

Case Number: 2009-0431  
[redacted] vs. [redacted]  
Hearing Officer: Kristine Anderson

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:  
Address [redacted]  
Represented by [redacted]

Date and Timelines

Date of Written Request: 04/24/2009  
Date of Pre-hearing Conf: 05/26/2009  
  
Date of Hearing: 10/ 13, 10/14, 10/15, 11/30, 12/1, 12/4/09  
Date of Decision: 12/22/09

Summary of Decision

The Parent filed a due process complaint on behalf of her son, a high school student who had been receiving special education services for a speech impairment and learning disabilities. The Parent alleged that the District committed numerous violations of FAPE, including: 1) Inadequate evaluations; 2) Failure to provide necessary related services such as social work and assistive technology; 3) Failure to provide the Student with an IEP reasonably calculated to provide the Student with educational benefit; 4) Failure to implement the IEP as written; and 5) Failure to adhere to procedural requirements when drafting the Student's IEP's. The Parent's request for relief included a request that the Hearing Officer find that a private day school was the Student's LRE, and order the District to fund placement.

The Hearing Officer found that the evidence did not support placement at a private day school, but ruled that the District denied the Student FAPE by failing to address his needs in math, or provide him with speech therapy as specified in his IEP, and failed to provide or implement a transition plan.

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ILLINOIS STATE BOARD OF EDUCATION  
SPECIAL EDUCATION DUE PROCESS HEARING

IN THE MATTER OF

[REDACTED]

v.

[REDACTED]

- )
- ) **ISBE CASE NO. 2009-0431**
- )
- ) **Kristine Anderson**
- ) Impartial Due Process
- ) Hearing Officer

**IMPARTIAL DUE PROCESS HEARING**

**DECISION AND ORDER**

This matter comes before me pursuant to the due process hearing request of the Student's mother, [REDACTED] on behalf of her son, [REDACTED]. The family is represented by [REDACTED] and [REDACTED] of [REDACTED]. The District is represented by [REDACTED] and [REDACTED]. I have jurisdiction to hear and decide this matter pursuant to 105 ILCS 5/14-8.02(a) et. seq., and 23 Illinois Administrative Code §§226.600 et. seq.

**PROCEDURAL HISTORY**

The Parent filed a due process complaint on April 24, 2009. I was assigned as the Hearing Officer on April 30, 2009. The parties reported that they participated in a resolution conference on May 8, 2009, which was unsuccessful. On May 11, the Parent filed an interim motion for an independent educational evaluation at public expense. The District filed its response on May 15, 2009. On May 18, I issued an order denying the Parent's motion. Since the Parent's due process complaint had already made the District's allegedly inadequate evaluations a central issue, I concluded that the issue should be decided at the hearing and not through a pre-hearing motion. On May 27, 2009, we convened a pre-hearing conference. The hearing was tentatively set for June 9-11. The parties subsequently requested a continuance to allow the District to conduct several assessments of the Student and to convene an IEP meeting. That process was completed but did not lead to settlement. Thus, the hearing took place on October 13-15, 2009. The parties were unable to complete the hearing in three days as they had hoped. They agreed to reconvene on November 30 and December 1, which were the first days that everyone was available. The hearing required an additional day and was completed on December 4, 2009.

**Issues Presented:**

A. The Parent asserts that from April 20, 2007 to the present, [REDACTED] failed to provide the Student with a free appropriate public education based on:

