ILLINOIS STATE BOARD OF EDUCATION
DUE PROCESS HEARING

IN THE MATTER OF	)	**CASE #2008-0078**
[redacted]	)	
	)	
	)	**JUDGE JULIA QUINN DEMPSEY**
AND	)	**IMPARTIAL DUE PROCESS**
	)	**HEARING OFFICER**
[redacted]	)	
[redacted]	)	

PROCEDURAL INFORMATION

On Tuesday, April 15 2008 at 9:00 AM, an Impartial Due Process Hearing was convened by Judge Julia Quinn Dempsey, the Hearing Officer, on behalf of [redacted], hereinafter the Student, at the [redacted] IL The hearing continued on April 16, 2008 and then concluded on April 17, 2008. No transcript was ordered. The Parties then submitted post-testimony, copies of cases they wished the Hearing Officer to consider. These were received on April 21, 2008 and the Hearing Officer, with the Parties agreement, closed the record on April 21, 2008. The Hearing Officer has jurisdiction to hear and decide this matter under 105ILCS 5/14 - 8.02a et seq., 23 Illinois Administrative Code 226.600 et seq., the Individuals with Disabilities Act, as amended 20 USC 1400 (IDEA), and 34 CFR 300.507 et seq. The parties were informed of their rights under 105 ILCS 5/14 – 8.02 et seq., 23 Illinois Administrative Code 226.636 and CFR 300.509.

The Parents Attorney, [redacted], filed their Due Process Hearing request, dated August 30, 2007 with [redacted] hereinafter the District. The District filed out ISBE form #16-86 stating the request was received on September 4, 2007 (the day after the Labor Day Holiday). That form was signed by the District Superintendent and submitted, with a cover letter dated the same day to ISBE. The District letter to ISBE was date stamped in at ISBE on September 10, 2007 by Special Education Services and on the same day, ISBE mailed the Notice of Appointment to the Hearing Officer. It was received on September 11, 2007. On September 14, 2007, the District Response to Parents Due Process Complaint Notice was submitted, by fax to the Hearing Officer by [redacted], the Attorney for the District.

On October 3, 2007, the Hearing Office called [redacted] attorney for the Parents and [redacted] attorney for the District regarding the Pre-hearing Conference set for the next day. She learned that Mediation was pending and thus continued the setting of a pre-hearing conference until Mediation concluded. On October 18, 2007, the Hearing Officer learned the Mediation had failed and a series of e-mails ensued among the H.O. and the Parties' Attorneys to set up a pre-hearing conference. The date of November 19, 2007 at 11:00AM was finally agreed. The District submitted its Pre-Hearing Disclosure statement on November 19, 2007 and the Parents had submitted theirs on November 15, 2007. Witness lists and Document lists were also received from both. On November 19, 2007, the pre-hearing conference was held, some discussion was had regarding joint documents and joint exhibits, witnesses were reviewed and hearing dates, times and place were agreed. Some discussion was held on the issues and Parents request for relief. The Parties agreed to 3 days of hearing beginning February 11, 2008 at [redacted] All were to be notified by the attorney for the District regarding the specific location and room numbers.

The Hearing Officer issued a Pre-hearing report on January 30, 2008. By February 4, 2008, hearing documents were in the process of being exchanged and transmitted to the Hearing Officer. On February 6, 2008 at 5:00AM, the Parents' Attorney, [redacted] notified the Hearing Officer and the Attorney for the District, by e-mail that his Father had suffered a massive heart attack in Arizona and he was flying out to be with him. He requested a continuance. Ms. [redacted] and the Hearing Officer readily agreed and via e- mails with Mr. [redacted] assistant, a new hearing date of April 15, 2008 was agreed. It was noted that this was a reimbursement case, and the Student was safely in private school where the Parents had placed him. It is also noted that Mr. [redacted] father, a noted attorney in his own right, subsequently died. The Due Process hearing, as stated earlier began on April 15, 2008, with no further delays.

AGREEMENTS

1. All Parties understood that the Hearing Officer would rule on evidentiary objections at the Hearing and that the Parties could raise on the record at the beginning of the hearing any matters where they disagreed and needed a hearing officer's ruling.

2. It was agreed that the Student's attorney would notify the Hearing Officer as to whether the Student would attend the Hearing.

