) impeded the student's right to a FAPE, (b) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a FAPE to the student, or (c) caused a deprivation of educational benefits (20 U.S.C. § 1415[f][3][E][ii]; 34 CFR 300.513[a][2]; 8 NYCRR 200.5[j][4][ii]; Winkelman v. Parma City Sch. Dist., 550 U.S. 516, 525-26 [2007]; R.E., 694 F.3d at 190; M.H., 685 F.3d at 245).

The IDEA directs that, in general, an IHO's decision must be made on substantive grounds based on a determination of whether the student received a FAPE (20 U.S.C. § 1415[f][3][E][i]). A school district offers a FAPE "by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction" (Rowley, 458 U.S. at 203). However, the "IDEA does not itself articulate any specific level of educational benefits that must be provided through an IEP" (Walczak, 142 F.3d at 130; see Rowley, 458 U.S. at 189). "The adequacy of a given IEP turns on the unique circumstances of the child for whom it was created" (Endrew F., 137 S. Ct. at 1001). The statute ensures an "appropriate" education, "not one that provides everything that might be thought desirable by loving parents" (Walczak, 142 F.3d at 132, quoting Tucker v. Bay Shore Union Free Sch. Dist., 873 F.2d 563, 567 [2d Cir. 1989] [citations omitted]; see Grim, 346 F.3d at 379). Additionally, school districts are not required to "maximize" the potential of students with disabilities (Rowley, 458 U.S. at 189, 199; Grim, 346 F.3d at 379; Walczak, 142 F.3d at 132). Nonetheless, a school district must provide "an IEP that is 'likely to produce progress, not regression,' and . . . affords the student with an opportunity greater than mere 'trivial advancement'" (Cerra, 427 F.3d at 195, quoting Walczak, 142 F.3d at 130 [citations omitted]; see T.P., 554 F.3d at 254; P. v. Newington Bd. of Educ., 546 F.3d 111, 118-19 [2d Cir. 2008]). The IEP must be "reasonably calculated to provide some 'meaningful' benefit" (Mrs. B. v. Milford Bd. of Educ., 103 F.3d 1114, 1120 [2d Cir. 1997]; see Endrew F., 137 S. Ct. at 1001 [holding that the IDEA "requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances"]; Rowley, 458 U.S. at 192). The student's recommended program must also be provided in the least restrictive environment (LRE) (20 U.S.C. § 1412[a][5][A]; 34 CFR 300.114[a][2][i], 300.116[a][2]; 8 NYCRR 200.1[cc], 200.6[a][1]; see Newington, 546 F.3d at 114; Gagliardo v. Arlington Cent. Sch. Dist., 489 F.3d 105, 108 [2d Cir. 2007]; Walczak, 142 F.3d at 132).

An appropriate educational program begins with an IEP that includes a statement of the student's present levels of academic achievement and functional performance (see 34 CFR 300.320[a][1]; 8 NYCRR 200.4[d][2][i]), establishes annual goals designed to meet the student's needs resulting from the student's disability and enable him or her to make progress in the general education curriculum (see 34 CFR 300.320[a][2][i], [2][i][A]; 8 NYCRR 200.4[d][2][iii]), and provides for the use of appropriate special education services (see 34 CFR 300.320[a][4]; 8 NYCRR 200.4[d][2][v]).²

² The Supreme Court has stated that even if it is unreasonable to expect a student to attend a regular education setting and achieve on grade level, the educational program set forth in the student's IEP "must be appropriately ambitious in light of his [or her] circumstances, just as advancement from grade to grade is appropriately

A board of education may be required to reimburse parents for their expenditures for private educational services obtained for a student by his or her parents, if the services offered by the board of education were inadequate or inappropriate, the services selected by the parents were appropriate, and equitable considerations support the parents' claim (Florence County Sch. Dist. Four v. Carter, 510 U.S. 7 [1993]; Sch. Comm. of Burlington v. Dep't of Educ., 471 U.S. 359, 369-70 [1985]; R.E., 694 F.3d at 184-85; T.P., 554 F.3d at 252). In Burlington, the Court found that Congress intended retroactive reimbursement to parents by school officials as an available remedy in a proper case under the IDEA (471 U.S. at 370-71; see Gagliardo, 489 F.3d at 111; Cerra, 427 F.3d at 192). "Reimbursement merely requires [a district] to belatedly pay expenses that it should have paid all along and would have borne in the first instance" had it offered the student a FAPE (Burlington, 471 U.S. at 370-71; see 20 U.S.C. § 1412[a][10][C][ii]; 34 CFR 300.148).

The burden of proof is on the school district during an impartial hearing, except that a parent seeking tuition reimbursement for a unilateral placement has the burden of proof regarding the appropriateness of such placement (Educ. Law § 4404[1][c]; see R.E., 694 F.3d at 184-85).

VI. Discussion

A. Compliance with Practice Regulations and Scope of Review

Before addressing the merits, a determination must be made regarding which claims are properly before me on appeal. State regulations governing practice before the Office of State Review provide that a request for review "shall clearly specify the reasons for challenging the [IHO's] decision, identify the findings, conclusions, and orders to which exceptions are taken, or the failure or refusal to make a finding, and shall indicate what relief should be granted by the [SRO] to the petitioner" (8 NYCRR 279.4[a]). Additionally, State regulation provides that a request for review must set forth "a clear and concise statement of the issues presented for review and the grounds for reversal or modification to be advanced, with each issue numbered and set forth separately," and further specify that "any issue not identified in a party's request for review, answer, or answer with cross-appeal shall be deemed abandoned and will not be addressed by a State Review Officer" (8 NYCRR 279.8[c][2], [4]). Further, an IHO's decision is final and binding upon the parties unless appealed to a State Review Officer (34 CFR 300.514[a]; 8 NYCRR 200.5[j][5][v]). Generally, the failure to comply with the practice requirements of Part 279 of the State regulations may result in the rejection of the submitted documents or a determination excluding issues from the scope of review on appeal (8 NYCRR 279.8[a]; see Davis v. Carranza, 2021 WL 964820, at *12 [S.D.N.Y. Mar. 15, 2021] [upholding an SRO's conclusions that several claims had been abandoned by the petitioner]; M.C. v. Mamaroneck Union Free Sch. Dist., 2018 WL 4997516, at *23 [S.D.N.Y. Sept. 28, 2018] [upholding dismissal of allegations set forth in an appeal to an SRO for "failure to identify the precise rulings presented for review and [failure] to cite to the pertinent portions of the record on appeal, as required in order to raise an issue" for review on appeal]).

Here, the IHO made several specific findings regarding issues raised by the parent in the due process complaint notice related to the district's offer of a FAPE to the student for the 2020-

ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives" (Endrew F., 137 S. Ct. at 1000).

21 school year. In particular, the IHO found that the district did not deny the parent the opportunity to participate in the CSE process and that the September 2020 IEP offered the student a FAPE in the LRE; the IHO rejected the parent's arguments that the CSE's recommendation for a 6:1+1 special class in a residential placement was not appropriate and overly restrictive and that the IEP included unclear annual goals and failed to include sufficient 1:1 aide services or a plan to address the student's elopement (see IHO Decision at pp. 12-16). In addition, the IHO found that the district followed an orderly process to locate a State-approved residential placement for the student and "that the Woods School, if not an ideal placement, [wa]s an appropriate one for the [school year] at issue" (id. at p. 16 [internal footnote omitted]). The IHO also noted that there was no allegation that the Woods School could not implement the student's program (id.).

