

ILLINOIS STATE BOARD OF EDUCATION
SPECIAL EDUCATION DUE PROCESS HEARING

IN THE MATTER OF

[REDACTED]

v.

[REDACTED]

)
) **ISBE CASE NO. 2008-0572**
)
) **Sheana Hermann**
) Impartial Due Process
) Hearing Officer

JUN 04 2009

HEARING DECISION AND ORDER

This matter comes before this hearing officer pursuant to the Individuals With Disabilities Education Act of 2004 (IDEA) on the Impartial Due Process Hearing Request of [REDACTED] ("Parents") by and through their attorney, Ms. Courtney Stillman, of Monahan and Cohen, on behalf of the "Student", against the City of Chicago School District 299 ("District") represented by its attorney Ms. Laura Boedeker, of the District's Due Process and Mediation Department. This Hearing Officer has jurisdiction to hear and decide this matter under 105 ILCS 5/14-8.02(a) et. seq., 23 Illinois Administrative Code 226.600 et. seq., The Individuals with Disabilities Improvement Act of 2004 (IDEA) 20 U.S.C. 1415, and 300 C.F.R. 507 et. seq. The parties were informed of their rights according to 105 ILCS 5/14-8.02(a), 23 Ill. Admin. Code 226, subpart G, 300 C.F.R. 300.512.

Procedural History

An Impartial Due Process Hearing was file by Parents on behalf of Student on June 12, 2008. It was received by the Illinois State Board of Education (ISBE) on June 19, 2008. This hearing officer was assigned the case on June 19, 2008. This hearing officer immediately contacted the parties to advise them that she was assigned to the case and to apprise the parties that she had previously worked for the District in the capacity as a Due Process Coordinator and that she would recuse herself if either party wished. Both parties acknowledge the prior employment but agreed to allow the hearing officer to remain on the case. (IHO Ex. 1 and 2). The parties agreed to attempt mediation in lieu of the resolution session. Parties by agreement requested that the hearing be continued beyond the 45 day time period to allow additional evaluations to be conducted of the parties. The parties engaged in two individualized education program (IEP) meetings, however, were unable to reach an agreement as to placement. The Parents requested additional time to hire an attorney with the understanding that this would prolong the timelines. The Parents hired the services of [REDACTED] who filed an amended complaint on March 11, 2009. The pre-hearing

conference was conducted on March 25, 2009. The hearing was held on May 19, 2009 at [REDACTED], May 20, 2009 at the District Administrative Offices of [REDACTED] and May 21, 2009 at the Parents' attorneys' office located at [REDACTED].

The Student was not present for the hearing and the hearing was closed. The following witnesses testified: [REDACTED] Student's teacher at [REDACTED] District, case manager, special education teacher; [REDACTED], District social worker; [REDACTED] District school nurse; [REDACTED] District occupational therapist; [REDACTED], District school psychiatrist; [REDACTED] private clinical psychologist who performed independent evaluation on Student; [REDACTED] District speech pathologist; [REDACTED] District special education coach; [REDACTED] District autism specialist; [REDACTED] District school support manager, previously due process coordinator; [REDACTED] District manager; Mother of Student; and [REDACTED] District special education administrator. The parties acknowledged receiving their rights. The parties' evidence binders were admitted into evidence.

Issues in Dispute

The Parents believe the following are at issue:

- 1) Failure of Child Find Duty;
- 2) Failure to develop an appropriate Individualized Education Program for the Student;
- 3) Failure to provide appropriate supervision and a full time individual aide;
- 4) Failure to address the Student's self help and functional needs;
- 5) Failure to provide sufficient related services;
- 6) Failure to provide scientifically based, peer reviewed instructional methodologies for the Student;
- 7) Failure to provide sufficient extended school year services for the Student
- 8) Failure to conduct a functional behavior analysis and prepare an appropriate behavior intervention plan;
- 9) Failure to provide the Student an appropriate placement;
- 10) Failure to provide FAPE

Remedy Sought By Parent

- 1) Reimbursement for residential placement retrospectively and
- 2) Residential placement for the 2009-2010 school year.