3. No interpreter would be needed.

4. All witnesses would be excluded prior to their testimony. The hearing would be closed.

5. The District would arrange for a court reporter.

6. The parties were told of the 5-day exclusionary rule.

7. The Parent would begin the presentation of witnesses and evidence. Some variation in the order of proof may occur to accommodate the schedules of witnesses.

8. Opening statements would be limited to 10 minutes each and closing argument to 20 minutes for each Party.

ISSUES PRESENTED

1. Whether an appropriate IEP, with appropriate placement and services for the Student was developed by the District for the 2007-2008 School Year?

2. Whether the programming and services offered by the District are sufficient to provide a Free Appropriate Public Education (FAPE), in the Least Restrictive Environment (LRE) for this Student?

3. Whether the District should pay for or reimburse the Parents for the cost of the unilateral private residential school placement made by the Parents?

PARENTS POSITION

It is the Parents position, as stated by their Attorney in opening statements that their son, the Student, who is now 15 years old, has multiple handicaps, speech/language issues, Opitz FG Syndrome, significant developmental delays and generalized anxiety. They believe he needs the 24-hour care that is provided by [redacted] and that this "holistic" program is necessary for him to be educated. They believe he has been very successful at [redacted], he has made friends, and he participates in sports and is on the school basketball team. He also participates in student activities and is altogether very happy there. They do not believe the [redacted] a private special education day school specializing in Learning Disabilities, where they placed him for 7th and 8th grade with the co-operation of his K-8 District was adequately addressing the Student's social needs and they allege he was not provided appropriate assistive technology. It is their belief that the [redacted] buildings are both too large and confusing for the Student and that the large number of Students would not allow their son the participation opportunities and individual attention and supervision he receives at [redacted], the private facility they placed him at for the 2007-2008 school year. The Parents are very familiar with the District as their older child, a daughter, recently graduated from the District and now attends college. They are well educated regarding their rights under Federal and State law, both Parents being attorneys themselves. They believe they have utilized proper procedures to notify the District that they were placing the Student in a private special education facility and wanted the District to pay for it. They ask the Hearing Officer to find the Student's

IEP proposed by the District inappropriate under IDEA, the placement at [redacted] appropriate and order payment for said placement for the 2007-20087 school year and beyond.

DISTRICTS POSITION

The School District position is that the Due Process Hearing is to decide the issues of whether or not they could have provided a Free Appropriate Public Education (hereinafter FAPE) for the Student in the Least Restrictive Environment (hereinafter LRE) for the 2007-2008 School Year and whether the IEP proposed at the articulation meeting held at [redacted] on May 14, 2007 meeting would have done so for the subsequent school year, that is 2007-2008. They state that the Student does not qualify for more restrictive and isolating placement in a small self-contained special education residential school with only other handicapped students as peers as he does not have a disability that in the past was severely and adversely affecting his ability to acquire an education, he was able to derive a significant, meaningful benefit from the instruction he had been receiving. They sent a staff member to observe the Student and talk to his teacher at [redacted] prior to the articulation meeting. They point to the District's ability to meet the needs of Students who are far more severely handicapped than this Student, their well over a hundred clubs, activity and social organizations, their intramural sports program, the small targeted special education classes available, their large and well-trained faculty as proof of their ability and willingness to meet the Student's needs. They also note that they indicated in the IEP that they would do an assistive technology evaluation, assign an aide if needed and implement accommodations for testing and other activities as required. They also state that they told the Parents the IEP would be adjusted and modified after the Student began attending [redacted] They believe the Parents had decided on a boarding school, for other than educational reasons, well before the June 26, 2007 IEP meeting as evidenced by the two notice letters sent to the District in May and June, prior to the June 26, 2007 IEP meeting. They believe they have followed the law and they can in fact provide the Student with more than the basic floor of education and opportunity that the law requires.

FINDINGS OF FACT

There were a large number of witnesses who testified during the hearing, eight on behalf of the Parents and five for the District. The Parent witnesses testified first since the Parents requested the hearing and bore the burden of going forward as well as the burden of proof. The Mother, who also testified, attended the entire Hearing, as did the District Special Education Director. There were two volumes of Exhibits, one volume of School District exhibits, indexed only with tabs and one volume of Parent exhibits, which is paginated consecutively. The following Findings of Fact address the most significant and relevant information the Hearing Officer relied upon in reaching a decision. The exhibits were all heard, read and considered. With the concurrence of the Parties, on the record, at the beginning of the Due Process Hearing, the Hearing Officer is including all of this material as part of the hearing record and taking Judicial Notice of any of it that was not formally marked and moved into evidence.