Although the request for review includes a statement that the IHO erred in finding that the student's IEP for the 2020-21 school year offered the student a FAPE (Req. for Rev. at p. 2), the use of broad and conclusory statements or allegations within a pleading does not act to revive any and all violations the parents believe the IHO erroneously addressed or failed to address without the parents specifically identifying which violations meet this criterion (M.C., 2018 WL 4997516, at *23 [finding that "the phrase 'procedural inadequacies,' without more, simply does not meet the state's pleading requirement"]).³ Beyond this broad allegation regarding the district's offer of a FAPE, the parent does not identify specific findings of the IHO with which she takes issue. Instead, in her request for review, the parent alleges that the IHO failed to consider whether Shrub Oak was an appropriate placement for the student (id. at pp. 2-6). The parent appears to argue that the IHO was obligated to consider Shrub Oak as a unilateral placement, citing legal standards applicable to determining whether a private school selected by a parent is appropriate for a student and setting forth evidence relevant to assessing the appropriateness of Shrub Oak for the student for the 2020-21 school year (id. at pp. 3-6). However, as the IHO found no denial of a FAPE, he was not obligated to proceed to consider the parent's request for relief (see IHO Decision at p. 16; M.C. v Voluntown Bd. of Educ., 226 F.3d 60, 66 [2d Cir. 2000] ["If the challenged IEP was adequate, the state has satisfied its obligations under the IDEA and the necessary inquiry is at an end. . . . Only if a court determines that a challenged IEP was inadequate should it proceed to the second question."]). Nor is it clear from the hearing record that Shrub Oak was a unilateral placement per se in that there is no indication in the hearing record that the parent placed the student there at her own financial risk (see Ventura de Paulino v. New York City Dep't of Educ., 959 F.3d 519, 526 [2d Cir. 2020] [noting that "[p]arents who are dissatisfied with their child's education" can obtain private services, including private schooling but do so "at their own financial risk"], cert. denied, 141 S. Ct. 1075 [2021], reh'g denied, 141 S. Ct. 1530 [2021], quoting Burlington, 471 U.S. at 374). Further, while the parent argues that Shrub Oak was an appropriate unilateral placement for the student for the 2020-21 school year, for relief, she does not seek district funding of the costs of the student's tuition or otherwise request that the district be required to place the student at Shrub Oak. Instead, the parent seeks only declaratory relief, including findings that the district denied the student a FAPE for the 2020-21 school year, that the student made "significant progress at [Shrub Oak's] day program," and that the law allows for the district to place student's in out-of-district placements that are not State approved (Req. for Rev. at p. 6).

³ Contrary to the form requirements governing appeals to the Office of State Review, the parent's request for review is not paginated (see 8 NYCRR 279.8[a][3]; for the purposes of this decision, the pages will be cited by reference to their consecutive pagination with the cover page as page one (see Req. for Rev. at pp. 1-7)).

As the parent has not challenged the IHO's findings regarding the parent's ability to participate in the CSE process and the appropriateness of the September 2020 IEP and placement at the Woods School, these determinations have become final and binding on the parties (34 CFR 300.514[a]; 8 NYCRR200.5[j][5][v]). While the parent has effectively abandoned these issues on appeal, prior to delving into why Shrub Oak was an appropriate unilateral placement for the student for the 2020-21 school year, she does set forth in her request for review the district's argument during the impartial hearing that the district was unable to place the student at Shrub Oak as the school was not State-approved (Req. for Rev. at p. 3). In conjunction with the parent's request for a finding that it is legally permissible for the district to place the student in a non-approved placement (Req. for Rev. at p. 6), it appears that the parent continues to take exception to the district's position on this narrow issue, albeit without specifying the findings of the IHO with which the parent disagrees in the manner required by State regulation (see 8 NYCRR 279.4[a]). Accordingly, out of an abundance of caution, I will discuss the appropriateness of the district's process and selection of a State-approved out-of-State residential placement over the parent's preferred residential option for the student, Shrub Oak, notwithstanding my finding that the parent has abandoned this issue on appeal.

B. FAPE

Generally, parents are entitled to participate in determining the educational placement of a student with a disability (34 CFR 300.116[a]; 300.327; 300.501[c]); however, a district's assignment of a student to a particular school site is an administrative decision which must be made in conformance with the CSE's educational placement recommendation (M.O. v. New York City Dep't of Educ., 793 F.3d 236, 244-45 [2d Cir. 2015]; R.E., 694 F.3d at 191-92; T.Y. v. New York City Dep't of Educ., 584 F.3d 412, 419-20 [2d Cir. 2009] [holding that educational placement refers to the "general educational program—such as the classes, individualized attention and additional services a child will receive—rather than the 'bricks and mortar' of the specific school"]; see C.F. v. New York City Dep't of Educ., 746 F.3d 68, 79 [2d Cir. 2014] [holding that while parents are entitled to participate in the decision-making process with regard to the type of educational placement their child will attend, the IDEA does not confer rights on parents with regard to the selection of a school site]; White v. Ascension Parish Sch. Bd., 343 F.3d 373, 379-80 [5th Cir. 2003]; A.W. v. Fairfax County Sch. Bd., 372 F.3d 674, 682 [4th Cir. 2004]; Concerned Parents & Citizens for the Continuing Educ. at Malcolm X Pub. Sch. 79 v. New York City Bd. of Educ., 629 F.2d 751, 756 [2d Cir. 1980]). A school district "may have two or more equally appropriate locations that meet the child's special education and related services needs and school administrators should have the flexibility to assign the child to a particular school or classroom, provided that determination is consistent with the decision of the group determining placement" (Placements, 71 Fed. Reg. 46588 [Aug. 14, 2006]). In this instance, the IEP provided that the student would attend a residential nonpublic school, which implicates the district's administrative decision making in conformance with the IDEA and related State law, regulation, and policies—a process that is more involved than a choice between two equally appropriate public schools within the student's district of residence.

The IDEA contemplates that districts may not be able to address the needs of every student in public placements and may need to place some students in private placements at public expense in order to provide such students with a FAPE (Burlington, 471 U.S. at 369-70). However, the IDEA does not endow state or local educational agencies with regulatory authority over nonpublic schools, but instead requires state and local educational agencies to ensure that students placed in

nonpublic schools by the educational agencies receive a FAPE (Responsibility of SEA, 71 Fed. Reg. 46598-99 [Aug. 14, 2006]; see 34 CFR 300.2[c][1]; 300.146; Z.H. v. New York City Dep't of Educ., 107 F. Supp. 3d 369, 375 [S.D.N.Y. 2015]; Letter to Stockford, 43 IDELR 225 [OSEP 2005]). The IDEA provides that when a district places or refers a student with a disability to a nonpublic school in order to meet its obligation to provide the student with a FAPE, "the State educational agency shall determine whether such schools and facilities meet standards that apply to State educational agencies and local educational agencies and that children so served have all the rights the children would have if served by such agencies" (20 U.S.C. § 1412[a][10][B][ii]).⁴

Considering the State's obligations involving students placed in private facilities by public agencies, districts are only authorized to contract with nonpublic schools which have been approved by the Commissioner of Education (Educ. Law § 4402[2][b][1], [2]; see Antkowiak v. Ambach, 838 F.2d 635, 640-41 [2nd Cir. 1988] [noting that pursuant to the IDEA a district can only place a student in a nonpublic school that meets State educational standards, including the requirement for approval by the Commissioner of Education], abrogated in part by Florence County Sch. Dist. Four v. Carter, 510 U.S. 7 [1993]).⁵ The State Education Department maintains a list of in-State and out-of-State approved nonpublic schools (see 8 NYCRR 200.1[d], 200.7; see "Approved Private, Special Act, State-Operated and State-Supported Schools in New York State," Office of Special Educ., available at <http://www.p12.nysed.gov/specialed/privateschools/home.html>; see also Soc. Servs. Law § 483-d[2]).

Although a particular nonpublic school may meet the Commissioner's criteria for approval to provide special education programs and services to students with a disability, it is the individualized needs of a student with a disability that will ultimately "determine which of such services shall be rendered" by an approved nonpublic school (Educ. Law § 4402[2][a]).⁶ Moreover, it must be ascertained whether a particular nonpublic school will meet the IDEA's mandate that a student's recommended program must be provided in the LRE (20 U.S.C. § 1412[a][5][A]; 34 CFR 300.114[a][2][i]; 300.116[a][2]; 8 NYCRR 200.1[cc]; 200.6[a][1]; see Newington, 546 F.3d at 111; Gagliardo, 489 F.3d at 105; Walczak, 142 F.3d at 132; Patskin v. Bd. of Educ. of Webster Cent. Sch. Dist., 583 F. Supp. 2d 422, 428 [W.D.N.Y. 2008]).⁷ The

⁴ Whether a "State or public agency contracts with a private school to meet IDEA requirements is an issue between the State or public agency and the private school" (Letter to Stockford, 43 IDELR 225 [OSEP 2005]).