1. Failure to conduct timely and adequate assessment 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; to date, [REDACTED] has failed to assess adequately the Student's cognitive skills and academic skills; in addition, no formal written assessments of the student's need for assistive technology, social work services, or psychological services were conducted at the triennial evaluation of 2007;
2. Failure to provide essential related services in areas of assistive technology, social work services and/or psychological services;
3. Failure to provide speech/language therapy with sufficient intensity and regularity to assure reasonable progress in ameliorating the Student's severe speech disfluency, in that a) the District offered only 30 minutes per week of direct speech language services when the Student's speech and language impairments require at least 60 minutes per week of direct services; and b) the District failed to provide the 30 mpw of speech and language services as required by his IEP.
4. 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, in that the Student's reading impairment is so severe as to require a systematic, multi-sensory reading remediation program such as one of the Orton-Gillingham reading remediation programs, including the Wilson Reading System, Project Read or Lindamood Bell.
5. Failure to develop a transition plan that provides adequate support for the Student's stated goal of attending a community college or a vocational training program; the plan does not adequately address:
  - Student strengths and weaknesses;
  - development of communication, self-monitoring and self-advocacy skills;
  - additional resources and supports to be accessed through the school district and community resources, respectively
  - development of skills and practice for taking formal tests such as A.C.T.
  - Strategies for strengthening the student's functional, developmental and academic skills, through ameliorating recognized deficits in areas of reading, attention, social/emotional fragility and communication problems;
6. Failure to offer a complete curricula, accessible by the Student in areas of reading, language arts, math, social studies and science, with the result that the Student did not make academic progress
7. Failure to provide the parent with accurate and objective progress reports addressing respective goals
8. Failure to appropriately identify separate day school as the least restrictive environment in which the Student can gain educational benefit at least as early as the May 2, 2007 IEP meeting.

B. The Parent contends that the IEP's of May, 2007, May, 2008, and April, 2009:

1. Include statements of present levels of performance that do not accurately and objectively state the Student's skills and functional levels;

2. Provide goal statements that are vague and not measurable, the goal is not commensurate with the Student's potential for development
3. Fail to address attentional and organizational limitations of the Student;
4. Fail to address reading remediation needs of the Student
5. Fail to identify what research-based methodology is required to remediate the Student's reading and math skills;
6. Fail to provide direct social work services and psychological services, despite evidence of emotional and social difficulties that interfere with the Student's education;
7. Fail to offer an adequate level of assistive technology, which is required for the Student to make reasonable academic progress;
8. Fails to authorize extended school year services, despite substantial evidence that the Student has significant delays in basic academic skills.

### **Relief Requested**

The Parent requests the following relief:

- 1) Direct that [REDACTED] develop an IEP that calls for placement at a separate day school as the Student's least restrictive environment. Direct that [REDACTED] implement the Student's separate days school placement 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) Phonological and decoding skills
  - b) Written language skills
  - c) Emotional/social difficulties
  - d) Attention and organizational deficits
  - e) 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 social work services and/or psychological counseling;
  - b) assistive technology services, as may be recommended by independent evaluator;
- 4) Direct [REDACTED] to provide compensatory education services for loss of FAPE during the past two years:
  - a) Direct that [REDACTED] continue the student's placement at [REDACTED] for the 2010-11 school year, without regard to whether he has sufficient credits to graduate;
  - b) tutoring two hours per week after regular school hours by a certified special education teacher with training in whichever reading remediation methodology is used for the student during the regular school day, for two years (2009-10 and 2010-11 school years), at a location selected by the parent and student;
  - c) an additional 30 minutes per week of social work services for two years;
  - d) Continuation of tutoring two hours per week, at [REDACTED] expense, for one additional year (2011-2012 school year) after completing his year at [REDACTED] if the student is enrolled in a college or vocational training program;
- 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.

### STATEMENT OF FACTS

█ is a 19 year old student at █ School. He receives speech and language therapy for a moderately severe speech disfluency. (stuttering) █ also receives special education services pursuant to an eligibility determination of learning disabilities. Despite these services, █ has struggled in school. He has failed a number of classes during his tenure at █ and, accordingly, has made little progress in obtaining the credits he needs to graduate. █ and his mother (█) assert that his lack of progress is a result of █ failure to fully identify his needs and provide him with appropriate services to address those needs. (*See supra* Issues Presented) Evidence presented at the hearing indicated that during the relevant time period, there were some deficiencies in █ assessments of █ and in his IEP's. However, the evidence also showed that these deficiencies were not the only cause of █ lack of progress. Rather, the facts were undisputed that throughout the period at issue, █ was chronically truant and often skipped classes. Moreover, according to his teachers, when █ did attend class, he frequently failed to participate or complete assignments. The evidence of █ deficiencies and █ failure to avail himself of the services that █ provided are discussed more fully below.