The Student was born on July 29, 1992. His Parents divorced in September 2002 and have maintained joint custody of The Student and his older sister. They have both spent about equal time living with their mother or father until the few months prior to the Neuropsychological/Psychoeducational re-Evaluation of March 12, 2007, when the Student began residing primarily with his Father. (Px p.60) This is stated as being due to increasing tension between the Student and his Mother attributed to her attempts to set limits and insist that he complete his homework. (Px p.60). At 6 years of age, he was diagnosed with a mild case of FG/Opitz Syndrome. This is an X-linked genetic disorder, more common in boys, that presents with body shape and head or face issues (this student has an ear that is misshapen and bent out- a classic sign of Opitz FG according to the mother's testimony) as well as some symptoms similar to ADHD, disfluency, stuttering, processing issues, fine motor skills affecting writing, short term memory deficits and some anxiety and social difficulties. It is not a DSM recognized disorder, although it would be mentioned on Axis III (generally medical issues or conditions). (Testimony of Dr. [redacted] MD, Dr. [redacted] PhD and [redacted] mother.) He turned 15 years old the summer after 8th grade and began high school at [redacted] a private residential special education facility in [redacted] IL where his parents placed him.

He received special education services in grades K-6 from [redacted] mainly Occupational Therapy (OT) through 3rd grade and individual Speech and Language (S/L) through 6th grade. The Parents and S.D. #39 reached an agreement to place him at [redacted] a private special education day school, serving mainly children with learning difficulties. (Dx-tab 25A) for his 7th and 8th grade years. He received a comprehensive evaluation in 4th grade and 6th grade which noted findings ranging from average (TONI-3, SS=97) to low average verbal abilities (VIQ=82) and non-verbal extremely low (PIQ=66) on the WISC-III in 3rd grade. He maintained the same overall pattern when tested in 6th grade, although the discrepancies were even further divergent. (Px p.61). These scores are quoted in the specialized assessment done by Dr. [redacted] in March of 2007. She noted that he had been medicated with Straterra when previously tested and he tested much lower when she examined him in March 2007. She said he had been off the meds for about 6 months which would mean he was not medicated when he took the [redacted] placement exam in December 2006 and his distractibility then would have affected the results of that testing as well. He took the [redacted] placement test in December of 2006, but Parents did not receive the results until June 2007. He scored in the 1% when compared to other Students who took the test, though his scores looked slightly better when compared against national norms. (He scored in the 27% for quantitative reasoning for example. Px p.39). Since he has been on the new medication regime since May 2007, testing results from [redacted] none of which were presented at the hearing, should predictably be much improved.

On April 18, 2007, the Parents were notified that a transition meeting would be held at [redacted] on May 14, 2007 for the purpose of reviewing the IEP and determining the child's educational placement. (Px p.138). [redacted] of the District went to [redacted] just prior to this meeting to observe the Student and talk to his teacher She felt, even though the observation was short it was valid and the student acted appropriately. She testified he could certainly be

educated at the District. At this meeting the Student's scores from March 22, 2007 testing were reviewed. It was noted that they were in the low range and low in comparison with other students in his grade. There was also a note that the Student had improved over the prior 2-3 weeks-this may have been because of the new medication that Dr. [redacted] prescribed for him. This meeting was supposed to be the articulation meeting for his entry to high school at the District. The Parent however said she was not ready to discuss placement and was reviewing options for high school, so it became basically an annual review for [redacted]. The District did not participate, but observed and the IEP noted that placement remained at [redacted] and another meeting would be held later. (Px p.147 and testimony of [redacted] and [redacted] who attended for the District). On May 29, 2007, the Parents sent a letter to the District indicating that it was a formal notice that they were considering private placement and asking for a meeting in mid-June. (Px p.34). This was followed by the formal notice of June 14, 2008 notifying the District that they did not think [redacted] was an appropriate placement for the Student and they did not think [redacted] was either. They were placing the Student in an unidentified alternative setting and they expected the District to pay the tuition for it, but not the room and board. (Px p. 35) [redacted] responded to this notice with a letter dated June 22, 2007 and a procedurally required notice of an IEP meeting to be convened on June 26, 2007.(Dx tabs 16, 17). At that meeting, the District indicated it could provide an appropriate program for the Student and would not pay tuition for a residential placement.