⁵ State law limits the circumstances under which a district may contract with an approved nonpublic school to provide special services or programs to a student with a disability in order to meet its obligations to provide the student with a FAPE (see Educ. Law §§ 4401[2][e]-[h]; 4402[2][a], [b][1], [2]).

⁶ State regulation provides that "no contract for the placement of a student with a disability shall be approved for purposes of State reimbursement unless the proposed placement offers the instruction and services recommended on the student's IEP" (8 NYCRR 200.6[j][2]).

⁷ In determining an appropriate placement in the LRE, the IDEA requires that students with disabilities be educated to the maximum extent appropriate with students who are not disabled and that special classes, separate schooling or other removal of students with disabilities from the general educational environment may occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (20 U.S.C. § 1412[a][5][A]; see 34 CFR 300.114[a][2][i]; 300.116[a][2]; 8 NYCRR 200.6[a][1]; Newington, 546 F.3d at 112, 120-21; Oberti v. Bd. of Educ., 995 F.2d 1204, 1215 [3d Cir. 1993]; J.S. v. No. Colonie Cent. Sch. Dist., 586 F. Supp. 2d 74, 82 [N.D.N.Y. 2008]; Patskin,

determination that an out-of-State residential placement is the LRE for a student first requires a district to determine whether an appropriate in-state residential facility is available to meet the student's needs (Educ. Law § 4407[1][a]; 8 NYCRR 200.6[j][1][iii][e]). Consistent with LRE principals, State regulations and guidance require that, when a district intends to place a student in an approved residential school, the district first refer the student to in-State approved residential schools that may be appropriate, even if the student is already placed in an out-of-State approved residential school (8 NYCRR 200.6[j][1][iii][e]; "Placements of Students with Disabilities in Approved Out-of-State Residential Schools," Office of Special Educ., at p. 4 [Mar. 2020], available at <http://www.p12.nysed.gov/specialed/applications/documents/memo-out-of-state-placement-application-2020-21.pdf>).

Here, a review of the hearing record establishes that the district complied with its obligations under the IDEA in determining an appropriate placement for the student, and that the placement of the student at the Woods School, a State-approved residential school was consistent with the IDEA and State law, regulation, and guidance, and was the student's LRE based on the information available to the district at the time of the placement and school assignment determinations.

The student attended Shrub Oak as a day student beginning in October 2019 (see Tr. pp. 47-49).⁸ The school psychologist testified that sometime toward the end of November 2019 the parent sent an email requesting that the student attend Shrub Oak as a boarding student (Tr. p. 49). She recalled that the district responded by telling the parent that it could not just place the student in a residential program, that the county needed to be involved, and also that the district did not have data to support a residential placement (Tr. p. 51). In her testimony, the parent confirmed that in November 2019 she requested a residential placement for the student because his behavior was severe and Shrub Oak had the clinical staff and supports the student needed (Tr. pp. 286-87). The parent testified that she felt it would be best for the student to be at Shrub Oak for a 24-hour placement (Tr. p. 287). She explained that it was very traumatic for the student to transition between home and school and back and doing so heightened the student's behaviors (Tr. p. 287). The parent reported that the CSE told her that a program review would need to take place before any changes could be made (Tr. p. 288).

According to both the school psychologist and the parent, the CSE held a program review in January 2020 and the district staff reiterated that it did not have the appropriate data to recommend a residential placement and that the county had to be involved and the district needed to "exhaust[] all those options first" (Tr. pp. 52-53, 288, 314). However, the CSE recommended that the student receive ten hours per week of ABA support at home and that parent counseling

583 F. Supp. 2d at 430; Watson v. Kingston City Sch. Dist., 325 F. Supp. 2d 141, 144 [N.D.N.Y. 2004]; Mavis v. Sobol, 839 F. Supp. 968, 982 [N.D.N.Y. 1993]). The placement of an individual student in the LRE shall "(1) provide the special education needed by the student; (2) provide for education of the student to the maximum extent appropriate to the needs of the student with other students who do not have disabilities; and (3) be as close as possible to the student's home" (8 NYCRR 200.1[cc]; 8 NYCRR 200.4[d][4][ii][b]; see 34 CFR 300.114; 300.116). In this case, neither party disputes that the student cannot be educated in regular education classes in a district public school with nondisabled peers.

⁸ According to the hearing record, the district placed the student in the day program at Shrub Oak for the 2019-20 school year notwithstanding that the school was not State-approved (see Tr. pp. 47-49, 177-78).

and training be provided to the parent by Shrub Oak (Tr. pp. 54, 57, 288). The parent testified that, at the January 2020 CSE meeting, the director of special and alternative education told her that she had placed Shrub Oak on the list of schools for the student to attend (Tr. p. 288).

The hearing record reflects that, on April 1, 2020, the CSE determined that the student required a residential placement and by April 21, 2020 had advised the parent that the search for a residential placement needed to begin with placements that had been approved by New York State (Dist. Ex. 10 at pp. 1, 2).

The school psychologist recalled that when the CSE reconvened on April 1, 2020 committee members reviewed behavior data from Shrub Oak and anecdotal data from the parent (Tr. pp. 58-61; see Dist. Exs. 9; 15). She reported that the general consensus between the parent and her representatives was that the student required a residential placement due to concerns regarding his behavior (Tr. p. 63). The school psychologist reported that, in addition, at the time of the meeting the county representative felt that the family had exhausted the services and supports that were available through the county and that a residential placement was necessary for the student (Tr. pp. 63-64). The school psychologist testified that based on the information the CSE had it recommended a residential placement for the student (Tr. p. 64). She reported that, as the CSE chairperson of that meeting, she recommended that the student attend Shrub Oak as a residential student with a 1:1 aide during academic instruction (Tr. p. 65; see Dist. Ex. 15 at p. 1). Consistent with this, the parent indicated that, at the April 1, 2020 CSE meeting, the CSE chairperson stated that the student would be entering the residential program at Shrub Oak on May 6, 2020 (Tr. p. 290). However, the school psychologist testified that following the April 1, 2020 CSE meeting she became aware that when the district recommended a residential placement for a student it had to explore State-approved programs whether they were in-State or out-of-State (Tr. p. 66). She indicated that once she learned this requirement, she scheduled the CSE to reconvene, which it did on April 21, 2020 (Tr. p. 66).⁹

The school psychologist reported that the purpose of the April 21, 2020 meeting was to talk about the exploration of the residential program (Tr. p. 68). The regular education teacher recalled that, according to the parent, the student's behavior at home was getting worse (Tr. pp. 236-37). She stated that staff from Shrub Oak indicated that the student was a "high-management" student who required supervision and support (Tr. p. 237). At the April 21, 2020 CSE meeting, the parent, along with her representatives, expressed concern that the student could potentially be placed in a residential placement other than Shrub Oak following a program search (Dist. Ex. 10 at p. 2). A family representative reported that the parent had looked into approved residential schools and did not feel that they were appropriate for the student and that he would not make progress in them (id. at p. 1). The April 21, 2020 meeting information summary stated that the student had achieved significant progress at Shrub Oak and had made connections with the school staff (id.). According to the meeting summary, the parent provided historical information regarding the student's placements prior to Shrub Oak and indicated that if something happened to the student the district "w[ould] have many more problems" (id.). The family representative commented that he did not feel the district was transparent about the process of reviewing "inferior

⁹ The parent reported that she received an email from the district on April 14, 2020, which indicated that the district's attorney had advised the district that it would have to look at State-approved residential programs before it could place the student at the Shrub Oak residential program (Tr. p. 290).

schools" and that they had expected the student to be placed at Shrub Oak after a six-week process involving the county (id.). The meeting information summary indicated that the CSE intended to send "packets" to other residential programs "within the next few days" and noted that the student would not be able to start at a school until the national health crisis "shelter in place" order was lifted (id.). The meeting information summary indicated that the parent was not making phone calls to her own list of State-approved schools, but she had made calls to the list of schools provided to her by the school psychologist (id.). However, the summary indicated that the parent was not doing a search of State-approved schools because her school of choice was Shrub Oak (id.; see Tr. pp. 69, 234-36). District members of the CSE advised the parent that based on regulations the district had to explore New York State approved programs (Tr. pp. 69, 233, 290-91; see Dist. Ex. 10 at p. 1). The parent wanted to know if the regulation requiring the district to explore State-approved schools was new (Dist. Ex. 10 at p. 1). According to the meeting summary, the parent reported that the director of clinical services at Shrub Oak indicated that other programs did not have what the student needed and "that it [wa]s all a matter of money" (id. at p. 2; see Tr. p. 67). The family representative indicated that they were determined to get what the student needed "by any means necessary" (Dist. Ex. 10 at p. 2). The parent expressed that the right thing for the CSE to do would be to place the student at Shrub Oak as soon as possible (id.).