Finding of Fact

The Student is a twelve year old born November 13, 1996. He currently attends a residential program at [REDACTED] in [REDACTED]. He is in the 6th grade. He has attended [REDACTED] since the Fall of 2006. The District has found his eligibility determination under IDEA as moderate cognitive impairment, the Student has Down's Syndrome, speech/language impairment, and other health impairment (OHI) for attention deficit hyperactivity disorder (ADHD) and pervasive developmental disorder, not otherwise specified (PDD-NOS) (SD 68).

Parents made their initial due process hearing request on June 12, 2008 for publically funded residential placement at [REDACTED] retrospectively (SD 1). In their request the Parents also requested re-evaluation of the Student. As a result of the due process request, additional evaluations were conducted by the District after a domain meeting was conducted on August 22, 2008 (SD 09). The Parents also presented the team with an independent evaluation conducted by [REDACTED]. The IEP team met on September 12, 2008, and then again on November 21, 2008.

The IEP which was in effect when the Parents placed the Student at [REDACTED] was an October 5, 2006-October 5, 2006 IEP (P C41).

Parents applied for dual enrollment in the District on October 15, 2008 (P H21).

The Student last attended the District in summer of 2006. In the request for a hearing, the Parents requested new evaluations, the last evaluations having been conducted by the District in 2005. In 2005 the District had determined that the Student met IDEA eligibility under an educational diagnosis of Trainable Mentally Handicapped, Speech and Language Disorder and Other Health Impaired (SD 60)

In a domain meeting conducted on August 22, 2008 a request for assistive technology evaluation was made by the District noting that the evaluation needed to be completed by November 14-26, 2008 (SD 12).

During the hearing, [REDACTED], the Director [REDACTED] described the Student as functioning in the moderate range of retardation with ADHA and stereotypic ritualistic behavior, atypical social relations, sensory input issues which would fall within the autistic spectrum profile. He described the intake process in which he stated that [REDACTED] rules out very extreme violent behavior, fire setting, willful behavior, and more severe mental health and disability, and elopement risks. He was also involved in helping the IEP team develop the goals and functional behavioral analysis and behavior intervention plan.

The program is organized into classrooms of up to 10 children. The students are grouped by chronological age peers. The day consists of an arrival time of 9. The students go to lunch at 12:30 at their residential homes and return later for afternoon school.

The house program consists of the Student residing in a staff member's home with 4 other boys. The student shares his room with 3 other boys. The boys in his home are older. He is responsible for chores.

The Student does not receive assistive technology at [REDACTED] (P E5). He sees his parents on special occasions and school breaks.

At the meetings in September and November of 2008, [REDACTED] offered insight into the Student's functioning and provided insight since the Student had not attend the District since the summer of 2006. He stated that he added input into the drafted goals (P C14). His role was to add goals to be more functional. The Parents advocate was also present. The advocate brought goals for a residential setting and the District team advised them that the District was only considering District options. He did not believe that the developed IEP would meet the Student's needs in that the Student needs a residential setting. He needs high structure, with trained staff throughout the day. He needs outdoor activities and indoor activities for his gross motor needs. He needs OT and OT as direct services. He is hoping the Student will work to independence with decreased supervision. A residential placement can give him freedom in that he can experience walking to school, working in the yard, going to store. However, he is doing this in a safe and structured environment. He also stated that the students do not meet non-disabled students other than those who live in the staff homes. He also added that the Student is curious in nature and will act out on this curiosity impulsively. He states the Student does not act out maliciously.

