

Case Number: 2008-0419  
[redacted] vs. City of Chicago SD 299  
Hearing Officer: Julia Quinn Dempsey

Illinois State Board of Education  
Special Education Services  
100 North First Street  
Springfield, Illinois 62777

### Impartial Due Process Hearing Decision Cover Page

Instructions: Complete this form and return it along with the decision. The information collected on this form will be used for the purpose of indexing the decision by subject matter as required by 23 Illinois Administrative Code 226-695

District Name [redacted]  
Phone: [redacted]  
Superintendent Address [redacted]  
Represented by [redacted]

Parent Name [redacted]  
Phone: [redacted]  
Address [redacted]  
Represented by Self

Date and Timelines

Date of Written Request: 12/08/2008  
Date of Pre-hearing Conf: 01/09/2009  
Date of Hearing: 02/05/2009 to 2/6/2009 12:00:00 AM  
Date of Decision: 2/16/2009

Summary of Decision

After two days of hearing, it became clear that the Student could be served by the [redacted] with modifications and intensification of related services. Student functions at 3-9 month old infant level. Has cerebral palsy, some, but difficult use of legs and arms, walks crouched, with assistance, crawls somewhat, sits with assistance, is fed by G-Button(tube), has no speech or apparent comprehension of language, has a salivary gland problem, so drools constantly, is not toilet trained. Student attended ½ day of hearing, sitting in wheelchair with childcare attendant beside him; he was not disruptive. Student’s education consists of maintaining movement and mobility. Physical therapy has been only consultative-90 M/P/M, no OT, no Adaptive PE or any PE, sporadic attention from CAN during tube feeding and from teacher and aides during day. Student sits in wheelchair most of time. Mother had many complaints about level of care, some justified, some not. She asked for private placement but presented no supporting testimony or evidence.  
During hearing it came out that none of the handicapped children (14-16 per classroom, at least 2 classrooms) in the school was receiving PE or Adaptive PE. This was ordered for the Student, along with 60 minutes per Day of PT services, delivered by a PT or trained PT -I full time aide assistant, OT evaluation and services, and a 1-1 full time aide for the Student alone.  
District and Parent were allowed to decide on another school if both agreed, mother was to send two changes of clothes to school to alleviate returning home soiled and wet problem.  
There were no procedural errors committed by District; IEPs were timely as was notice. Mother attended IEP meeting. Related services, which were this Student’s education, were in adequate to maintain function, which is about

all that could be expected. Significant increase in services was ordered.

IN THE MATTER OF )  
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DUE PROCESS HEARING

CASE #2008-0419

JUDGE JULIA QUINN DEMPSEY  
HEARING OFFICER

PROCEDURAL INFORMATION

On February 5, 2009 and February 6, 2009 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 [redacted], hereinafter the District, [redacted], Illinois. 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 34 CFR 300.509.

This hearing was requested by the [redacted] on behalf of the [redacted] on march 31, 2008 by a letter from [redacted], the then [redacted]. On April 2, 2008 the ISBE Division of Program Compliance stamped in the District Request for an Impartial Due Process Hearing Officer. On April 7, 2008 ISBE mailed the notice of appointment to the Hearing Officer and it was received on April 8, 2008. The Hearing Officer immediately took steps to contact the party's attorneys. After some back and forth telephone communication the Pre-hearing conference scheduled for May 7, 2008 and then May 28, 2008 was continued for IEP conferences and potential placement visits. On June 23, 2008 the Hearing Officer notified Attorneys that the Pre-Hearing Conference was scheduled for July 9, 2008 by teleconference. Both parties had agreed to this date. (See H.O. Ex. )

The Pre Hearing Conference was held on the scheduled date with the Prospective Mother's attorney [redacted] in attendance for the Student and [redacted], attorney for the District present. Each party provided some background and information on the Student. The Hearing Officer was informed that settlement measures had been tried and were not successful. Witness Lists and Documents were exchanged. The Hearing was scheduled to begin on September 22, 2008 at 9 AM at the [redacted], the Student's school of attendance. It was agreed that if necessary the Hearing would be continued to the next day.