According to the testimony of district staff, the result of the April 21, 2020 meeting was that the district recommended and began a search for a residential program for the student (Tr. pp. 70, 238). According to the parent, this meant that she was expected to do intakes with State-approved programs, something that was difficult to do in the middle of a pandemic when most of the schools were closed down (Tr. p. 291).

The CSE reconvened on June 17, 2020 for the student's annual review (see Dist. Ex. 11 at p. 2).¹⁰ At the time of the CSE meeting, the student had been accepted to two out-of-State schools (Dist. Ex. 11 at p. 3). According to the meeting summary, the student would continue to attend Shrub Oak as a day student until a New York State-approved residential program was identified (id.).

With regard to the process of identifying a State-approved residential school, the school psychologist could not recall the number of packets the district sent out in its initial canvass but indicated that the student was not accepted to any of the programs to which the district applied (Tr. p. 70). The school psychologist reported that "it was quite a difficulty" to find a program for the student (id.). She testified that the district was directed by the State to the "hard to place" unit (Tr. pp. 71, 73). The hard to place unit provided the district with the names of additional schools and the district sent out 23 referrals in its second attempt to locate a program (Tr. pp. 71, 73). The school psychologist reported that the parent was copied on all 23 referrals (Tr. pp. 73-74). The school psychologist reported that when she sent out a "packet" she usually gave a school two weeks to reply and after that she would follow up with the school and parent on a weekly basis to make sure the school was appropriate, that the parties had been in touch, and that an intake had been scheduled (Tr. p. 75). The school psychologist reported that, if a school wanted to schedule an intake, she let the school contact the parent directly and then asked the parties to let her know when the intake was scheduled (id.).

¹⁰ The hearing record does not include a copy of the June 2020 IEP.

The school psychologist reported that some schools did schedule intakes for the student (Tr. p. 76). She noted specifically that the student attended a virtual intake for the Devereux New York residential program but that the parent declined to participate in a second intake with the school (id.). The school psychologist also noted that the Center for Discovery had requested a virtual intake and the parent had declined (id.). The school psychologist indicated that she was aware that the parent allowed the student to do an intake with the Woods School (Tr. pp. 99-100). According to the school psychologist she followed up with the parent three times between July and early August 2020 regarding the virtual intakes and the parent told her that she had been advised that she did not need to make the student available for the intakes (id.). The parent asked her not to contact her again regarding the intakes and indicated that she was going to consider it harassment or coercion if the school psychologist did (id.). The school psychologist recalled that she sent the parent's emails to her supervisor and also notified the State Education Department that the parent was not participating in the intake process and would not allow the two intakes to move forward (Tr. p. 77). The school psychologist testified that subsequently the Woods School accepted the student as did Foundations in Behavioral Health (id.). The school psychologist reported that the program search was still going on at the time of the June 2020 CSE meeting and continued through the summer (Tr. pp. 78-80). According to the school psychologist, after receiving the acceptances, the district looked at the student's profile again to determine if the schools were appropriate (Tr. p. 81). She reported that the CSE reconvened on September 10, 2020 to discuss the student's placement (Tr. p. 81; Dist. Ex. 11).

The parent indicated that she participated in some intakes, including the virtual intake for the Woods School (Tr. pp. 291-92). The parent reported that the student became anxious in response to the virtual intake (Tr. p. 292). The parent indicated that after the April 21, 2020 CSE meeting, she wrote to State officials for help (Tr. p. 324). The parent testified that she asked State representatives for a reprieve from the regulation requiring the district to explore State-approved options but was told that she had to look at a State-approved school because of the pandemic (id.). The parent indicated that she was not required to participate in an intake for the second program that accepted the student (Tr. pp. 326-27). She testified that the student participated in two intakes (Tr. pp. 329, 334). She recalled telling the out-of-district coordinator that if she contacted her again about intake meetings it would be harassment (Tr. p. 329).¹¹ She reported that the coordinator contacted her three times (Tr. p. 330).

The September 10, 2020 CSE meeting information summary indicated that the student was referred to five programs in May 2020 and 12 in-State and 11 out-of-State programs in June 2020 (Dist. Ex. 11 at p. 1). Twelve referrals indicated that the student was not appropriate for their programs, five referrals indicated that their programs were full, one program was closed due to COVID-19, and eight referrals did not respond despite attempted follow ups (id. at p. 2). The student was accepted at two programs and two programs indicated that the parent did not make the student available to complete the intake process (id.). The district recommended the Woods

¹¹ The parent testified that the out-of-district coordinator emailed her on July 6th, August 3rd, and August 5th asking her to do virtual intakes (Tr. pp. 329-30). She recalled that she explained to the coordinator that the student would not be doing virtual intakes and asked her to give the schools her number so they could call and ask her questions about the student (Tr. p. 330).

School as the particular nonpublic school to which the student would be assigned (id.). The meeting summary indicated that the parent disagreed with the CSE's recommendation (id.).

The school psychologist recalled that a representative from the Woods School participated in the September 2020 meeting and the CSE discussed how the school could meet the student's needs (Tr. pp. 82-83; see Dist. Ex. 11 at p. 1). The parent was represented by an advocate and an attorney at the meeting (Tr. p. 240; see Dist. Ex. 11 at p. 1). The CSE discussed transportation because the parent was concerned about the distance of the program from her home and staff from the Woods School offered possibilities for transporting the student to and from home and the parent to the school for visits (Tr. pp. 83-85, 240-41). In addition, the CSE discussed the parent's other concerns with the program recommendations and the placement of the student at the Woods School (Tr. pp. 84, 87-93, 102, 241-44).

The regular education teacher for the district indicated that at the September 2020 CSE meeting the chairperson had a placement at the Woods School for the student and the CSE was going to make the recommendation for placement there based on its belief that the program would meet the student's needs (Tr. pp. 239-40; Dist. Ex. 11 at p. 1). The regular education teacher confirmed that there were two State-approved schools that accepted the student (Tr. p. 246). She indicated that there was a discussion in reference to both schools at the CSE meeting and based on the information provided, the Woods School was a more appropriate program (Tr. p. 247). The regular education teacher did not know why a representative from the other program was not present at the CSE meeting (id.). She indicated that the CSE determined that the Woods School was appropriate at the end of the CSE meeting (Tr. p. 248). The regular education teacher testified that the CSE members decided what the recommended placement was going to be at the end of the CSE meeting; she noted that the CSE reviewed the programming, and the out-of-district case manager reviewed her list of programs that were part of the search (Tr. pp. 248-49). The regular education teacher reported that she was individually polled as to whether the program was appropriate when the CSE chairperson asked if anyone had any objections to the placement (Tr. p. 249). She could not recall if a vote was taken (Tr. p. 249). The regular education teacher opined that it would be difficult for any student to leave their home and go away to school and acknowledged that it might be more difficult for the student in question (Tr. pp. 249-50). She opined that it was important for the student to have consistency and the support of his family and community (Tr. p. 250).

The parent testified that she learned the district was recommending the student for the Woods School on September 10, 2020 at the CSE meeting (Tr. pp. 292-93). The parent opined that the Woods School placement was inappropriate largely based on its distance from the student's home and community (Tr. pp. 294-96). In comparison, the parent indicated that the student would not be removed from his community if he attended Shrub Oak (Tr. pp. 331-32). She indicated that it would take two hours to get to Shrub Oak using public transportation (train) (Tr. p. 333).¹²

The school psychologist testified that Shrub Oak was not a State-approved school and she did not know the penalty for a district placing a student in a non-approved school (Tr. p. 94). The director of special and alternative education also testified that Shrub Oak was not State approved

¹² In contrast, the parent testified that, by public transportation, it would take her four hours and forty-seven minutes to reach the Woods School (Tr. p. 294).

and indicated it was important for a school to be approved because it "provides almost a guarantee to the District that the program will be implemented with fidelity, that the staff are certified and the clinicians or service providers are licensed" (Tr. pp. 176-77).