[REDACTED] the Student's teacher at [REDACTED] stated that she has observed autistic behavior in the Student. He will use ritualistic items to calm self down such as playing with string or belts. Academically he is in the middle of her class but behaviorally he is the most challenging. She often escorts the student or sits with him. She described a typical day with arrival at 8:45-9:00, free choice 9:00-9:30. If the Student is in good shape he will go to the task and toys, if not he will revert to stringing beads. The students can also choose books, hold the classroom hamster. She described the Student as interfering with other

students. He may spray them with water or bonk them or take their toys. At 9:30 they have morning circle time then at 10:00 main lesson content and at 10:30 snack and bathroom break. Then a rhythm movement class, music or wood working. He needs to be supervised at all times. However, he does not have a one on one aide at [REDACTED]. At 12:30 p.m. he goes to his house for lunch and a rest period and comes back for afternoon school.

[REDACTED] further states the Student's triggers of misbehavior happen during transition periods (P E6). He needs a very structured program. The Student is reliant on a schedule where he gets security and independence. He shouts and hits if he is not cued. He displays very poor boundaries. He acts inappropriately with new people. May touch a man's beard, hug and kiss, lift the skirts. He also drifts away when he may be processing too much information to redirect. He is a child who is interested in cause and effect. (P E3) He is not capable of empathy. He hits other children in the heads with books or other objects. It is a challenge for him to walk to the sink without incident. His behavior is over the top. He hugs and kisses impulsively, sometimes to comfort, but often unwelcome. He exhibits self injurious behavioral such as placing his hand in a horse's mouth or running off. He is in house with older students who can set an example for him and who unlike younger students, he cannot take advantage (P E125). He has been at [REDACTED] for a longtime and he is slowly making progress. When he goes on break he has set backs when going through a transition E 131 for the first time has made a friend. He has not had a special friend yet as he has not learned how to be a friend but now is seeming to understand that.

[REDACTED] is the District's case manager at the time of the drafting of the IEP in the fall, stated that the team did consider characteristics of autism and addressed those characteristics in the IEP in Section 11 modifications (S 71). He did not meet needs for autism but the team included PDD-NOS. There was a discrepancy between ESY services in 9/08 meeting and 11/08 meeting. She stated that the team would give 8 weeks to give the student as much services as possible. She suggested a fulltime paraprofessional but the [REDACTED] people said he needed it only during transitions. [REDACTED] people developed the functional behavior analysis. The team was unable to finish the IEP on September 12, 2008 because the Parents' advocate and [REDACTED] needed to take a plane back to [REDACTED]. The team attempted to reconvene in October but the date did not work for the Parents and then the team rescheduled the meeting for November. She thought [REDACTED] was too restrictive. The students had no contact with non-disabled peers.

[REDACTED] the District's social worker testified regarding her evaluation of the Student. She stated the student was unable to sit or sustain attention but described him as pleasant and friendly. She met with him for 20 minutes (P B 15- B17). She also found him more high functioning than expected. He was willing to engage and was not withdrawn; however he was only able to engage for a brief time (SD 26). She opinioned that being with regular education

students would be beneficial to the Student. He would be able to model and interact. She described the IEP meeting as very collaborative

██████████ the District occupational therapist evaluated the Student. She stated that he was unable to complete tasks as he could not follow direction. However, his ability is also commensurate with his cognitive skills. She stated that he does need assistive technology and would give him a stamp for a signature. She did not do a sensory profile based on her interview with the mom in which she stated that the Student likes to swim and garden, which is directly opposed to be sensitive to having things such as dirt on his hands. She recommended a pre-vocational evaluation and for the team to focus on his strengths, things he can do in society. It would be more beneficial to him to start doing these skills now. He is learning at a very slow pace and it would be more beneficial to him now to start to learn things that would be life skills. She concluded in her written assessment that he demonstrates significant deficits with his fine-motor, visual motor and visual perceptual skills which is commensurate with his current functional skills. (SD 31). She noted that the Parents state he is independent with dressing himself with verbal prompts.