On August 6, 2008 the [redacted] attorney sent to the Mother and the Hearing Officer a Motion to withdraw from representing the Student and Mother because of alleged irreconcilable differences. The Motion was allowed. Hearing officer was finally able to reach mother in early September and Mother then sent, on September 4, 2008, an e-mail requesting that the Due Process Hearing be rescheduled so that she could find another attorney to represent her. In October the Mother informed the Hearing Officer that she was going to represent herself so the Hearing was scheduled , first for October 21 and then for October 29,

2008. The 1<sup>st</sup> pre-hearing report was issued on October 10, 2008, along with, to the parent, copies of all material exchanged between the former attorney, the attorney for the district and the hearing officer. A new attorney for the District then appeared and another IEP was scheduled. After that, by teleconference both parties agreed to a new hearing date of December 11, 2008 at [REDACTED]

Just before the December hearing the Mother sent the Hearing Officer and the new District attorney a new list of issues which she maintained had always been issues, but not raised by her former attorney but necessary to be resolved at the hearing. The Attorney for the district objected as these were not included in the Pre-Hearing conference or report so the mother was given leave to amend her due process request to add the new issue and also to add new witnesses she expected to attend the hearing.

Agreements reached at the Pre Hearing Conference were:

1. Neither Party indicated any objection to any of the material exchanged.
2. It was understood by all Parties that the Hearing Officer would read this material prior to the Hearing.
3. It was agreed that the Student would not attend the Hearing.
4. No Interpreter is needed.
5. The Hearing will be open.
6. There will be no exclusion of witnesses.
7. The District will arrange for a court reporter.
8. The Parties agreed to waive the statutory 14-day period between the Pre Hearing Conference and the commencement of the Hearing.

#### ISSUES:

1. Whether any of the three placements proposed by the School District will provide an appropriate educational program for the Student?
2. Whether the Student should be placed at the [REDACTED] at the Districts expense?
3. What is the least restrictive environment in which this Student can receive an education from which he will derive sufficient benefit to progress according to his ability?
4. Whether the Primary Disability of the Student should be changed?

#### BACKGROUND:

The Student turned 9 years old the week between the first and second hearing dates. He completed the 2<sup>nd</sup> grade at [REDACTED] during the 1998 - 1999 school year. He is one year behind because of repeating kindergarten, although if he were to go into 4<sup>th</sup> grade he would be among the youngest in the class. He would be among the oldest in the [REDACTED] 3<sup>rd</sup> grade. The Student was first determined to be eligible for special education services while in [REDACTED] Pre School at age 4 ½. A case study was done in early 1995 and an IEP developed 3/9/95, which placed him in the Pre-Kindergarten diagnostic classroom at [REDACTED]. In September 1995 he went to Kindergarten at [REDACTED]. On 4/15/96 he was recommended to regular Kindergarten and the Parents consented to terminating special education services. The Student went to regular Kindergarten during the 1996 - 1997 school year at [REDACTED] but problems arose, the Student was twice suspended. In February and March of 1997 an updated Case Study Evaluation was done with the Student being found at risk in many areas. An IEP was developed 3/6/97 and 3/20/97, which recommended he would again be Special Education Eligible with L.D. resources recommended. In September 1997 he went to 1<sup>st</sup> grade at [REDACTED] with L.D. resources services and continued in September of 1998 in 2<sup>nd</sup> grade at [REDACTED] with L.D. resources and

Social Work services. At the Spring 1999 annual review the School District members of the IEP team recommended a more restrictive placement in a self-contained classroom, either BD at [REDACTED] or the L.D. program at [REDACTED]. Mother refused both after having visited the classrooms, stating (record 00024) he was unlike the students in the BD classroom and brighter than the students in the L.D. classroom. The IEP meeting ended without agreement and has never been reconvened. The Parents asked for mediation, which was held on June 18, 1999. The night before the mediation according to the Mother's uncontroverted testimony, a completed IEP done without the Parent's attendance was delivered to their home. That IEP has the Student continuing at [REDACTED] in 3<sup>rd</sup> grade with L.D. resource services and Social Work services similar to the 2<sup>nd</sup> grade program. After the unsuccessful mediation on June 18, 1999 the parties requested a Due Process Hearing.

