

ILLINOIS STATE BOARD OF EDUCATION  
SPECIAL EDUCATION DUE PROCESS HEARING

IN THE MATTER OF

[REDACTED]

v.

[REDACTED]

)  
) **ISBE CASE NO. 2009-0376**  
)  
) **Sheana Hermann**  
) Impartial Due Process  
) Hearing Officer

JUL 06 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] ("Parent") by and through their attorney, [REDACTED] of the Law Offices of [REDACTED] on behalf of the "Student", against the [REDACTED] ("District") represented by its attorney [REDACTED] of the District's [REDACTED]. 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 on behalf of Student on March 23, 2009. It was received by the Illinois State Board of Education (ISBE) on March 30, 2009. This hearing officer was assigned the case on April 7, 2009 after another hearing officer was stricken by the Parents. 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 attempted resolution on April 10, 2009 but were unsuccessful. A pre-hearing conference was conducted on April 30, 2009. The hearing was conducted on May 18, 2009, June 1, 2009 and June 17, 2009 at the [REDACTED] School, [REDACTED].

The following witnesses testified:  
[REDACTED], Student's teacher; [REDACTED], Student's teacher; [REDACTED], District social studies teacher; [REDACTED], special education assistant; [REDACTED], Student's math teacher; [REDACTED], District special education teacher; [REDACTED], District art teacher; [REDACTED], District's science teacher; [REDACTED], District case manager; [REDACTED], District school nurse; [REDACTED], District special education teacher; [REDACTED], District front office staff; [REDACTED], District media technology teacher; [REDACTED], Parents' educational consultant; [REDACTED], District school social worker; [REDACTED], private pediatric neuropsychologist; [REDACTED], principal at [REDACTED].

District school psychologist; Student; and the Mother. The parties acknowledged receiving their rights.

#### **Post hearing Motion**

The Parents through their attorney by email transmission filed a post hearing motion to amend the remedies to include reimbursement of \$250.00 paid to their expert [REDACTED] for a private evaluation observation which was ceased by the District. Testimony regarding the events surrounding [REDACTED] observation of the Student on June 2, 2009 were admitted into evidence and will be considered by this hearing officer in making a ruling in whether the District has provided the Student FAPE and if so what remedy will be imposed by this hearing officer, however, a request for amending the Due Process pleading is denied.

#### **Issues Presented**

The Parents have stated the following issues:

- 1) [REDACTED] did not provide a free and appropriate education during the period from October 2006 through the present time based on:
  - a) Failure to conduct timely and adequate assessments of all areas of potential disabilities, with the result that the student's educational program for the period did not address, or addressed inadequately, his learning impediments and emotional difficulties and his sensory impairments; in addition, no formal written assessments of the student's need for assistive technology, speech therapy, occupational therapy, social work services, or psychological services have been provided;
  - b) Failure to consistently provide direct social work services and or psychological services;
  - c) Failure to identify and utilize effective teaching methodologies at a sufficiently Intensive level that would enable the student to make progress commensurate with his cognitive skills;
  - d) Failure to develop an IEP for the 2007-2008 and 2008-2009 school years that considers the
    - i) student strengths and weaknesses;
    - ii) development of communication and self-monitoring skills;
    - iii) additional resources and supports to be accessed through the school district and through community resources, respectively;
    - iv) strategies for strengthening the student's functional, developmental and through ameliorating recognized deficits in areas of attention, social/emotional fragility and behavior problems;
  - e) Failure to develop an effective functional behavior analysis and behavior intervention plan for the student.
- 2) The parent contends that the student had no IEP from 2007 through the present;
- 3) The parent contends that the IEP of 10/06:
  - a) Includes statements of present levels of performance that do not accurately and objectively state the student's skills and functional levels;
  - b) Provides goal statements that are vague and not measurable, the goal is not commensurate with the student's potential for development.
  - c) Fail to address adequately communication and behavioral limitations of the student
  - d) Fails to address the attentional and organizational limitations of the student;
  - e) Fails to identify what research-based methodology is required to remediate student's behavioral challenges