██████████ the District's school psychologist testified. She could engage the Student for a few minutes. The Student had a short attention span. She felt that the district could provide the services as she has seen more severely disabled students serviced in District programs. She also felt that the IEP process as extensive and that everyone was able to participate. In her report she noted that a cognitive assessment could not be completed at the time due to oral communication and expressive vocabulary deficits. The Student had difficulty comprehending instructions and following directions (SD 17). He also has significant verbal and expressive language delays (SD 19). Due to his deficits she conducted informal testing (SD 19). ██████████ concluded that informal testing revealed extremely low academic abilities; adaptive skills reveal low ability levels in most areas; observation and testing behaviors revealed high distractibility and poor attention span; and he is functioning within a 3 to 4 year old age in areas of academic and cognitive achievement. (SD 20).

██████████ parents' independent psychologist testified. The Student was referred to her by the educational advocate ██████████ (P A5). She saw the Student over two days. She described him as immediately interested in toys and books in the waiting room and engaging in appropriate play. He easily transitioned into the testing room. He was readily directed to the tasks showing interests in the objects. He worked with diligence on formal testing tasks over 60 minutes with brief breaks provided as needed (P A5). She did not assess the Student academically. She found the Student to be in the cognitive range of a 3-4 year old. He has characteristics of a child with autism. He is within the PDD-NOS with three means of weakness. He exhibits a weakness in social skills, communication and displays repetitive actions. She stated that there is a dichotomy with his ADHD and his PDD-NOS in that people with ADHD do well with repetition and people with PDD-NOS do not do well with repetition. Because

of his autistic behavior he is less able to understand directions or stay in a group. His education needs to focus on his daily living skills. She stated he needed a residential placement because he needs round the clock routine and consistency. He does not respond to socially accepted norms. She was asked by the parents advocate to write the second letter recommending residential placement because the advocate did not think the first evaluation stated that clearly enough. She expressed concerned that the functional behavioral analysis and behavior intervention plan are ineffective due to possible change in environment. Testing was prompted by advocate. She notes that the Student has not been diagnosed with autism because he does not show the severity and frequency of behaviors to meet diagnostic criteria for Autism, Instead he is being diagnosed with PDD-NOS, which is the diagnosis used when autistic features are present but do not meet criteria for a specific autistic spectrum disorder (P A8). She recommends that a change in educational placement is not appropriate given the Student has made slow progress with the intense level of intervention currently in place for him. (P A9)

██████████ District speech pathologist described the student as having very little spontaneous speech. She also described the IEP meetings as collaborative.. She described the Student as friendly and he came willingly. Classroom goals were incorporated in the speech and language goals. She noted in her evaluation that the Student was ready to leave after 20-30 minutes (SD 28).

██████████ the District special education coach for Area 17 stated that she did not think that the Student needed a residential placement as the District was serving other students with his profile. She also did not think he needed 24 hour educational service. During the IEP meetings she felt that she did not hear anything that could not be handled by the District. After reading the ██████████ letter she did not believe that the student needed residential based on his profile, ability level and the program characteristics.

██████████ the district's autism evaluator testified. For her evaluation, the Parents completed the Social Communication Questionnaire (Lifetime) and she assessed him using the Autism Diagnostic Observation Schedule (ADOS) on the Student (SD 22). The ADOS is a play based assessment. She was appropriately trained in ADOS testing. She spent 45 minutes with the Student. She found that the Student presents with a significant speech/language disorder that can make him difficult to understand and hinders his ability to engage in full, reciprocal, social conversation (SD 22). However in her evaluation she states that his speech disorder did not inhibit his attempts in getting and maintaining the examiner's attention. (SD 23). The Student engages in gestures, pointing and vocalizations. She noted in evaluation under reciprocal social interaction that he exhibited appropriate eye contact, responded to his name being called and showed pleasure in interactive participation with the examiner and others Some of his social overtures tended to be unusual and restricted to his own interests and he has tendency to violate others personal space and will hug and kiss individuals when not appropriate (SD 23). She agreed with the PDD-NOS

finding of [REDACTED]. PDD-NOS is one of 5 categories within the autism spectrum but not enough to be considered autism. (SD 23) She helped create modifications and accommodations in the IEP. She did not attend the second of the IEP meeting in November, she stated that she was told by the legal department to not come to the second IEP meeting however, the record indicates that the parties also excused her attendance (SD 66).