### PARENTS POSITION

It is the Parent's position that the Student has been receiving special education services off and on since he was 4 years old. He was a year behind because of repeating Kindergarten, which they agreed with at the time. They do not believe he should be falling further, i.e., almost two years behind but should be progressing at a reasonable pace. Parents acknowledge their son's needs and have provided at their own expense an education therapy specialist, [REDACTED] from June of 1997 to February of 1998 and [REDACTED], a Child and Adolescent Psychiatrist, as a therapist, usually weekly since May of 1997 through June of 1999. The Parents believe the Student needs a smaller classroom so as not to over stress the Student who they say does not do well in larger groups, even at times his own large family of six persons. (Testimony of Mother on 8/2/99) They want their son to be less anxious, to be educated, to like school. They prefer not to medicate him with Ritalin or similar medications for hyperactivity because they believe he has the potential for seizures. They believe he has received little or no educational benefit so far and is functionally excluded from school because of his anxiety disability, ADHD, depression and "upsetness" with school. They believe he needs total structure - every minute of the day- with 1-on-1 and exclusively Small Group Instruction plus remediation. They believe their son is at a critical age.

### DISTRICT'S POSITION

The District position is that all previous placements were appropriate, were concurred in by the Parents, were calculated to confer an educational benefit and have done so albeit not as quickly or as completely as every one hoped. The District offered the 3<sup>rd</sup> grade at [REDACTED], with continued L.D. and S.W. resource, in the belief that the Student would continue to progress there and that since the Parents did not want the BD or L.D. self-contained classrooms, which were offered, [REDACTED] with resource help was an acceptable program. The District has continually throughout the hearing process offered to reconvene the IEP conference at any time to modify or add services to the proposed IEP. The District has complied with all applicable law and has the resources and ability to continue to educate the Student. The District believes that its program is as good as that at [REDACTED] and will meet the Student's needs better since it is the least restrictive alternative and allows for the possibility of contact with non-handicapped peers in certain situations such as lunch, gym, recess, team taught social science units, on the bus and possibly mainstreamed classes. The District maintains that the preferred placement in the self contained L.D. classroom at [REDACTED] is not a "one size fits all" program for moderate to severe learning disabilities, but rather one that is very stable with a small number of students (six to eight) projected for 1999-2000, some with profiles similar to the Student's.

### FINDINGS OF FACT

### HEALTH PROBLEMS

The Student has some health problems that appear to be of indeterminate neurological origin. He has had some episodes -not clearly seizures- and the Parents on the advice of the neurologist have him on seizure safety precautions. Because of this possibility the Parents have been reluctant to medicate the Student for the possible ADHD, although they have done so last spring with no apparent ill effects. Both [REDACTED], the School Psychologist who did the most recent report and [REDACTED] believe the Student can be characterized as ADHD.

### ACADEMIC TESTING

As regards achievement by the Student, in comparing the WRAT 3 given to the Student at the end of 1<sup>st</sup> and 2<sup>nd</sup> grade it is clear that there has been some minimal progress. For example, the handwriting (printing) on the 2<sup>nd</sup> grade test is clearer and the letter reversal has almost been eliminated. His spelling has little improvement, i.e.; he spelled four words correctly on each test. In arithmetic, his numbers are written more clearly without reversals, but he got only one more correct on the written test (#9 was marked correct wrongly). He improved somewhat in reading/decoding—doing eight more words. The paragraph written by the Student in June 1999 and included among the files of his LD teacher, [REDACTED], demonstrates poor spelling and unrealistic thinking, i.e., *"After Shcool The shcool will fall down. Next year it will be There. At the end of shcool the anmos will atack. They will born files. The terchers will rase a white flag. the bell will rege. we will win. the studats will say. Free at thast Free at thast thank god all"* (H.O. Ex. #3, p.15) On the Stanford Achievement Test from May 1999 he was average in all nine individual tests at the 2<sup>nd</sup> grade level.