Overall, the evidence in the hearing record shows that the district's pursuit and identification of a State-approved nonpublic school for the student, rather than placing the student at Shrub Oak, which was not a State-approved nonpublic school, was consistent with the district's obligations under the IDEA and related State law, regulation, and policies. In addition, the district made reasonable attempts to place the student at an appropriate in-State residential facility but was unable to do so as a result of a lack of available in-State residential programs that were able to address the student's needs. The parent's frustration with the process is understandable, particularly given the district's initial agreement with the plan of placing the student at the parent's preferred placement, Shrub Oak. However, as the district's recommendations were consistent with federal and State requirements, there is no basis for finding that it committed a procedural or substantive violation of the IDEA as a result of its insistence that the student's residential placement be State approved.

In light of the above, there is no basis in the hearing record to disturb the IHO's determination that the district's decision to place the student at the Woods School provided the student with a FAPE in the LRE.

VII. Conclusion

As noted above, on the issue of the district's offer of a FAPE to the student for the 2020-21 school year, the parent has not set forth a clear and concise statement of the issues presented for review and has thus abandoned any appeal of the IHO's findings underlying his determination that the district offered the student a FAPE. However, out of an abundance of caution, I have reviewed the issue of the district's requirement for and identification of a State-approved residential placement for the student to attend, and the evidence in the hearing record supports the IHO's determination that the district offered the student a FAPE in the LRE for the 2020-21 school year.

I have considered the remaining contentions and find it is unnecessary to address them in light of my determinations above.

THE APPEAL IS DISMISSED.

**Dated: Albany, New York
August 18, 2021**

**SARAH L. HARRINGTON
STATE REVIEW OFFICER**

EXHIBIT M

New York State Education Department

Approved Private, Special Act, State-Operated and State-Supported Schools in New York State

Official NYSED downloadable workbook - complete "853 Only" worksheet

<https://www.nysed.gov/special-education/approved-private-special-act-state-operated-and-state-supported-schools-new-york>

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
Abilities First, Inc. 24 Firemens Way LaGrange, NY 12603 (845) 452-0774	5-21	HVRO	Day
Abilities First, Inc. 167 Myers Corners Road, Suite 104 Wappingers Falls, NY 12590 (845) 298-2090	5-7	HVRO	
Abilities First, Inc. 930 Raz Avenue New Windsor, NY 12553 (845) 564-1855	5-21	HVRO	Day
Abilities First, Inc. Hyde Park Elementary School 4327 Albany Post Road Hyde Park, NY 12538 (845) 452-0774	5-8	HVRO	Day
Abilities First, Inc. Middletown Educational Center 379 Mount Hope Road Middletown, NY 10940 (845) 344-2292	5-7	HVRO	Day
Abilities First, Inc. Straus Family Center 59 Windsor Highway New Windsor, NY 12553 (845) 330-0356	5-21	HVRO	Day
AHRC Suffolk Chapter 45 Crossways East Road Bohemia, NY 11716 (631) 218-4949 (631) 585-0233 (Fax)	5-21	LIRO	Day
Alternatives for Children 168 Hill Street Southampton, NY 11968 (631) 283-3272	5-8	LIRO	Day
Anderson Center for Autism 4885 Route 9, P.O. Box 367 Staatsburg, NY 12580-0367 (845) 889-4034 (845) 889-3104 (Fax)	5-21	HVRO	Day/Residential
Arc Erie County New York (The) Education Program 777 Maryvale Drive Cheektowaga, NY 14225 (716) 631-9515	5-21	WRO	Day
Arc Erie County New York (The) Education Program Green Acres 205 Yorkshire Road Tonawanda, NY 14150 (716) 876-3901	5-21	WRO	Day
ASCENT: A School for Individuals with Autism 819 Grand Boulevard Deer Park, NY 11729 (631) 254-6100	5-21	LIRO	Day
Aspire of Western New York, Inc. 4635 Union Road Cheektowaga, NY 14225 (716) 505-5500	5-21	WRO	Day
Astor Services for Children and Families 6339 Mill Street P.O. Box 5005 Rhinebeck, NY 12572 (845) 871-1000 (845) 876-2020 (Fax)	5-14	HVRO	Day
Baker Hall, Inc. dba OLV Human Services Victory Learning Center Amberlynn 170 Martin Road Lackawanna, NY 14218 (716) 828-7724	5-21	WRO	Day

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
Baker Hall, Inc. dba OLV Human Services Baker Academy 51 St. John's Parkside Buffalo, NY 14218 (716) 828-7956	5-8	WRO	Day
Baker Hall, Inc. dba OLV Human Services St. Francis 125 Martin Road Lackawanna, NY 14218 716-828-9771	11-21	WRO	Day/Residential
Baker Hall, Inc. dba OLV Human Services 650 Ridge Road Lackawanna, NY 14218	5-21	WRO	Day
Baker Hall, Inc. dba OLV Human Services Baker Hall School 777 Ridge Road Lackawanna, NY 14218 (716) 828-9521	7-21	WRO	Day
Baker Hall, Inc. dba OLV Human Services Nelson Cottage 150 Martin Road Lackawanna, NY 14218 (716) 828-7689	11-21	WRO	Day/Residential
Birch Family Services, Inc. Phyllis L. Susser School for Exceptional Children at Springfield Gardens 145-02 Farmer's Boulevard Springfield Gardens, NY 11434 (718) 527-5220	5-21	NYCRO	Day/Residential
Birch Family Services, Inc. School for Exceptional Children 554 Fort Washington Avenue New York, NY 10033 (718) 591-8100	5-7	NYCRO	Day
Brookville Center for Children's Services 189 Wheatley Road Brookville, NY 11545 (516) 626-1075 Ext. 3350	5-21	LIRO	Day/Residential
Buffalo Hearing and Speech Center, Inc. 170 Rosewood Terrace Cheektowaga, NY 14225 (716) 885-8318 Ext. 2298	5-8	WRO	Day
CAM-Held Enterprises, Inc. dba Just Kids Early Childhood Learning Center 1295 4th Street New Suffolk, NY 11956 631-924-0008	5-8	WRO	Day
Cam-Held Enterprises, Inc. dba Just Kids Early Childhood Learning Center 35 Longwood Road, PO Box 12 Middle Island, NY 11953 (631) 935-9211	5-8	LIRO	Day
Cardinal Hayes School 3374 Franklin Avenue P.O. Box CH Millbrook, NY 12545 (845) 677-3251	5-21	HVRO	Day
Center For Developmental Disabilities 72 South Woods Road Woodbury NY, 11797 (516) 921-7650	5-21	LIRO	Day/Residential
Center for Disability Services, Inc. 133 Aviation Road Queensbury, NY 12890 (518) 437-5700	5-21	ERO	Day
Center for Disability Services, Inc. 128 Aviation Road Queensbury, NY 12890 (518) 437-5700	5-21	ERO	Day
Center for Disability Services, Inc. Langan School 314 South Manning Boulevard Albany, NY 12208 (518) 437-5700	5-21	ERO	Day