- f) Fails to provide direct sufficient related services, despite evidence of emotional and behavioral difficulties that interfere with the student's education;
- g) Fails to offer an adequate level of assistive technology, which is required for the student to make reasonable academic progress;
- h) Fails to authorize extended school year services, despite substantial evidence that the student has social/emotional challenges.
- i) Fails to offer a 1:1 aide, although constant and consistent supervision and direction is essential for the Student to make reasonable progress;
- j) The IEP fails to offer behavioral therapy services, despite evidence of poor social interaction by the student

**Parent Is Seeking the Following Relief:**

- 1) Direct that [REDACTED] place the student at [REDACTED] a private therapeutic day school;
- 2) Order independent educational evaluations in areas of potential disability that have not yet been adequately assessed, including
  - a) Emotional/behavioral difficulties
  - b) Attention and organizational deficits
  - c) Sensory processing deficits
  - d) Assistive technology devices and services needed to access the curriculum
- 3) Direct [REDACTED] to offer related services in sufficient intensity to allow student access to educational opportunity, including
  - a) at least 60-90 mpw of direct social work services and/or psychological counseling;
  - b) assistive technology services, as may be recommended by an independent evaluator;
  - c) occupational therapy services to address sensory processing, attentional, and organizational concerns, as may be recommended by independent evaluator;
  - d) speech therapy services, as may be recommended by an independent evaluator
  - e) behavior therapy services, as may be recommend by an independent evaluator
- 4) Direct [REDACTED] to provide compensatory education services for loss of FAPE during the past two years:
  - i) behavior therapy for 10 hours per week after regular school hours by a therapist supervised by a board certified behavior analyst;
  - ii) 16 hours of training for the parents on a research based behavior intervention.
  - iii) tutoring two hours per week after regular school hours by a certified special education teacher
- 5) direct [REDACTED] to convene an IEP meeting that will consider results of evaluations and implement the foregoing relief; and
- 6) other relief that may be determined after the receipt of additional school records or other evidence introduced at hearing.

**District's Position**

The Student is a 12 year old student not currently receiving special education services. The Student previously received special education services pursuant to an IEP, but ceased to receive special education in September 2007, pursuant to agreement between the Parent and the IEP team. During the current 2008/2009 school year, Parent and the IEP team agreed that it was appropriate to conduct new evaluations for the purpose of determining the Student's eligibility for special education services. The IEP team convened

a domain meeting on March 10, 2009 to plan relevant areas in which to conduct assessments, and said assessments are underway. Parent provided the IEP team with a private evaluation in April 2009.

The District has at all times provided the Student with a free, appropriate public education. The District conducted evaluations in all relevant domains while the Student received special education and related services up until September 2007. Parent assented in writing to the Student being exited from special education at that time.

The District is seeking an order affirming that it provided the Student a free, appropriate public education and that it denies all relief sought by the Parent.

**Facts:**

The Student is a twelve year old boy who recently completed the 7<sup>th</sup> grade. He was previously receiving special education services under the qualifying disability of emotional disorder. He was initially found eligible in October of 2006 (PD 18). In the October 2006 IEP, the Student was to receive 90 minutes per week of direct language arts services to address writing issues (PD 025). The October 2006 IEP was inconsistent as to whether the Student would receive direct social work services as stated on (PD 23) or consultative only (PD 025 and 30). On the District form it states that a functional analysis (FA) and behavior intervention plan (BIP) is required for all students with an emotional disturbance (PD 021). None was created for the Student until November of 2008. The Parent did receive her procedural safeguards at the October IEP meeting (PD 037). At some point the Student was exited from special education by the District. There is no record that indicates that the Parents requested removal, the Parents no longer consented to services or that a formal IEP meeting was conducted for the change in placement. The testimony is consistent that the Parent had agreed to revise the pull out services for language arts, however, not that the Student be suspended from the remainder of special education services. In April of 2006, the District conducted an autism evaluation which concluded that the Student did not meet the criteria for an educational diagnosis of autism spectrum disorder (PD 15). A domain meeting was conducted March 10, 2009 (PD 001).