The Student appears to have done well at [redacted] at least from the reports of the staff who testified, his own report and the Progress Report on the [redacted] IEP included in Parents exhibits at pp.98-137 and pp169-170. The staff member [redacted] testified there were about 84 students, Jr. High and High School, ages 12 to 20, and that most were parental placements-only 10% or so were placed by school districts. [redacted] the Co-coordinator of Educational Services at [redacted] testified that the cost is $52,000.00 for the 176-178 day school year. The rate for academics is set at $178.00 per day. They are on the ISBE approved list. They do not run a summer program, although in closing argument it was mentioned that the student had gone to Ireland in the summer of 2007 with trip sponsored, I thought, by the school. The Student also took the train from [redacted] to [redacted] to testify at the hearing. He was taking it back the next day.

Dr. [redacted] MD testified on the first day of the hearing. He is board certified in both adult and child and adolescent psychiatry and has been practicing for 16 years. He is well qualified and his testimony was helpful. He saw the Student for the first time on April 25, 2007, after referral from Dr. [redacted] who had done the Neuropsychological/Psychoeducational evaluation of the Student a month earlier. He met the Parents, got the history and spent 45-60 minutes alone with the Student. He spoke with Dr. [redacted] but did not have her written report. He then met with the Parents and gave his opinions. He did not review any school or other records. His initial impression was that the Student had a high level of anxiety, distractibility and agitation and had difficulty communicating-it was virtually impossible to have a conversation. He needed medication for ADD and Resperdol, an anti-psychotic because he had needs beyond anti-anxiety medication and anti-psychotics are used to deal with anxiety and distractibility with "these kids". Whatever the reason, it is very clear that Dr. [redacted] prescribed the correct medication to help the Student. The change in him was remarked on in his [redacted] report of May 14, 2007 after only 2 or 3 weeks and the Student was able to travel to

Ireland during the summer and make a positive impression on the staff at [redacted] in September. Dr. [redacted] testified he was familiar with the District from his patients but also that he was more familiar with other [redacted] He has never visited or attended an IEP meeting at the District. He did not think the Student could function there because his social difficulties were too profound and his coping skills were lacking. He talks to the student and his counselor on the phone at [redacted] and last saw him in February 2008. He is doing better. The meds are very helpful.

I found Dr. [redacted] testimony helpful, as was her report. She is extremely well qualified. In her testimony, she discussed the severity of his learning disabilities and felt strongly (and correctly) that he needed to be given medication to assist him. She stated he need structure both during and after the school day, he needed to participate in extra-curriculars, he needs academic support and social skills development, he needs to be highly regimented or he derails, inside and outside of class. She felt [redacted] was appropriate, but acknowledged that she did not recommend residential placement in her report. In the Report, she did make many pages of recommendations, which the District witnesses testified could be implemented at the District. They should be incorporated in the IEP if he returns. She felt the IEP of [redacted] was not comprehensive enough-he needs more detailed, regimented and organized scheduling and activities. She does not know the District or its program. She only saw the Student the one time and talked to [redacted] before he was accepted-she thought last spring- about what he needed. She acknowledged that the structure could be done at home, but would be difficult. She thinks a class of 6-9 is adequate, he may need an aide. She saw a benefit in his being with non-disabled peers but felt they needed to be aware of his special needs. She had never attended an IEP meeting or visited the District.

The District staff who testified all went into detail about their variety of programs, small class size, availability of clubs, sports and extra-curricular activities, many including special education students and some sponsored and coached by special education instructors. They testified they meet the needs of many students far more handicapped than this student. They are all extremely well qualified and experienced; their vitas are included in the District evidence book at Tabs 27-30. I found their testimony reliable and truthful. It was helpful to me to see and hear from the Student, he was a compelling witness. The Mother's testimony was also informative.

CONCLUSIONS OF LAW AND OPINION

The Hearing Officer has read and considered the post-hearing cases submitted by the Parties. This material included Frank G.,v. Board of Education, 459 F. 3d 356 (2nd Cir., 2006) and Bd. of Educ. of CCSD #21, v. Ill. St. Bd. Of Educ., 938 F. 2d 712 (C.A.7 (Ill)), submitted by the Parent and C.G. and B.S., v. Five Town CSD, 513 F.3d 279 (1st Cir. 2008); Allison Thies and Arthur Thies, v. NYC Bd. of Educ. (2008 U. S. Dist Ct. S. D. N.Y. LEXIS 11354) and HJORTNESS v. NEENAH 498 F. 3d 655 (7th Cir., 2007) submitted by the District were helpful. An additional case submitted by the District, Jennifer D., v. NYC Dept of Educ. (2008 U.S. Dist. LEXIS 26044) (U.S. Dist. Ct. S. D. N.Y.) was not much help for the District. The Five Town case was especially on point, as was the Thies opinion.