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
Center for Disability Services, Inc. St. Margaret's Center 27 Hackett Boulevard Albany, NY 12208 (518) 437-5700	5-21	ERO	Day
Center for Disability Services, Inc. Zoller Elementary School 1880 Lancaster Street Schenectady, NY 12308 (518) 437-5606	5-21		Day
Center for Discovery, Inc. (The) Café Building South Campus 51 Kinnebrook Road Monticello, NY 12701 (845) 707-8480 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential
Center for Discovery, Inc. (The) CSA Gatehouse 3 Hakihet Circle Monticello, NY 12701 (845) 707-8129 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential
Center for Discovery, Inc. (The) Discovery School at Rock Hill 219 Lake Louise Marie Rd Rock Hill, NY 12775 (845) 707-8480 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential
Center for Discovery, Inc. (The) Discovery School of Arts (DSA) 219 Main Street Hurleyville, NY 12747 (845) 707-8129 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential
Center for Discovery, Inc. (The) Gym Building South Campus 31 Kinnebrook Road Monticello, NY 12701 (845) 707-8480 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential
Center for Discovery, Inc. (The) Learning Center South Campus 8 Discovery Boulevard Monticello, NY 12701 (845) 707-8480 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential
Center for Discovery, Inc. (The) Michael Ritchie Big Barn School 56 Discovery Ridge Road Hurleyville, NY 12747 (845) 707-8480 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential
Center for Discovery, Inc. (The) Ridge School Building 1 (Middle Quad) 84 Tekene Road Monticello, NY 12701 (845) 707-8480 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential
Center for Discovery, Inc. (The) Ridge School Building 2 (Lower Quad) 70 Tekene Road Monticello, NY 12701 (845) 707-8480 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential
Center for Discovery, Inc. (The) Ridge School Building 3 (Upper Quad) 92 Tekene Road Monticello, NY 12707 (845) 707-8480 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
Center for Discovery, Inc. (The) Tank Building South Campus 83 Kinnebrook Road Monticello, NY 12701 (845) 707-8480 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential
Center for Discovery, Inc. (The) TCFD Children's Specialty Hospital 195 Lake Louise Marie Road Rock Hill, NY 12275 (845) 707-8129 Enhanced ratio is in lieu of 1:1 aides.	5-21	HVRO	Day/Residential
Center for Handicapped Children, Inc. dba CHC Learning Center 1085 Eggert Road Amherst, NY 14226 (716) 204-0355 (716) 204-0354 (Fax)	5-21	WRO	Day
Center for Spectrum Services 70 Kukuk Lane Kingston, NY 12401 (845) 336-2616 (845) 336-4153 (Fax)	5-15	HVRO	Day
Center for Spectrum Services Ellenville 4 Yankee Place Ellenville, NY 12428 (845) 647-6464 (845) 647-3456 (Fax)	5-15	HVRO	Day
Cerebral Palsy of Westchester, Inc. 1186 King Street Rye Brook, NY 10573 (914) 937-3800 ext. 235 (914) 937-0967 (Fax)	5-21	HVRO	Day
Child School (The)/Legacy High School Elementary School Program Westview Building 587 Main Street Roosevelt Island, NY 10044 (212) 223-5055	5-12	NYCRO	Day
Child School (The)/Legacy High School High School Program Eastwood Building 566 Main Street Roosevelt Island, NY 10044 (212) 233-5055	14-16	NYCRO	Day
Child School (The)/Legacy High School High School Program Island House 585 Main Street Roosevelt Island, NY 10044 (212) 233-5055	15-21	NYCRO	Day
Child School (The)/Legacy High School Middle School Program Rivercross Building 537 Main Street Roosevelt Island, NY 10044 (212) 233-5055	12-14	NYCRO	Day
Children's Home of Kingston Grove Street Academy 26 Grove Street Kingston, NY 12401 (845) 331-1448 (845) 334-9507 (Fax)	8-21	HVRO	Day/Residential Male Only
Children's Home of Wyoming Conference 1182 Chenango Street Binghamton, NY 13901 (607) 772-6904 1-800-772-6904	5-21	CRO	Day/Residential
Children's Unit for Treatment & Evaluation Institute for Child Development Binghamton University 4400 Vestal Parkway East Vestal, NY 13902-6000 (607) 777-2829	5-13	CRO	Day

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
Clear View School Treatment Program 480 Albany Post Road Briarcliff Manor, NY 10510-2436 (914) 941-9513 (914) 941-2339 (Fax)	5-21	HVRO	Day
Crossroads Center for Children 395 Becker Drive Schenectady, NY 12306 (518) 280-0083 (518) 280-0086 (Fax)	5-9	ERO	Day
Developmental Disabilities Institute dba Brightway Living & Learning 25 Little Plains Road Huntington, NY 11743 (631) 266-4400	5-21	LIRO	Day/Residential
Developmental Disabilities Institute dba Brightway Living & Learning 90 Air Park Drive Ronkonkoma, NY 11779 (631) 580-4000	5-8	LIRO	Day
Developmental Disabilities Institute dba Brightway Living & Learning 99 Hollywood Drive Smithtown, NY, 11787 (631) 366-2901	5-21	LIRO	Day/Residential
Devereux Advanced Behavioral Health New York CARES 27 Radio Circle Drive Mt. Kisco, NY 10549 (914) 941-1991	5-21	HVRO	Day
Devereux Day Academy 20 Park Lane Highland, NY 12528 (845) 758-1899	10	HVRO	Day
Devereux New York 40 Devereux Way Red Hook, NY 12571 (845) 758-1899 (845) 758-1817 (Fax)	5-21	HVRO	Day/Residential
Easter Seals NY, Inc. Golisano Autism Center 50 Science Parkway Rochester, NY 14620 (585) 957-9247	5-21	WRO	Day/Residential
Easter Seals NY, Inc. The Kessler Center 402 Rogers Parkway Rochester, NY 14617 (585) 957-7158	5-21	WRO	Day/Residential
Eden II School for Autistic Children, Inc. 15 Beach Street Staten Island, NY 10304 (718) 816-1422	5-21	NYCRO	Day
Eden II School for Autistic Children, Inc. 309 St. Paul's Avenue Staten Island, NY 10304	5-21	NYCRO	Day
Eden II School for Autistic Children, Inc. 663 Manor Road Staten Island, NY 10314	5-21	NYCRO	Day
Eden II School for Autistic Children, Inc. Genesis Program St. Raphael's School 600 Newbridge Road East Meadow, NY 11554 (516) 937-1397	5-21	LIRO	Day
Ferndcliff Manor-School for Adaptive and Integrated Learning at Ferndcliff Manor School for Adaptive and Integrated Learning Our Lady of Perpetual Help School 1 Cross Road Ardsley, NY 10502 (914) 591-5439 x2303	5-21	HVRO	Day/Residential
Gateway-Longview 10 Symphony Circle Buffalo, NY 14021 (716) 783-3157	5-7	WRO	Day
Gateway-Longview Lynde and Knox Building 6350 Main Street Williamsville, NY 14221 (716) 633-7266	5-21	WRO	Day/Residential

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
Green Chimneys Children's Services 400 Doansburg Rd., Box 719 Brewster, NY 10509-0719 (845) 279-2995 (718) 892-6810 (Tie Line) (845) 279-3077 (Fax)	5-21	HVRO	Day/Residential
Green Chimneys Children's Services Clearpool Campus 33 Clearpool Road Carmel, NY 10512 (845) 225-8226	9-14	HVRO	Day
Hagedorn Little Village School 750 Hicksville Road Seaford, NY 11783-1328 (516) 520-6000 (516) 796-6341 (Fax)	5-14	LIRO	Day
Hallen Center, Inc. dba Hallen Center for Education Hallen School 97 Centre Avenue New Rochelle, NY 10801 (914) 636-6600	5-21	HVRO	Day
Harmony Heights School 60 Walnut Avenue East Norwich, NY 11732 (516) 922-6688 (516) 922-6126 (Fax)	13-21	LIRO	Day Female Only
Hawthorne Foundation, Inc. dba Hawthorne Country Day School 5 Bradhurst Avenue Hawthorne, NY 10532 (914) 592-8526 (914) 592-3227 (Fax)	5-21	HVRO	Day
Hawthorne Foundation, Inc. dba Hawthorne Country Day School Manhattan Annex 233 Broadway, 4th Floor New York, NY 10279 (212) 201-6531	5-21	NYCRO	Day
HeartShare Education Center 1825 Bath Avenue Brooklyn, NY 11214 (718) 621-1614	5-21	NYCRO	Day/Residential
Hebrew Academy for Special Children 6220 14th Avenue Brooklyn, NY 11219 (718) 234-2018	5-21	NYCRO	Day
Hebrew Academy for Special Children 321 Woodmere Boulevard Woodmere, NY 11598 (516) 295-1340	5-10	LIRO	Day
Hillside Children's Center Campus School Rochester 1183 Monroe Avenue Rochester, NY 14620 (585) 256-7628	5-21	WRO	Day/Residential
Hillside Children's Center Finger Lakes Campus 7432 County House Road Auburn, NY 13021 (315) 258-2150	5-21	WRO	Residential
Hillside Children's Center Snell Farm Children's Center 7320 Snell Hill Road Bath, NY 14810 (607) 776-5115	12-21	WRO	Residential Male Only/Day
Hillside Children's Center Werner L. Halpern Educational Center 695 Bay Road Webster, NY 14580 (585) 256-7500	12-21	WRO	Day
Hillside Family of Agencies Crestwood Children's Center 2075 Scottsville Road Rochester, NY 14623 (585) 429-2844	5-14	WRO	Day/Residential