██████████ the District case manager testified. She stated her job was to conduct meetings, provide paper work, give copies to the appropriate parties. She stated during the 2006 IEP meeting that a functional behavior analysis was not conducted which was an error on the part of the District. She testified to contacting the school social worker to address issues that the Student was having.

██████████, the Student's teacher testified. She described the Student as being very knowledgeable about academic material, he has a good sense of humor. Other times he is withdrawn with compliance problems. She noted that his problematic behavior started in September of 2008. His behavior has become more significant as the school year progresses in December through March. He leaves the room without permission, or is in a situation without appropriate supervision. His greatest challenge is verbal communication. He has problems with focus, organization, anxiety emotional selective mutism. He has problems with defiance. She haws contact others regarding her concerns with the Student including the case manager ██████████ at the beginning of the academic school year. She was given some strategies to use in the classroom. Some of these strategies work, some

did not. He does not have any strong ties to any students. She is not sure if he has any friends. She provides not input into the creation of the functional behavior analysis or behavior intervention plan. She first received the plan in January. She has also contacted ICARE, District's personnel who are comprised of behavior specialist. They have come to her classroom and made observations. ICARE personnel gave her strategies to use in class. Again some of these strategies were successful, some not. Although her name is on the misconduct reports, so she stated that other teachers have indicated that they have had problematic behavior such as [REDACTED] of these were not issued by her. Her name is on the report cards since she is his teacher. She stated his behavior is a barrier to the Student's progress or ability to work to his potential. His report cards show he is capable of doing the tasks requested, but his behavior impedes his progress (SD Ex. 1). An example would be if he shuts down or is angry he may miss his assignment or not turn in his home work. She stated that his non-compliant behavior is not common for a 7th grader. He shuts down at least once a day. She believes he would benefit from a smaller classroom.

[REDACTED] students writing teacher stated that she has observed the Student not participating. He has paced in her class and been defiant.

[REDACTED], the District's art teacher was a strong witness providing a description of the Student as uncooperative in her class but also observing the same behavior in the Student in other classes. She stated that the Student has acted like a "gorilla." She has not observed any improvement in the Student's behavior since the beginning of the school year. The Student is receiving an "F" in her class.

[REDACTED], the Student's science teacher, stated that he has sent the Student out of his class on the day of the hearing in which he testified. He believes that listening is the Student's greatest challenge. He has observed the Student pacing, the Student getting out of his seat 2 to 3 times a class period. He has observed "shutting down" and he stated that other teachers have also relayed the same observation. He has not seen an improvement in the Student's behavior as the school year has progressed. He believes the Student would benefit from special education and counseling and social work services.

[REDACTED] the Student's media technology teacher, first met the Student in kindergarten. He has observed problems with the Student's behavior. He has observed the Student acting very hyper without being able to display self-control. He is disruptive on a regular basis. He has observed the Student's "shutting down behavior." He believes the Student's greatest challenges are focusing on the task at hand., self-control, cooperating with teachers, he has problems with peer relationships. He believed the Student would benefit from a small classroom setting.

[REDACTED], the District's social worker testified to concerns expressed by school personnel and the parent regarding the Student's behavior. He stated that the Student's greatest challenges was in relationships with peers and authority figures. He has difficulty creating and maintain friendship and is oppositional to authority. He has observed the student handwringing, displaying facial tics, leaving the classroom, shutting down, selective mutism. He has also seen the Student display physical anger such as pounding on chairs and windows. His behavior problems have increased as the school year has progressed. The Student would refuse to talk during social work sessions. He was not responding to

social work services, however [REDACTED] did not request reconvening the IEP to make a change in services. He did state that the Student would benefit from smaller class and possibly needs a therapeutic day school. It would be difficult for the Student to stay in his current setting.