In every dispute regarding a handicapped child and a school district the analysis necessary to reach a decision must begin with the bedrock teaching of Rowley (Board of Education of the Hendrick Hudson Central School District, Westchester County et al. V. Rowley by her Parents, Rowley et ux. 458 U.S. 176 (1982). In that case, the United States Supreme Court set forth a two-pronged test to determine whether a school district has offered a student a free appropriate public education (FAPE) in the least restrictive environment (LRE). The first inquiry to be made is whether the school district has complied with the statutory procedures; (no substantial procedural violations) required by the Individuals with Disabilities Education Act (IDEA) 20U.S.C. 1401 et seq. Any denial of procedural rights must result in an adverse impact on the parents' participation or the Student's education so as to result in a loss of educational opportunity in order to be a denial of the law's requirement of a free appropriate publicly funded education (FAPE). The first test of Rowley allows relief only if the alleged procedural violations have resulted in substantial harm to the Student. (W.G.v.Board of Trustees, 960 F.2d 1479, 1484 (9th Circuit 1992)). The District is also under an obligation to fully evaluate the Student and conduct assessments in all areas related to the suspected disability (IAC 226.130(h). Failure to do so would violate the law. There was no allegation of any procedural violation or failure to evaluate by the District and certainly, there was no loss of educational opportunity because of procedural violations in this case. Procedurally also, both the notice and the placement made by the Parents meet the requirements of the law and would have been appropriate if the District had not offered the Student an appropriate educational placement.

The second prong of the Rowley test is whether the individualized program developed through such procedures is reasonably calculated to enable the Student to receive educational benefits (Rowley at 206-207) The Sixth Circuit recently set out in Tullahoma City Schools what it understands Rowley to mean by "reasonably calculated to enable the child to receive educational benefits". "The Act requires that the Tullahoma schools provide the educational equivalent of a serviceable Chevrolet to every handicapped student Appellant, however, demands that the Tullahoma school system provide a Cadillac solely for appellant's use. We suspect that the Chevrolet offered to Appellant is in fact a much nicer model than that offered to the average Tullahoma student. Be that as it may, we hold that the Board is not required to provide a Cadillac." (Tullahoma City Schools, 9 F 3rd at 459-460)

Also using the Rowley standard the 7th Circuit Court of Appeals in Alex R. v. Forrestville Valley C.U.S.D., 3755 F. 3d 603 (7th .Cir. 2004) held that objective factors such as regular advancement from grade to grade with passing grades is the usual way to show satisfactory progress and the provision of FAPE. Other cases interpreting the federal law seem to have expanded the "basic floor of opportunity" and "meaningful educational benefit" standards quite a bit beyond the "something more than minimal progress" requirement enunciated in the cases following Rowley. Those cases saw making a year or bit more progress in 2 to 3 years as an acceptable performance by school districts. (See Peter G v. Chicago Pub.Sch.Dist. #299, 2003 U.S. Dist. LEXIS 460, N.D. Ill.2003, Todd v. Duneland Sch. Corp., 299 F.3rd 899, (7th Cir. 2002), and E.S. v. Indep.Sch.Dist. #196, 135 F 3rd 566(8th Cir. 1998)). The focus in these newer cases, since 2004 is on the IDEIA intent that students with disabilities be educated to facilitate their ability to eventually live independently and be economically self sufficient and far less on employing

accommodation and other compensatory strategies that do not increase a student's skill and functioning level. (See J.L. and M.L. and their minor daughter, K.L. v. Mercer Island Sch. Dist., U.S. Dist. Ct, West Dist. of Washington, 46IDELR 273, 106 LRP 71145, 2006 and Maine Sch. Adm. Dist #56 v. Ms. W., on her own behalf and on behalf of her son, K.S., U.S. Dist. Ct., Maine, 47 IDELR 219, 107 LRP 17136, 2007).