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
House of Good Shepherd Tilton School 1550 Champlin Avenue Utica, NY 13502 (315) 235-7600	5-21	CRO	Day/Residential
John A. Coleman School 317 North Street White Plains, NY 10605 (914) 597-4054 (914) 397-1765 (fax)	5-8	HVRO	Day
John A. Coleman School dba Elizabeth Seton Children's School 300 Corporate Blvd. South Yonkers, NY 10701 (914) 294-6171	5-21	HVRO	Day
Julia Dyckman Andrus Memorial, Inc. The Orchard School 1156 North Broadway Yonkers, NY 10701 (914) 965-3700	5-16	HVRO	Day/Residential
Karafin School, Inc 272 North Bedford Road Mt. Kisco, NY 10549 (914) 666-9211 (914) 666-9868 (Fax)	6-21	HVRO	Day
Ketchum-Grande Memorial School/Charlton School 322 Lake Hill Road PO Box 47 Burnt Hills, NY 12027 (518) 399-8182 (518) 399-8195 (Fax)	13-21	ERO	Day/Residential Female Only
LaSalle School 391 Western Avenue Albany, NY 12203 (518) 242-4731	11-21	ERO	Day/Residential Male Only
League School (The) 567 Kingston Avenue Brooklyn, NY 11203 (718) 778-5911	5-21	NYCRO	Day
Learning Disabilities Association of Western New York dba Beyond Learning Center 2049 George Urban Boulevard Depew, NY 14043 (716) 901-8700	5-21	WRO	Day
LearningSpring School 247 East 20th Street New York, NY 10003 (212) 239-4926 (212) 239-5226 (Fax)	5-14	NYCRO	Day
Lorge School (The) 353 West 17th Street New York, NY 10011 (212) 929-8660 (212) 989-8249 (Fax)	5-21	NYCRO	Day
Lowell School (Elementary and Middle) 24-20 Parsons Blvd Queens, NY 11357 (718) 352-2160 (718) 352-3654 (Fax) Nonaccessible Site	5-14	NYCRO	Day
Lowell School Lowell Upper School of Flushing 142-45 58th Road Flushing, NY 11357 (718) 445-4222 (718) 353-6942 (Fax) Accessible Site	13-21	NYCRO	Day
Martin De Porres School for Exceptional Children 621 Elmont Road Elmont, NY 11003 (516) 502-2840	5-21	LIRO	Day/Residential
Mary Cariola Children's Center dba Mary Cariola Center 1000 Elmwood Avenue, Suite 100, Rochester, NY 14620 (585) 271-0761	5-21	WRO	Day

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
Mary Cariola Children's Center dba Mary Cariola Center East Avenue Campus 2617 East Avenue Rochester, NY 14620 (585) 271-0761	5-21	WRO	Day
Mountain Lake Academy 386 River Road Lake Placid, NY 12946 (518) 523-4300	12-21	ERO	Day/Residential Male Only
Nassau Suffolk Services for the Autistic The Martin C. Barell School 80 Hauppauge Road Commack, NY 11725 (631) 462-0386 (631) 462-4201 (Fax)	5-21	LIRO	Day
Norman Howard School (The) 275 Pinnacle Road Rochester, NY 14623 (585) 344-8010	10-21	WRO	Day
Northeast Parent & Child Society 1821 Hamburg Street Schenectady, NY 12304 (518) 346-1273 (518) 370-3705 (Fax)	10-21	ERO	Day/Residential
Northside Center for Child Development Day School 1475 Park Avenue New York, NY 10029 (212) 426-3464	5-8	NYCRO	Day
NYSARC, Inc. dba AHRC of New York City AHRC Middle/High School at the Regina Pacis School 1201 66th Street Brooklyn, NY 11219 (718) 780-2532	12-21	NYCRO	Day
NYSARC, Inc. dba AHRC of New York City Brooklyn Blue Feather 2335 Gerritsen Avenue Brooklyn, NY 11229 (718) 780-2532	5-11	NYCRO	Day
NYSARC, Inc. dba AHRC of New York City Staten Island Preparatory School 23 Summit Street Staten Island, NY 10307	5-21	NYCRO	Day
NYSARC, Inc. dba The Arc Mid-Hudson The Brookside School 11 Tanhouse Brook Road P.O. Box 67 Cottkill, NY 12419 (845) 687-7250	5-21	HVRO	Day
Oak Hill School 39 Charlton Road Scotia, NY 12302 (518) 399-5048	5-15	ERO	Day
Parkside School 48 West 74th Street New York, NY 10023 (212) 721-8888 (212) 721-1547 (Fax)	5-11	NYCRO	Day
Parsons Child and Family Center Early Learning Center 125 Bigelow Avenue Schenectady, NY 12304 (518) 292-5510	5-7	ERO	Day/Residential
Parsons Child and Family Center Neil Helman School 60 Academy Road Albany, NY 12208 (518) 426-2600 (518) 447-8343 (Fax)	5-21	ERO	Day/Residential
Pathfinder Village 3 Chenango Road Edmeston, NY 13335 (607) 965-8377	5-21	ERO	Day/Residential

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
QSAC, Inc. 12-10 150th Street Whitestone, NY 11357 (718) 728-8476	5-21	NYCRO	Day
QSAC, Inc. 3200 Jermone Avenue Bronx, NY 10468 (718) 728-8476	5-21	NYCRO	Day
Reece Middle School 50-52 East 130th Street New York, NY 10035 (212) 289-4872	11-14	NYCRO	Day
Reece School (The) 25 East 104th Street New York, NY 10029 (212) 289-4872 (212) 423-9652 (Fax)	5-15	NYCRO	Day
Reece School (The) The Upper School 314 East 110th Street New York, NY 10029 (212) 289-4872	5-21	NYCRO	Day
Rockland Institute for Special Education (RISE) 972 Chestnut Ridge Road Spring Valley, NY 10977 (845) 352-3307 (845) 352-3375 (Fax)	5-21	HVRO	Day
Ryken Educational Center Xaverian High School 7100 Shore Road Brooklyn, NY 11209 (718) 836-7100 (718) 836-7114 (Fax)	13-21	NYCRO	Day
School of the Holy Childhood 100 Groton Parkway Rochester, NY 14623 (585) 359-3710	5-21	WRO	Day
School of the Holy Childhood 900 Jefferson Road Rochester, NY 14623 (585) 359-3710	5-21	WRO	Day
SCO Family of Services Theresa Paplin School 85-70 148th Street Briarwood, NY 11435 (718) 658-8180	10-21	NYCRO	Day/Residential
SCO Family of Services Madonna Heights Services 151 Burrs Lane P.O. Box 8020 Dix Hills, NY 11746 (631) 643-8800 Ext. 212	12-21	LIRO	Day/Residential Female Only
SCO Family of Services The Christopher School 1870 Schieffelin Place Bronx, NY 10466 (718) 405-7060	13-21	NYCRO	Residential
SCO Family of Services Tyree Learning Center Residential Treatment Center Park and Downing Avenue Sea Cliff, NY 11579 (516) 671-0501	5-21	LIRO	Residential
Shield of David Institute, Inc. dba Shield 144-61 Roosevelt Avenue Flushing, NY 11354 (718) 939-8700	5-21	NYCRO	Day
Springbrook New York, Inc. 105 Campus Drive Oneonta, NY 13820 (607) 286-7171 (607) 286-7166 (Fax)	5-21	ERO	Day/Residential
St. Anne Institute 160 North Main Avenue Albany, NY 12206 (518) 437-6500 (518) 437-6555 (Fax)	12-21	ERO	Day/Residential Female Only