[REDACTED] a pediatric neuropsychologist for the Student, proved a very credible witness. She had stated her report was consistent with findings of the District in that the Student displays good cognitive ability but exhibits shutting down behavior (PD 182). She noted that the Student does demonstrate characteristics of ADHD, as well as affect and mood disturbance that will need to be further clarified by his psychiatrist as will a diagnosis of ODD (PD 182). He is demonstrating a need for both the behavioral plan or positive support recognizing his difficulties along the category of Emotional disturbance. Specifically the Student because of his depression and anxiety, does have an inability to build or maintain satisfactory interpersonal relationships with peers and teachers, and he displays a general mood of anxiety and unhappiness. These difficulties have occurred over an extended period of time and to a marked degree that adversely affects his educational performance. (PD 182). She also relayed her great difficulty in receiving cooperation from the District in providing a BASC reports as promised in the March 10, 2008 meeting and having her observation on June 2, 2009 terminated by the District on District counsel's orders. However, during her visit she did observe the Student isolated in a desk separated by the remainder of the student's in class. She also saw the Student being pushed by another student without any sort of intervention or reprimand to the bullying student by the teacher. She noted that the Student had no interaction with other students. She also stated that the District's implementation of detentions was not an effective approach for the Student. He needed positive reinforcement, praise and encouragement. In her report she recommends a therapeutic day school that is specifically designed to address the unique needs of children with emotional disturbance (PD 183).

[REDACTED] the District school psychologist, testified that the he conducted initial testing of the Student in 2006 in which the Student was found eligible as emotional behavior disorder two (EBD2 now referred to as ED). He administered the BASC. Both the parent and teachers scored clinically significant in hyperactivity, conduct problems, externalizing problems social skills, functional communication. The parties had several areas of at risk scores in aggression, attention problems, behavior symptoms index, adaptability, leadership and adaptive skills (PD 260 p. 24). He states in his report that the Student still meets the special education eligibility criteria for the handicapping condition of Emotional Disorder (PD 260 p. 21). In his report he also agrees with [REDACTED] recommendation of that positive behavior supports be provided to the Student. (PD 260 p. 23).

The Student's mother testified. She is currently a teacher the District. She stated that the Student started exhibiting difficulty since third grade. He was diagnosed with ADHD in 2005. She was particularly concerned with the Student's behavior. She gave [REDACTED] an occupational therapy referral form from the Student's physician in February 2009 (PD 233) due to concerns with a possible sensory processing disorder. However the District never conducted the evaluation. She also relayed that as recently as June 9, 2009, the Student's teacher [REDACTED] called the police after the Student allegedly made comments about harming her child. She stated that after she filed the due process, she did not receive as many written misconduct or disciplinary reports, but knows that the Student is still being sent to the front office. She never agreed to withdraw the Student from special education

services. Rather, he was doing well in his writing pull out, and no longer need those services. She was surprised to learn that he was no longer receiving services.

### **Conclusions of Law**

After three days of hearing, the written and oral testimony support that the Student meets the eligibility requirements of an emotional disturbance and that the District has failed to provide the Student a free appropriate public education as required under the IDEA. The District's own personnel described a Student who had significant behavioral issues which were not within the norms of a regular 7<sup>th</sup> grader. A significant proportion of the witnesses felt that the Student needed a smaller setting with counseling support.

The District failed to appropriately identify the needs of the Student, implemented a defective IEP, failed to convene an IEP meeting when it was obvious that the Student was not appropriately responding to social work services, the District improperly removed the student from special education services.

The landmark case *Board of Education of the Hendricks Hudson Central School District, Westchester County vs. Rowley*, 458 U.S. 176 (1981) outlines the two prong tests which exemplify the standard that must be met by districts to provide a free appropriate education. First, has the District complied with the procedures set forth in IDEA. Second, is the IEP reasonably calculated to enable the child to receive an educational benefit.

The record reflects that the District failed in both these measures.

### **Procedural Failure**

The most basic example of the District's failure to follow proper procedure is in its exiting of the Student from special education without proper procedures. It is not even clear when this took place or when the Parent was made aware of this. The evidence is clear that the Parent did not intend for the Student to be exited from services for his emotional disorder. The District contends that the Parent requested that the Student be removed from special education, however, the testimony and written testimony is more consistent with the Parents' representation that they wanted services to be provided to the Student for his emotional disorder and were in fact surprised to find out that the Student was exited from special education. The District seems to be making the argument that the Parents revoked consent for special education however even if the Parents revoked consent for special education, the District still had an obligation to provide proper notice. The District must provide the Parents with prior written notice in accordance with 34 CFR 300.503 before

terminating the student's services. 34 CFR 300.300 (b)(4)(i). A change in placement requires at a minimal notice pursuant under 34 CFR 300.503 which requires :