[REDACTED] testified. She is in charge of residential placement. She stated that the District could meet the needs of the Student. She did not think the Student's needs were so profound to require residential placement. She also stated that there is value to being placed with non disabled peers and that the Student may act better. In the program the District would place the Student he would have much support he would learn living and vocational skills and would be integrated with non-disabled peers.

The Mother discussed her concerns with the Student's safety and inability to know danger. She described the Student as having no sense of danger and being very active. After IEP meeting, the parent dissented on December 4, 2008 (P F27). There is no indication on the written record that the Parents were not satisfied with the services that the District was providing at the time of their placement decision in May of 2005. In fact, at the October 2005 IEP meeting, it indicated that the team was in agreement to the developed IEP. (P C41). She had testified regarding her fear of the Student's lack of safety in which would run off. She never indicated she was not satisfied that the District was not providing the Student with sufficient services. Reviewing the admission application the Parents filled out for [REDACTED] dated May 31, 2006, in the "reasons or motivating factors" for placement at [REDACTED] the Parents write " the [REDACTED] setting is perfect providing the open spaces and serenity that will allow him to thrive. We also understand there needs to be a preparation for his separation from the family as he grows older-adulthood." (P E116).

[REDACTED] the District's special education administrator stated that the goals were drafted based on the Student's needs not regarding the school or facility. She stated that the team discussed safety concerns and addressing them. She stated that the programs she has observed for a placement such as the one the District is recommending for the Student are quite phenomenal.

The facts support that the IEP's drafted on November 21, 2008 and September 12, 2008 were fully collaborative. Many of the goals were drafted with the help of [REDACTED] personnel. The goals were drafted to provide paraprofessional support during transition within the building and community, goals to provide life skills, modifications to allow for accessing the curriculum. The IEP provides for small class size with small student-teacher ratio, close proximity to an adult and a paraprofessional during transition times as stated by the [REDACTED] individuals.

It should be noted that at the Student was not available for the assistive technology evaluation due to being in school and a note was made on the IEP that the evaluation would be conducted when he came home to Illinois. (SD 70)

The written records also reflect notable statements regarding the Student's short attention span, intrusion of boundaries, but all the evaluators noted his willingness to cooperate, his friendliness, his ability to be redirected. The Student also engages others, is toilet trained, can feed himself and cloth himself with prompts.

Conclusions of Law

Burden of persuasion in challenging a District's IEP rests on the party claiming a deficiency *Schaeffer v. Weast*, 546 U.S. 49, 62 (2005). In the instant case, such burden rests on the shoulders of the Parents. Although the Parents present compelling facts to support their position that the Student should be placed at [REDACTED] these facts simply do not sustain the burden that the District's November 21, 2008 IEP cannot provide the Student a FAPE.

In *Board of Educ. of the Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176, 200, 102 S.C. 3034 (1982), the United States Supreme Court addressed the level of instruction and services that must be provided to a student with disabilities to satisfy the requirement of the IDEA. The Court determined that a student's IEP must be reasonably calculated to provide the student with some educational benefit, but that the IDEA does not require school districts to provide special education students with the best education available or to provide instruction or services that maximize a student's abilities. *Id.* at 198-200. The Court stated that school districts are required to provide only a basic floor of opportunity that consists of access to specialized instructional and related services which are individually designed to provide educational benefit to the student. *Id.* at 201. A program is not required to maximize the potential of the handicapped child, rather, the placement need only provide a program that is reasonably calculated to enable the child to receive educational benefits. *Id.* at 207.