#### Spring, 2007

As noted above, the Parent filed her due process complaint in April of 2009. The two year statute of limitations period, therefore, includes the final two months of the 2006-07 school year. At that time, █ was completing his second year at █ and was receiving special education services pursuant to an Individualized Education Plan (IEP) that was written on February 22, 2007. (2/22/07 IEP, PD-086, Ex. 1) █ had been deemed eligible to receive special education and speech services through a full individual evaluation that █ had administered in May of 2004. (May 10, 2004 Report of Psychological Evaluation, PD-241, Ex. 31) In that evaluation, the examiner administered the Wechsler Intelligence Scale for Children (WISC) to assess █ cognitive levels of functioning. █ received a verbal IQ score of 84, a performance IQ of 86, and a full scale IQ of 84, which placed him within the low average range of intellectual ability. The examiner also assessed █ academic skills by administering the Wechsler Individual Achievement Test. The WIAT results were as follows:

Basic Reading: SS 89, GE 6.4  
 Reading Comprehension: SS 86, GE 5.2;  
 Reading Composite: SS 85, GE 5.9;  
 Math Reasoning: SS 75, GE 4.0;  
 Numerical Operations: SS 73, GE 5.0;  
 Mathematics Composite: SS 70, GE 4.6;  
 Spelling: SS 80, GE 5.0

A comparison of the █ standard scores on the WIAT to his IQ scores on the WISC indicates that █ performance in reading was consistent with his cognitive ability. In math, however, █ was functioning well below his expected potential.

Subsequent testing indicated that █ continued to struggle academically. Specifically, on September 6, 2006, when █ was beginning his second year of high school, █ one of his teachers, administered the Wide Range Achievement Test to assess █ skills in reading recognition, spelling, and math. (*See Ex.1 at PD-86*) The results indicated that █ performed at the 6th grade level in reading and spelling, and the 5th grade level in math.

█ February 22, 2007 IEP addresses his deficits in reading by providing him with 230 minutes per week of special education instruction in language arts. (Ex. 1 at PD-92) The IEP also specified that █

was to receive consultative social work services. (*Id.* at PD-94) Notably, though testing indicated that math was a greater area of need than reading, the team failed to provide [REDACTED] with any math assistance. The team made this decision despite the fact that the Student had failed regular education classes in algebra and geometry by the time the February 22nd IEP was written. (*See* Transcript Posting Report, SD-189, Ex 45)

[REDACTED] February 22nd IEP also make no mention [REDACTED] speech disability, and provides no goal or benchmark to address his disfluency. While the omission is concerning, speech progress notes confirm that [REDACTED] did, in fact, receive 30 mpw of speech therapy during this time period. The paraprofessional provider's notes also provide a good description of the concepts and tasks that were presented to [REDACTED] in each session. (Speech and Language Progress Notes, PD-271, Ex. 14) Since there were no speech goals included in [REDACTED] IEP, however, it's obviously impossible to determine [REDACTED] met his IEP goals and benchmarks in speech.

In March of 2007, [REDACTED] began its triennial evaluation of [REDACTED] school psychologist [REDACTED] was responsible for the psychological portion of the evaluation. (3/6/07 Triennial Psychological Evaluation Report, PD-238, Ex 30) [REDACTED] testified about the evaluation, and his subsequent assessments [REDACTED] I found him to be an experienced, knowledgeable school psychologist, who was generally credible. [REDACTED] testified that his evaluation [REDACTED] consisted of a "record review," which he described as reading [REDACTED] folder and talking with some [REDACTED] teachers. He believed a record review was appropriate because scores on past evaluations, i.e., the 2004 FIE and the 2006 WRAT, showed that [REDACTED] academic achievement levels were in line with his IQ. In other words, as [REDACTED] put it, the fact that [REDACTED] was functioning on the 5th to 6th grade level academically was exactly what was expected from a student who functions in the low average range of intelligence. Based upon the record review, [REDACTED] recommended that [REDACTED] continue to receive special education services as a student with a learning disability.