### PSYCHOLOGICAL TESTING

Psychological testing and an updated Psychological Report were done in July 1999 to assist in educational planning for the Student. Parents and the District co-operated in this endeavor. When compared to previous Psychological Reports the results are substantially the same with very minor differences. His 4-½ year old evaluation showed essentially average cognitive development with pre-readiness skills seeming delayed, difficulty in reading social cues, poor relatedness, and problems in self-regulation. The February 1997 Psychological done by [REDACTED] revealed average intelligence (VIQ 99, PIQ 103 and FSIQ 101). [REDACTED] reported distractibility, impulsivity, a strong externalizing tendency, and some elevation in depressive features. He noted significant conduct problems and aggression at school and behavioral difficulties at home reflective of mild hyper activity and attention problems. It was noted that the materials clearly reflect a Student more intellectually capable than his measured intelligence whose academic attainment was lagging behind his ability and who also had significant behavioral needs. The July, 1999 Psychological testing done by [REDACTED] School Psychologist, yielded average intelligence (FSIQ 104, VIQ 110, PIQ 98) and suggestions of higher cognitive potential probably at least Bright Normal/Above Average level. He suggests a non-verbal learning disability, which affects the Student's interpersonal perception and suggests an ADHD diagnosis. He notes again his distractibility, weak impulse control, typical high activity level and the need for external structure, all of which are likely to be problems in a large classroom. He states that the apparent ADHD is complicated by a high anxiety level and he finds significant potential for conduct disorder problems as the "Student is an angry, very anxious and frustrated child" who is also "an unhappy Student whose level of emotional security is not high."

### PROFESSIONAL TESTIMONY

[REDACTED], a Supervisor of Specialized Services and coordinator of the LD Department was called as a witness by the School District. She chaired the MDC meetings and had observed the Student two times. She met the Mother at the two other classroom observations and testified there was no agreement regarding the 1999 – 2000 IEP because Mother left the meeting (as well as some school district personnel). She testified that the IEP was not completed at that time, but would have been if Mother had stayed. She stated the team recommended the self-contained LD program at [REDACTED] and

after Mother rejected this and left, the staffing proceeded and recommended 3<sup>rd</sup> grade at [REDACTED] in a classroom with approximately 25 Students, part time LD resources (300 minutes/week), a Social Work Component 1-on-1 for Social Skills Remediation and a LICA (testing) follow-up. She testified they also thought of a ½ time assistant in the afternoon to work with the Student and perhaps help with transitions etc. She stated this was in the planning stage only as the MDC was not concluded. She stated she tried to call the Mother in May and left a message re the need to meet to conclude the IEP and that she heard back later from Mother and/or [REDACTED] that legal proceedings or due process had begun. (Record 00012) Most of her testimony is similar to the Mothers.

[REDACTED] the LD teacher for the last two years, and member of MDC team developing the IEP for 1999 – 2000 testified. She had never visited the [REDACTED] classroom. She testified that the Student can follow two step directions but has difficulty with new two step and harder three step directions. She stated he got distracted if a different group was present and his ability to follow directions depended on his interest, where he was sitting, who was sitting next to him and how it was presented. She said he does well with eight to ten students, he likes to show off and prove himself but he needs structure, noise and free time are problem areas. She agreed he did not meet the goals of the 1998 – 1999 IEP but said he made progress.

[REDACTED] the Principal of [REDACTED] who testified that she ran the last MDC meeting to develop the 1999 – 2000 IEP recommended a smaller environment for the Student since classes at [REDACTED] are “too large” (25) for him. She stated they could provide a 1-on-1 aide for transitions in AM or PM as needed and it might not be the same aide all the time.

[REDACTED] the School Psychologist testified that he had visited the [REDACTED] LD class last year and that in his opinion a Self Contained LD classroom is best for the Student because of size and the presence ½ time of the Speech and Language Specialist. [REDACTED] was not part of the MDC team.