Mercer Island is a transitional services case and its focus is post-secondary education planning. For this Student, who will be 16 years old in July 2008, preparation for self-sufficiency is rapidly becoming a major consideration in his education planning. Successfully teaching a student to read, write, calculate and get along with others in the real world of his family, neighborhood and in a public school, even in self-contained classes is a more realistic preparation for independence and self-sufficiency and allows for a much broader range of vocation courses, career counseling and co-operative education job opportunities. The decision of the District, at the May 2007 articulation IEP meeting was to keep him in smaller self-contained special education classes within the larger high school for most of the day rather than moving him immediately into co-taught or general education classes. A self-contained, admittedly smaller, much more restrictive full time educational program, with only handicapped students as peers, the environment he has at [redacted] in downstate [redacted] IL, is hardly a preparation for independence. The program at [redacted] which enrolls 84 students in Jr. High and High School ranging in age from 12 to 20 years according to testimony, appears to be a good one, but nothing-other than the residential aspect and the very small size- that differs from what testimony demonstrated was available at the District. The testimony of [redacted] the S/LP, revealed that most of his classes are five or six Students, at the District, they would be slightly larger, 5-7 or 6-8, and an aide is available to work with individual students, according to [redacted], a special education teacher and now Special Education Department Chair for the District.

At [redacted] there is no emphasis on his "differentness", his handicaps, as all the students are handicapped in some way. The Student testified that he feels very comfortable there. He is on the basketball team, the Student Council, the Prom committee, he says he has friends with whom he can socialize and do different things. If he maintains his behavior and work, he is allowed to go on a "van run" into town or to the mall on Friday evenings and on Saturdays. He stated that he is not afraid of going to [redacted] his sister went there, he says it is like a miniature college. He stated his hope that his parents would allow him to go there, at least by his senior year. From the testimony of the [redacted] staff, he is well-liked, friendly, sociable, "very gregarious, he makes eye contact and smiles". (Testimony of [redacted] S/LP.) The staff members who testified were overall very pleasant but no more qualified than those at the District were. [redacted] "holistic" approach has been an appropriate placement for this Student. However, it is also obvious is that it was in no way a necessary placement for this Student to be educated nor does it provide him with FAPE in the LRE. The evidence shows that the District clearly could do that, but the Parents, who had made up their minds by May 29, 2007, never gave them the chance.

It is plain from the testimony of the Parents witnesses as well as the Mother, that they wanted a boarding school for their son so that he would receive care, training and support beyond his education needs, with most emphasis on his building social interaction and friendships. The decision seems to have been made while he was at [redacted] and before the impact on him of the change in medication was fully realized. It was prescribed by Dr. [redacted] who first saw

him in April 2007, when he was unmedicated for 6 months and was in a much-disorganized state. This same disorganization was true when he was evaluated by Dr. [redacted] for the Neuropsychological/Psychoeducational Evaluation of March 2007. She in fact referred Dr. [redacted] the child and adolescent psychiatrist to the Parents (see Px p.79, #3). The Parental Educational Concerns set forth in the June 26, 2007 IEP (Px p.39) really tell the story:

> Parents wrote a letter stating they feel [redacted] cannot meet [redacted] needs due to its size. They are concerned that [redacted] will not be able to socially interact with others in a meaningful way, including athletics and club activities. [redacted] has friends at [redacted] (is invited to parties). Parents are concerned about his physical and emotional safety, and are mostly worried about this at [redacted] due to [redacted] large size, and that he will not be personally known. They also feel his academic testing does not reflect his abilities. Parents are concerned that assistive technology has not been used appropriately at his school in 8th grade – [redacted] did say she does not feel [redacted] is appropriate for [redacted] There is concern about life skills (personal hygiene) at home. Parents prefer a boarding school experience for its after school programming.

Reading this in conjunction with the two Parent letters to the District in May and June, contained at Px p.34 and p.35 show that the driving force in the decision to place the Student at [redacted] was his social life. His need for friends and social interaction, as well as discipline regarding his homework, cleanliness, keeping his room in order and observing the rules of his mothers' home are all problems the Parents were having with the Student and they all occur in greater or less degree with most teenagers. The fortitude that is required to deal with adolescents, to socialize and civilize them is not the exclusive and unique expertise of boarding schools and prep schools or special education facilities. Parents working in concert with educators, social workers, and community and school resources can achieve similar kinds of results, albeit with effort and difficulty. Dr. [redacted] the parents witness acknowledged this on cross-examination. The primary responsibility of the public school is to educate, it is not required to pay for residential placement for a Student who can receive an educational benefit while continuing to reside with family in the community he has known most of his life and where he would likely return, even after his time in [redacted] (See Thies at page 3).