(a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency--

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

There is no evidence that such notice was ever given or that the parties had conducted a meeting to determine that the Student no longer required special education services. The District claims that the Parent requested that the Student be removed from special education. The Parent contends that she did not request this removal. The facts do not support that she requested that he be removed. After reviewing the documents which the District states support their contention PD 256 and PD 257, PD 257 does not contain a date nor does it referenced a request for removal for services. Furthermore, email evidence supports Parent's contention that she believed that the Student was still receiving special education services for his emotional disorder. (PD 197 and PD 199), both of which were written after September 10, 2008 and reference IEP's. In her email of January 5, 2009, the parent suggests that an independent functioning goal be written in his IEP. (PD 199). In January 12, 2009, the parent in her email to the case manager specifically stated that she did not agree to the Student being forced out of special education, and in fact had wanted the student to receive services for his selective mutism and oppositional behavior (PD 201). In her email response. [REDACTED] does not dispute this contention made by the parent. (PD 202).

#### **Failure to Provide Educational Benefit**

The evidence clearly supports the Parents' contention that the District failed to provide the Student with an IEP which would confer an educational benefit. The initial IEP as drafted in October 2006, only stated a goal for the Student's writing. The benefit conferred is de minimus and does not meet even the low threshold of *Rowley*

In *Alex R. by Beth R. v. Forrestville Valley Community Unit Sch. Dist. #221*, 104 LRP 33610 (7th Cir. 2004), the 7<sup>th</sup> Circuit Court determined to meet the second criterion of *Rowley*, an IEP must respond to all significant facets of the student's disability, both academic and behavioral. *CJN v. Minneapolis Pub. Schs.*, 323 F.3d 630, 642 (8th Cir. 2003). That is why a school district's IEP team is required to assess whether the student's disability-related "behavior impedes his or her learning or that of others" in the classroom. 20 U.S.C. § 1414(d)(3) (B)(i) (emphasis omitted). An IEP that fails to address disability-related actions of violence and disruption in the classroom is not "reasonably calculated to enable the child to receive educational benefits." Nor does it address an important aspect of the student's disability.

During the time period that the Student was eligible for special education services as having an emotional disability, the District was implementing an IEP that was defective. There were no goals for the Student's behavior and by the very admission of [REDACTED] the Student was not responding to any of his services. Despite this finding, [REDACTED] made no attempt to reconvene an IEP to address this failure.

The District also stated that a functional behavior analysis and behavior intervention plan should have been created but was not due to an oversight. Without such a plan the Student received numerous misconduct reports and detentions and was often sent to the office.

Courts have found that an IEP is appropriate when it is "reasonably calculated to enable the child to receive educational benefits" or, in other words, when it is "likely to produce progress, not regression or trivial educational advancement." *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F.*, 118 F.3d 245, 248 (5th Cir. 1997) (quoting *Board of Educ. v. Diamond*, 808 F.2d 987 (3d Cir. 1991)); accord *Walczak v. Florida Union Free Sch. Dist.*, 142 F.3d 119, 130 (2d Cir. 1998). The requisite degree of reasonable, likely progress varies, depending on the student's abilities. Under *Rowley*, "while one might demand only minimal results in the case of the most severely handicapped children, such results would be insufficient in the case of other children." *Hall v. Vance County Bd. of Educ.*, 774 F.2d 629, 636 (4th Cir. 1985). Objective factors, such as regular advancement from grade to grade, and achievement of passing grades, usually show satisfactory progress. *Walczak*, 142 F.3d at 130 (citing *Rowley*, 458 U.S. at 207 n.28)). Whether an IEP was "reasonably calculated to enable the child to receive educational benefits" is a question of fact that we review for clear error. See *MM*, 303 F.3d at 531 & n.12 (citing *Tucker v. Calloway County Bd. of Educ.*, 136 F.3d 495, 503 (6th Cir. 1998)).