[REDACTED] the LD teacher at [REDACTED] for twelve years testified. She stated she taught with [REDACTED] the certified Speech/Language Pathologist who is in the LD classroom ½ time and [REDACTED] full-time teacher assistant for the last eight years. She was not a member of the MDC that recommended her program for the Student last Spring. In fact, she testified she came to the hearing knowing nothing about the Student and read the proposed IEP, the MDC material and the testing material that morning. She sat through the testimony of the Parent witness, [REDACTED] and the psychologist [REDACTED] also. She felt the Student was appropriate for her class – that he would fit – and that she had had similar students over the years including ADHD Students with whom she used different techniques. She said the Students in her classroom are happy and relaxed, that it is a caring, nurturing environment with a lot of opportunities for growth. She has some students who stay all day in her room, some who are partially mainstreamed. Last year she had eleven students, nine at the end. This year she expects six – eight with one other 3<sup>rd</sup> grade Student assigned so far. She stressed that her program is geared to each individual IEP with many different techniques used in instruction, oral, written and read. Social Studies are integrated and team-taught with the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> grade teachers. There is a conflict resolution program. She described the typical school day and stated that her Students are in the self-contained classroom depending on IEP's between 700 and 1450 minutes per week. None of the students had lunch or recess with her. Most had homeroom assignments and gym with the homeroom 20 minutes/day.

[REDACTED] a Child and Adolescent Psychiatrist who is the Student's therapist appeared as a witness for the Parents. The Student came to him in crisis in the spring of 1997 and he has been seen, usually weekly, for over two years. He states that Student is very bright, engageable, with great learning potential but also anxious, very upset about school, perceives others as not liking him and doesn't like school. [REDACTED] who is clearly an expert, says the Student needs a smaller classroom to address the

LD problems in the auditory processing range. He says the classroom became inadequate because the Student disengaged from the milieu and the teachers. The Student looks average on tests but he is very under achieving. He needs intensive LD with a highly skilled teacher, social skills training and a milieu that will enhance and facilitate his education, social skills and attitude toward school. There also need to be active work with the Parents regarding all his issues. The Student is not ED or BD but needs social programming milieu to address the Students "misery". Every minute should be programmed and staff supervised, "whom will he be with?" He should not be out on the playground meandering about – many problems of the last two years arose this way. There needs to be a collaborative relationship between all teachers and Parents so all problems are addressed and there is a careful blending of the social milieu with the LD protocols. [REDACTED] did not think the program at [REDACTED] was appropriate because it needs more sophistication re attitude toward learning and social skills. The Student and Parents have not been seen or interviewed by the staff at [REDACTED] and a full Social and Developmental Assessment is needed to plan for the Student. [REDACTED] stressed the need for trust between school and Parents, the need to consider what hasn't worked thus far and stated the Parents need much time.

[REDACTED] an Educational Therapist and Consultant testified as a witness on behalf of the Parents. She states the Student needs intensive remediation, because he is not integrated in his sensory functions, as demonstrated by the Picture Arrangement and Digit Span tests. She said his progress in the classroom versus his higher Verbal IQ is indicative of his inability to integrate his ability into classroom performance. She says the Student needs 1-on-1 or 2 or 3-on-1 services for Sensory Integration Issues, writing – poor motor control, auditory problems, social skills and a small classroom. Ms. Marcus says there is a 'meaningful but not statistically significant discrepancy between his VIQ and PIQ that has grown over the last two years.'