In order to constitute a FAPE as required by the IDEA and *Rowley*, the District's placement must meet the following substantive requirements: (1) have been designed to meet Student's unique needs; and (2) have been reasonably calculated to provide Student with some educational benefit. In the Student's case, the IEP as developed by the District is designed to meet the Student's unique needs and provide him with some educational benefit. The IEP provides a myriad of modifications and accommodations along with goals towards

independent functioning, physical boundaries, social boundaries, self management in a small classroom setting. In addition, the Student will be able to be engaged with non-disabled peers for modeling. Also a functional analysis and behavior intervention plan was developed with significant input from the IEP team. The IEP team suggested concentrating on the Student's strengths for everyday living skills due to his very slow progress in obtaining traditional educational skills such as math and reading.

The Parents contend that some of the IEP goals are "lofty" in nature and do not meet the requirements of IDEA. IDEA (20 USC 1414 (a)(1)(A)(II)(aa)) requires that the annual goals in a child's IEP include goals relating to "meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum. In some cases, appropriately drafted short-term objectives may compensate for inadequate annual goals. See also *Board of Educ. of Rondout Valley Cent. Sch. Dist.*, 24 IDELR 203 (SEA NY 1996). The District applied the Illinois State Standards in drafting measurable annual goals; however, these were modified by the team to be more realistic to the meet the Student's unique needs.

Unilateral placement

Courts and hearing officers have required public agencies to reimburse parents for the cost of a private school placement when the public agency has not made FAPE available to the student in a timely manner prior to the enrollment, and the private placement is appropriate. The U.S. Supreme Court recognized and laid the groundwork for the parent's right to recover private school tuition reimbursement in *Burlington School Committee v. Massachusetts Dept. of Educ.*, 556 IDELR 389 (1985).

The essential principles in *Burlington* are reflected in the IDEA. 34 CFR 300.148 are (a): ("an LEA [is not required] to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility"). three factors to be evaluated in determining the outcome of private school tuition reimbursement cases: 1) The appropriateness of the district's public placement; 2) The appropriateness of the parent's unilateral private school placement; and 3) Any equitable considerations. Pursuant to 34 CFR 300.148 (c), "if the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool, elementary school, or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education

provided by the SEA and LEAs." In the instant case, the last agreed upon IEP by the parties was the October 2005 IEP where the record indicates the Student was progressing. The Parents never contended that they were dissatisfied with the program nor advised the District they were seeking reimbursement until almost two years had passed from placement. Parents claim that the District failed in its child find duties when it failed to find the Student had ADHD and PDD-NOS along with his cognitive delays during the time period from June 12, 2006 to present thus failing to provide the Student a FAPE. The evidence which the Parent's offer is unpersuasive in arguing that this impacted the ability for the Student to be educated under the IEP which was in effect at that time, the October 2005 IEP. The District had found the Student eligible for services and was in fact accommodating the behaviors.

The most important question in a reimbursement action is whether the district offered the student FAPE. If the student's IEP is procedurally and substantively appropriate, the parents are not entitled to reimbursement. *A.C. and M.C. ex rel. M.C. v. Board of Educ. of the Chappaqua Cent. Sch. Dist.*, 51 IDELR 147 (2d Cir. 2009). This rule applies even if the private program is superior to the services offered by the district. *Lewis v. School Bd. of Loudoun County*, 19 IDELR 712 (E.D. Va. 1992). In the instant case the District has offered an appropriate IEP, and an IEP was in place at the time the Parents removed the Student from the public school setting. The Parents removal at that time seemed to stem more from their fear for the Student's elopement risks which he demonstrated while he was in their custody but was never shown to be an issue of concern at the public school.