The Student, at least from the January [redacted] eports, continues to have impairments and delays in academic skills, in the speech/language area and in social interaction skills. He may need additional OT assistance in organizing and in fine motor skills, as well as social work to facilitate his ability cope at school. If he returns to [redacted] he should receive assessments in the areas of academics, S/L, OT, SW and Assistive Technology and be maintained on the Speech Easy Device. He should receive direct services in the social work and speech/language related service areas at least every other day as he reintegrates into public school. This is particularly important to help him in dealing with the stuttering. He has clearly made giant strides in this area, and it would seem that the medication regime has also been helpful. Assistance in navigating the very large campus should be provided in a manner that does not make him appear different to his peers.

This District has been complying with the law. They were offering to provide the Student with an acceptable program in both academic and extra-curricular areas, to provide an assistive technology evaluation and to revise the IEP as his needs dictate. All the school witnesses testified to this. The law does not require more. (Schroll v. Bd. Of Educ. Champaign C.U.S.D. #4 2007 WL 2681207 (C.D.IL.2007; Todd v. Duneland Sch. Corp., 299F.3rd 899(7th Cir.2002); Alex R. v. Forrestville Valley C.U.S.D. 375 F.3rd 603(7thCir.2004). In fact, in the Fort Zumwalt Sch. Dist. V. Clynes, 119F.3rd 607(8th Cir. 1997) case, the Eighth circuit, in reversing the District Court, found that a child similar to the Student here who 'felt different" and whose self-esteem and behavior were affected, was still better off being with non-handicapped peers, in a school situation where he could benefit from instruction and earn passing marks. There was no evidence that the District would emphasis the Student's differentness. In fact, after observing him testify, his stuttering is the only aspect of the Student that differentiates him, and the District can certainly provide intensive S/L services to address this need. The case of Carl D. v. Sp. Sch. Dist. Of St. Louis, 21 F.Supp 2nd 1042 (E.D. MO.1998) is also most helpful. The Parents have failed to sustain their burden of proof on the issues raised in their Due Process Hearing request and on which testimony was taken and evidence submitted at this Due Process Hearing. The District is not required to provide reimbursement for the residential placement at the [redacted]

DECISION ON ISSUES

1. An appropriate IEP, with appropriate placement and services for the Student was developed for the 2007-2008 school year, albeit sketchy and subject to revision, given that the District was told by the Parent that he was not going to attend, and the Parent never raised any concerns about the IEP and services other than the lack of assistive technology at the previous placement they had made at [redacted] School.

2. The programming and services offered by the district are sufficient to provide a Free Appropriate Public Education in the least Restrictive Environment for this Student.

3. The District should not pay for or reimburse the Parents for the cost of the unilateral private school residential placement made by the Parents.

ORDER:

1. The District is not required to reimburse the Parents for any of the expense involved in the [redacted]

2. If the Parents re-enroll the Student, the District shall convene an IEP meeting to do transition planning and shall invite the private school representatives as well as private evaluators and therapists.

RIGHT TO REQUEST CLARIFICATION

Either party may request clarification of this decision by submitting a written request for such clarification to the undersigned-hearing officer within five (5) days of receipt of this decision. The request for clarification shall specify the portions of the decision for which clarification is sought, and a copy of the request shall be mailed to the other parties and to the Illinois State Board of Education. **The right to request such a clarification does not permit a party to request reconsideration of the decision itself, and the hearing officer is not authorized to entertain a request for reconsideration.**

RIGHT TO FILE A CIVIL ACTION

This decision shall be binding upon the parties unless a civil action is commenced. Any party to this hearing aggrieved by this final decision has the right to commence a civil action with respect to the issues presented in the hearing. Pursuant to ILCS 5/14-8.01(i), that civil action shall be brought in any court of competent jurisdiction within 120 days after a copy of this decision is mailed to the parties.

CERTIFICATE OF SERVICE

The undersigned hearing officer certifies that she served copies of the aforesaid Decision and Order upon Counsel for the Parties by fax on May 2, 2008 and on Parents, District and Counsel, and the Illinois State Board of Education at their stated addresses by depositing same with the United States Postal Service at River Forest, Il with postage prepaid before 5PM on May 2, 2008.

JUDGE JULIA QUINN DEMPSEY
IMPARTIAL DUE PROCESS HEARING OFFICER

ENTER: May 2, 2008