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
St. Catherine's Center for Children 30 North Main Avenue Albany, NY 12203 (518) 453-6710	5-13	ERO	Day/Residential
St. Colman's Home Autism Program 11 Haswell Road Watervliet, NY 12189 (518) 273-4911 (518) 273-3312 (Fax)	5-21	ERO	Residential
St. Colman's Home Emotional Disabilities Program 11 Haswell Road Watervliet, NY 12189 (518) 273-4911 (518) 273-3312 (Fax)	5-21	ERO	Day
St. Dominic's Family Services 488 Western Highway Blauvelt, NY 10913 (845) 359-3400 (845) 359-4253 (Fax)	5-21	HVRO	Day
Stanley G. Falk School 1 Cambridge Street Buffalo, NY 14223 (716) 836-7566	5-21	WRO	Day
Stanley G. Falk School 31 Rossler Avenue Cheektowaga, NY 14206 (716) 894-3892	5-21	WRO	Day
Stanley G. Falk School Mullen Campus 130 Syracuse Street Tonawanda, NY 14150 (716) 882-0090	5-21	WRO	Day
Stanley G. Falk School Theodore Roosevelt Elementary School 283 Washington Avenue Kenmore, NY 14217	5-21	WRO	Day
Summit Center, Inc. (The) 124 Elmwood Avenue Buffalo, NY 14201 (716) 629-3477	5-21	WRO	Day
Summit Center, Inc. (The) 150 Stahl Road Getzville, NY 14068 (716) 629-3447 (716) 629-3499 (Fax)	5-21	WRO	Day
Summit Center, Inc. (The) 165 Creekside Drive Amherst, NY 14228 (716) 810-7700	5-21	WRO	Day
Summit Center, Inc. (The) 30 Hazelwood Drive Amherst, NY 14228 (716) 629-3477	5-21	WRO	Day
Summit School (The) 339 North Broadway Upper Nyack, NY 10960 (845) 358-7772	11-21	HVRO	Day/Residential
Summit School (The) Elementary and Junior High 183-02 Union Turnpike Flushing, NY 11366 (845) 358-7772	6-21	NYCRO	Day
Summit School (The) Upper School 187-30 Grand Central Parkway Jamaica Estates, NY 11432 (718) 264-2931 Intensive Ratio in Leui of 1:1 Aides	6-21	NYCRO	Day
Tiegerman Elementary School 100 Glen Cove Avenue Glen Cove, NY 11542 (516) 609-2000 (516) 609-2014	5-14	LIRO	Day

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
Tiegerman High School 87-25 136th Street Richmond Hill, NY (718) 291-2807	14-21	NYCRO	Day
Tiegerman Middle School 27 Cedar Swamp Road Glen Cove, NY 11542 (516) 609-2000	11-16	LIRO	Day
Tiegerman School 70-24 47th Avenue Woodside, NY (718) 476-1163	5-21	NYCRO	Day
UCP of New York City Brooklyn Campus 175 Lawrence Avenue Brooklyn, NY 11230 (718) 436-7979 (718) 436-0071 (Fax)	5-21	NYCRO	Day
United Cerebral Palsy Association of Greater Suffolk, Inc. 9 Smith Lane Commack, NY 11725 (631) 543-2338	5-21	LIRO	Day/Residential
United Cerebral Palsy Association of Nassau County The Children's Learning Center 380 Washington Avenue Roosevelt, NY 11575 (516) 378-2000	5-21	LIRO	Day
Upstate Cerebral Palsy, Inc. dba Upstate Caring Partners Chadwicks Education Center 3390 Brooks Lane Chadwick, NY 13319 (315) 724-6907 Intensive Ratio in Lieu of 1:1 Aides	12-21	CRO	Day/Residential
Upstate Cerebral Palsy, Inc. dba Upstate Caring Partners The Root Farm 2860 King Road Sauquoit, NY 13456 (315) 927-2641 Intensive Ratio in Lieu of 1:1 Aides	12-21	CRO	Day
Upstate Cerebral Palsy, Inc. dba Upstate Caring Partners Rome Education Center 130 Brookley Road Rome, NY 13441-4300 (315) 724-6907 Intensive Ratio in Lieu of 1:1 Aides	5-21	CRO	Day/Residential
Upstate Cerebral Palsy, Inc. dba Upstate Caring Partners Utica Education Center Utica, NY 13501 (315) 724-6907 (315) 724-6783 (Fax) Intensive Ratio in Lieu of 1:1 Aides	5-21	CRO	Day/Residential
Vanderheyden Hall 614 Cooper Hill Road Wynantskill, NY 12198 (518) 283-6500	12-21	ERO	Day/Residential
Variety Child Learning Center 253 Bellrose Ave East Northport, NY 11731 (516) 921-7171	5-7	LIRO	Day
Villa of Hope 3300 Dewey Avenue Rochester, NY 14616 (585) 581-4619 (585) 865-5219 (Fax)	13-21	WRO	Day
Westchester School for Special Children 45 Park Avenue Yonkers NY, 10703 (914) 376-4300 ext. 818 (914) 965-7059 (Fax)	5-21	HVRO	Day
Westchester School for Special Children 40 Brewster Ave Yonkers, NY 10701 (914) 376-4300 Ext 852	5-21	HVRO	Day

Agency / Address / Contact Information	Ages Served	SEQA Region	Day or Residential
Westchester School for Special Children 520 Route 22 North Salem, NY 10560 (914) 376-4300	5-21	HVRO	Day
Wildwood School 1202 Troy-Schenectady Road Building 4 Latham, NY 12110 (518) 836-2200	18-21	ERO	Day
Wildwood School 2995 Curry Road Extension Schenectady, NY 12303 (518) 836-2200	5-21	ERO	Day
Woodward Children's Center 201 West Merrick Road Freeport, NY 11520 (516) 379-0900	5-21	LIRO	Day
Wraparound Services of the Hudson Valley, Inc. dba United Cerebral Palsy of Ulster County 25 Webster Street Kingston, NY 12401 (845) 336-7235	5-21	HVRO	Day
Wraparound Services of the Hudson Valley, Inc. dba United Cerebral Palsy of Ulster County 250 Tuyenbridge Road Lake Katrine, NY 12449 (845) 336-7235 (845) 336-7248 (Fax)	5-21	HVRO	Day
Variety Child Learning Center 72 Farmedge Road Levittown, NY 11756 (516) 921-7171 800-933-8779 (516) 921-8130 (Fax)	5-7	LIRO	Day

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

AFFIRMATION OF SERVICE

Appellate Division Docket No.: 2026-10900

I, Robert A. Cox, affirm under the penalties of perjury that:

1. The affiant ☒ is ☐ is not a party to the action, is 18 years of age or older, and resides at:

Emmet House, Apt. 1, Clyde Road, Ballsbridge
Dublin 4, D04 PD65, Ireland

2. On the 6th day of October, 2026, the affiant served the following described papers upon the persons listed in paragraph 5 hereof:

Notice of Motion pursuant to CPLR 5519(c); Affirmation in Support;
Memorandum of Law; and Exhibits A-M.

3. The number of copies served on each of said persons was 1.

4. The method of service on each of said persons was:

- ☐ By delivering the paper to the person personally pursuant to CPLR 2103(b)(1).
- ☐ By mailing the paper pursuant to CPLR 2103(b)(2).
- ☐ By leaving the paper at the attorney's office pursuant to CPLR 2103(b)(3).
- ☐ By depositing the paper in the attorney's office letter drop or box pursuant to CPLR 2103(b)(3).
- ☐ By leaving the paper at the person's residence pursuant to CPLR 2103(b)(4).

- ☐ By transmitting the paper by facsimile transmission pursuant to CPLR 2103(b)(5).
- ☐ By dispatching the paper by overnight delivery service pursuant to CPLR 2103(b)(6).
- ☒ By electronic mail delivery.
- ☐ By filing on NYSCEF.

5. The names of the persons served and the email addresses at which service was made are:

Michael E. Liptrot - mliptrot@ingermansmith.com

Michael Raniere - mraniere@ingermansmith.com

I affirm this 6th day of October, 2026, under the penalties of perjury under the law of New York, which may include fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

/s/ Robert A. Cox

Robert A. Cox, Petitioner-Respondent Pro Se

+353 89 972 0669