Current Placement

The Parents also contend that the Student requires a more restrictive setting. Courts review residential placement on a case by case basis. As many of the District witnesses stated, most residential placements revolve around serious emotional disturbance. However in certain situations courts have also found residential placement is required for severely cognitively impaired where a student's educational needs are inseparable from social, emotional and mental health needs, and the student will not be able to benefit academically without the therapeutic aspects of these programs, this type of programming is considered to be intrinsic to the student's education. The district will be responsible for funding the entirety of this placement, including both the therapeutic and educational components. *Kruelle v. New Castle County Sch. Dist.*, (3d Cir. 1981). The *Kruelle* is distinguishable from the Student's case in that in *Kruelle*, the Student had very significant issues, with cerebral palsy, profound mental retardation which made toileting, dressing, self-feeding next to impossible. The child needed constant, consistent and professionally administered training to learn.

Generally, behavior problems that are limited to the home environment or manifest themselves almost exclusively in that setting do not warrant residential

placement. Parents' inability to manage a student at home is not, in and of itself, sufficient grounds to justify a residential placement. *Blickle v. St. Charles Comm. Unit Sch. Dist. No. 303*, 20 IDELR 167 (N.D. Ill. 1993). The main risk of Student is elopement risk and safety cues, he needs supervision. However, for any other education needs, a more restrictive setting is unnecessary. The Student exhibits many self help skills, is able to engage people, is re-directable as observed by the Parents' own expert. The Parents never contended that the Student eloped from his public school. Rather these instances seemed to have arise when he was with his family.

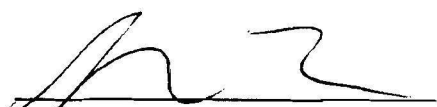
Conclusion

From the initial onset of this hearing, it was very obvious that the Parents are very loving, nurturing and caring having their son's best's interest in mind. With the exception to the distance to the Parents' home and the lack of interaction with non-disabled peers, [REDACTED] is an ideal placement. However, the law under IDEA does not require the ideal placement. It merely requires a placement that offer some educational benefit. The IEP as drafted over a two day period with valuable input from many District experts along with Parents' experts, and Parents provides a program which will meet the requirements of IDEA in providing a FAPE in the least restrictive environment.

IT IS HEREBY ORDERED:

1. The Parents' request for reimbursement at [REDACTED] is denied;
2. The Parents' request for a residential placement such as the one at [REDACTED] [REDACTED];
3. The District shall conduct and assistive technology evaluation along with a prevocational evaluation of the Student at a mutually agreeable time but no later than August 1, 2009;
4. In the event the Parents do not make the Student available for the evaluations, the District's obligation under this order shall be deemed fulfilled; and
5. After conducting the evaluations, the IEP shall meet within two weeks to consider the recommendations of the evaluations;

ENTERED THIS 1st DAY OF June, 2009



Sheana Hermann
Impartial Due Process Hearing Officer

Finality of Decision:

This decision shall be binding upon all parties.

Right to File Civil Action:

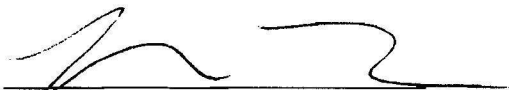
Any party to this hearing aggrieved by the final decision has the right to commence a civil action with respect to the issues presented in the hearing. Pursuant to 105 ILCS 5/14-8.02(i) that civil action shall be brought in any court of competent jurisdiction within 120 days after this decision was mailed.

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 party(ies) 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.**

CERTIFICATE OF SERVICE

The undersigned hearing officer certifies that she served copies of the aforesaid Decision and Order upon Parents' counsel (7007 2560 0000 7376 2983), District's counsel (7007 2560 0000 7376 2990), and the Illinois State Board of Education (7007 2560 0000 7376 3003) at their respective addresses by depositing same with the United States Postal Service in Chicago, Illinois with proper certified postage paid before 5:00 p.m. on June 1, 2009.



Sheana Hermann
Impartial Due Process Hearing Officer