## CONCLUSIONS OF LAW AND OPINION

It is clear after reviewing all of the testimony and the records and exhibits put into evidence that the needs of this Student are more complex and unique than were apparent to the MDC team that was developing the 1999 – 2000 IEP. The testimony of the Students Psychiatrist [REDACTED] the Educational Therapist [REDACTED] the School Psychologist [REDACTED] and his LD teacher [REDACTED] all paint a picture of a bright little boy with much more than a mild LD and behavior problems affecting his education. The most recent evaluation by [REDACTED] the School Psychologist, when coupled with the WRAT 3 results, demonstrates the necessity to provide a specialized, intensive program to meet the Students unique needs. In 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) a two-pronged test that must be met is set forth. There must first be compliance with statutory procedures (no substantial procedural violations) and then the individualized program developed through such procedures must be reasonably calculated to enable the Student to receive educational benefits. Id at 206 – 207. Procedural flaws alone do not necessarily violate a Student's rights. The question is whether they operate to deprive the Student of a "free appropriate public education" (FAPE) Heather S. by Kathy S.v. State of Wisconsin 261 DELR 870 at p.14. Looking at the entire record, the Hearing Officer finds that there have been no substantial Procedural Violations that have operated to deprive the Student of a FAPE. The lack of a Completed IEP is as much attributable to the Mother's actions as to the School District and in other matters the District has complied with the procedural requirements of applicable law.

As to the second prong of the Rowley test, whether the new proposed IEP is reasonably calculated to confer educational benefit, the answer would seem to be no. The law doesn't guarantee a successful IEP, only one calculated to provide a meaningful academic benefit. Rowley 458 US 192. The proposed IEP does not look much different from that of the previous years, granted, that may be because the team initially recommended the LD class at [REDACTED] and Mother rejected it. This was not without cause,

I note, because it does not appear that the LD teacher for [REDACTED] was present at the MDC/IEP meeting, nor had there been any meaningful discussion with Parents about that program or modifications to it. This Student needs the structure of a small self-contained class, with a specifically developed program for much 1-on-1 learning. There is no reason that the LD program at [REDACTED] cannot be modified and adapted to meet his needs. The teacher, [REDACTED] is very capable and very experienced. She is blessed with the assistance of a ½ time Speech/Language Pathologist and a long-term (eight years) male teaching assistant. The district projects six to eight students in the program including at least one other 3<sup>rd</sup> grader. It is unreasonable for the Parents to reject this classroom which has a fine basic program and personnel and which can be modified to suit the needs of the Student. It makes even less sense to do so for the purpose of moving this little boy into a totally handicapped setting where he will have no interaction or even the chance to observe other children who are not handicapped.

There was no testimony or evidence tending to support the [REDACTED] other than the opinion of the Student Psychiatrist [REDACTED] and that of the Parent's witnesses [REDACTED] [REDACTED] testified that it was a good program for other of his patients, he observed it in January of 1999 and three times thereafter met with teachers, and liked the process and the milieu. He had no similar experience with the [REDACTED] School Program. He testified he had never met [REDACTED] didn't know of the ½ time certified Speech/Language Pathologist, thought the class size was eight to fourteen students and mainstreaming occurred for three to four periods a day. I agree with him that kind of a program would be inappropriate, but clearly the present program differs and can be modified for the Student, while at the same time keeping him in a public school so that he is not 100% of the time in a "Handicapped Milieu". [REDACTED] testified that in the 1995/1996 school year she visited the [REDACTED] classroom on behalf of another Student and thought the activity level, the task level and the curriculum were not geared to each individual student and there was a lot of movement in the classroom – all significant criticisms but none that can't be modified or corrected, if indeed, they still exist. As to [REDACTED] School, she visited last year and thought it "appropriate". There was no description of the program. On the other hand, [REDACTED] the Supervisor of Special Services testified she had been at [REDACTED] School and spent ½ day with the 4<sup>th</sup> and 5<sup>th</sup> grade classroom. She recommended against placing the Student in such an environment, stating that there was much work on work sheets, much teasing going on, no hands on materials, erroneous answers to questions, no lesson differentiation. This is the sum and substance of the information presented at the hearing regarding [REDACTED] School. It does not, in any sense, add up to an appropriate program for this Student.

The present proposed IEP is totally inadequate because it continues the Student at [REDACTED] with Resource LD and SW Services, a placement that has not been beneficial in any substantive way for this Student for the last two years. Mother's rejection of the [REDACTED] School program because she thought the students were too low functioning was also inappropriate. However, the School District should have brought the [REDACTED] School LD teacher and Speech Therapist and maybe even the teaching assistant to the MDC / IEP conference to discuss what could be done to meet the Student's needs at the program – in other words – to develop an INDIVIDUALIZED EDUCATION PROGRAM for the Student. There is no reason why this very sophisticated, large, urban district, almost next door, as it were, to a major U.S. University, cannot develop an appropriate program that will allow this Student to derive true educational benefit and at the same time still be among his non-handicapped peers.