In this case, failure to provide a FA/BIP proved detrimental to the Student. A behavioral intervention plan could be warranted occurs when the disabled student exhibits behavior that impedes the learning of himself or others. Although it does not use the term "behavioral intervention plan," 20 U.S.C. § 1414(d)(3)(B)(i) requires a school district's IEP team, "in the case of a child whose behavior impedes his or her learning or that of others, [to] consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior." *Id.* (emphasis omitted). Testimony and written support shows that the Student's behavior has and is impacting his ability to learn.

The IEP itself is defective. Each IEP must include a statement of measurable annual goals, including academic and functional goals designed to: (A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and (B) Meet each of the child's other educational needs that result from the child's disability. 34 CFR 300.320 (a)(2)(i).

Neither the IDEA nor the Part B regulations identify the amount of specificity that is required for IEP goals. However, one administrative law judge has suggested that a well-written IEP goal should pass the "stranger test." Under that test, an IEP goal is appropriate if a person unfamiliar with the IEP would be able to implement the goal, implement the assessment of the student's progress on the goal, and determine whether the student's progress was satisfactory. *Mason City Community Sch. Dist.*, 46 IDELR 148 (SEA IA 2006).

In developing each child's IEP, the IEP team must consider --

(i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior; . . .

(v) Consider whether the child needs assistive technology devices and services.

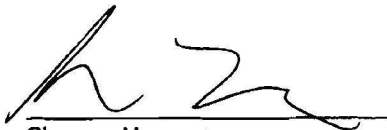
34 CFR 300.324 (a)(2).

In conclusion, the evidence overwhelming supports that Student is in need a special education services under emotional disturbance. The District failed to address the Student's needs in the IEP developed in October of 2006. The Statute of Limitations does in fact limit the Parents' ability to receive compensation prior to two years from filing as the Parents were in fact aware of their rights. However, it does not limit the District's obligation within that two year period to implement an appropriate IEP or to change the IEP when it appears that the Student is not benefitting from services.

**IT IS HEREBY ORDERED:**

1. The Parents' request for placement in a private therapeutic day school is granted for the 2009-2010 school year including extended school year services for the summer of 2010;
2. The District shall convene an interim IEP meeting within 14 days of this order to start the process of placement of the Student at the private therapeutic day school; and at that time District shall provide the Parents with the names of four (4) private therapeutic day schools to the Parents review for placement before or at the IEP meeting;
3. The District shall conduct evaluations on the Student in the areas of occupational therapy, assistive technology and speech and language at a mutually agreed time but no later than July 30, 2009; the District shall contact the Parents on or before July 7, 2009 to schedule the evaluations;
4. In the event the District fails to contact the Parents by July 7, 2009, the Parents may seek independent evaluations and District shall pay for those evaluations;
5. The District shall reconvene an IEP meeting no later than two weeks after completion of the additional evaluations to consider those evaluations; the reconvened IEP meeting must take place prior to the start of the 2009-2010 school year;
6. If [REDACTED] participates in the IEP meetings, the District shall pay for Dr. [REDACTED] professional fees;
7. The District shall provide the Parents with 12 hours of behavior therapy training; providing three names of properly certified behavior therapists;
8. The District shall provide 50 hours of tutoring services for the Student;
9. The District shall provide 24 hours of counseling service to the Student by a properly certified social worker or psychologist;
10. The District shall provide the Parents with three names each for tutoring and counseling services; and
11. The District shall reimburse the Parents for payments previously made to Dr. [REDACTED] not to exceed \$1,000.00.

**ENTERED THIS 29<sup>th</sup> 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:**

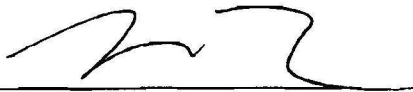
Any party to this hearing aggrieved by the final decision has the right to commence a civil action with respect to the issues presented in the hearing. Pursuant to 105 ILCS 5/14-8.02(i) that civil action shall be brought in any court of competent jurisdiction within 120 days after this decision was mailed.

**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 3034), District's counsel (7007 2560 0000 7376 2679), and the Illinois State Board of Education (7007 2560 0000 7376 2709) 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 29, 2009.



Sheana Hermann  
Impartial Due Process Hearing Officer