Based on the testimony of [REDACTED] and the report of [REDACTED] the Student's disabilities are hereby found to be Learning Disabilities and Other Health Impairment (ADHD). He is eligible for and in need of Specialized Educational Services.

## ORDERS

1. Within ten (10) days after receipt of this order the School District shall convene an MDC/IEP conference to develop a new IEP for the Student.
2. Those participating in the MDC/IEP conference shall include at least the Parents, the [REDACTED] School self-contained intermediate classroom teacher, [REDACTED] the Speech/Language Pathologist, [REDACTED] the Teacher Assistant, [REDACTED] (if possible), [REDACTED] Ms. [REDACTED] Dr. [REDACTED] and [REDACTED]. The District shall pay non-district employees who attend as consultants.
3. The IEP/MDC Conference shall develop a highly structured (but not necessarily a highly restrictive) educational plan for the Student that covers every minute of the school day, including if applicable, the transportation to and from school.
4. For the first semester there is to be no mainstreaming of the student, other than lunch, recess, gym and the bus unless the MDC/IEP conference participants unanimously agree to additional mainstreaming. The issue of the Students participation in team-taught social science or other subjects shall be addressed by the MDC/IEP conference. In January a reconvened MDC/IEP Conference shall address second semester mainstreaming and/or other modifications to the IEP.
5. The Student shall be assigned an individual aid on a consistent basis to be solely with him at lunch, recess, gym and any other times the Student the is out of the LD classroom.
6. The Parents and the LD Classroom Teacher, [REDACTED] and/or [REDACTED] shall meet with the Parents for at least 30 minutes weekly through the first semester to apprise each other of the Student's situation during the previous school week and to agree upon any necessary adjustments. Any party may bring to, or request the presence of, at these meetings any other person who is deemed to be helpful to the Student. After the first semester the teachers and the parents may agree to meet no less often than every other week.
7. On a daily basis, perhaps during a time when most other children are mainstreamed, the Student shall have 1-on-1 remedial work with emphasis on perceptual and sensory integration issues, with a trained person who has expertise in this area. Consideration shall be given to utilizing [REDACTED]
8. The Student shall participate in the Dispute Resolution Program described by [REDACTED] at the hearing. Participation in "Second Step" shall be considered.
9. Recommendations number 3- 8 contained in the Psychological Report done by [REDACTED] shall be considered at the IEP/MDC meeting and implemented wherever possible.
10. Parents and school District Personnel are ordered to put their antagonisms behind them, readjust their attitudes and work together to develop and implement an IEP that will help the Student benefit from his education in an appropriate and significant way.
11. The District shall change the basis for the Students Special Education Eligibility to the Disabilities of LD and Other Health Impaired – ADHD.
12. The district shall submit proof of compliance with this order to the Illinois State Board of Education,

Program Compliance Division, 100 North First Street, Springfield, Illinois 62777 within 35 days from the receipt of this decision.

**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**

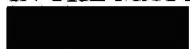
The undersigned hearing officer certifies that she served copies of the aforesaid Decision and Order upon Parent, District and its counsel, and the Illinois State Board of Education at their stated addresses by depositing same with the United States Postal Service at Oak Park, Illinois with postage prepaid before 6:00 PM on August 12, 1999.

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**JUDGE JULIA QUINN DEMPSEY**


**IMPARTIAL DUE PROCESS HEARING OFFICER**

ILLINOIS STATE BOARD OF EDUCATION  
SPECIAL EDUCATION DUE PROCESS HEARING

**IN THE MATTER OF**



v.

  
)  
) **ISBE CASE NO. 2008-0419**  
)  
) **Julia Quinn Dempsey**  
) Impartial Due Process  
) Hearing Officer