Notably, the evidence indicates that [REDACTED] conducted his review [REDACTED] records and completed his report in March. (*See* Ex. 30, at PD-238) The team did not hold a domain meeting until April 21, 2007, and the Parent apparently was not present at the meeting. (*See* 4/21/07 Assessment Planning, PD-395, Ex 32) Notes of the meeting clearly specify, however, that the team believed a record review was appropriate in assessing [REDACTED] general intelligence. But with respect to [REDACTED] academic performance, the notes show that the team believed additional evaluation data was needed to assess his current academic levels. [REDACTED] gave her consent to collect that additional evaluation data on April 29, 2007. (4/29/07 Consent for Evaluation, PD-394, Ex.2 ) As [REDACTED] made clear, however, he failed to conduct any testing or assessments to determine [REDACTED] then current levels of academic performance.

[REDACTED] 2007 triennial reevaluation also included a Speech-Language Assessment. (4/27/09 Speech Language Assessment, SD- 34, Ex. 16) [REDACTED], a [REDACTED] speech pathologist, administered the evaluation and testified about the results. I found [REDACTED] to be a credible witness. [REDACTED] testified that she assessed [REDACTED] fluency skills by administering an informal assessment by which she counted [REDACTED] disfluencies. Based on her results, [REDACTED] concluded [REDACTED] impairment was within the moderate-severely impaired range. (*Id.* at SD 35) Of concern was [REDACTED] testimony that she had never met [REDACTED] prior to the date of her assessment, and wasn't aware of the degree of his disfluency. Though [REDACTED] was responsible for supervising the speech paraprofessional who worked with [REDACTED] she conceded that she had not done so. After assessing [REDACTED] however, she provided the paraprofessional with additional strategies to use with him. [REDACTED] also testified that she reviewed the paraprofessional's progress notes, and believes that they indicate that [REDACTED] had made progress in his weekly thirty minute sessions. (*See* Speech Language Progress/Case Notes, PD-271, Ex. 14)

The IEP team met on May 2, 2007 to consider the results of the triennial reevaluation and to write a new

IEP for [REDACTED] (5/2/07 IEP, PD-067, Ex. 4) Attendees included the Parent, [REDACTED] the case manager, [REDACTED] a special education teacher, [REDACTED] the school social worker, and a school counselor. Also in attendance were [REDACTED] and [REDACTED] (*Id.* at PD-071) Based on the results of the triennial evaluation (and [REDACTED] and [REDACTED] recommendations), the team determined that [REDACTED] was eligible to continue receiving special education services pursuant to an eligibility determination of learning disabilities and speech/language impairment. (*Id.* at PD-70)

With respect to services, the team agreed that [REDACTED] would continue to receive 30 mpw of speech therapy. [REDACTED] wrote an IEP goal that appropriately addressed [REDACTED] disfluency. (*Id.* at PD-77) The team also agreed that [REDACTED] would continue to receive assistance in language arts, but significantly reduced [REDACTED] instruction time from the 230 mpw of direct instruction to 30 mpw of consultation. (*Id.* at PD-78) The team once again failed to provide [REDACTED] with any services to address his deficits in math. In addition, the IEP team also concluded that [REDACTED] did not require specialized instruction in science or social studies. (*Id.* at PD-74) Particularly significant is the fact that the May 2nd IEP does not include a transition plan for [REDACTED]

The May 2nd IEP includes a number of modifications and accommodations that were to be implemented in each [REDACTED] academic classes and in speech and language therapy. (*Id.*) They included extended time on assignments and tests, use of a calculator, allowing [REDACTED] more time to respond orally, and encouraging [REDACTED] to participate in classroom discussions and activities. (*Id.* at PD-76) The team determined that [REDACTED] did not require assistive technology in order to access the curriculum.

[REDACTED], the school social worker, recommended that [REDACTED] consultative social work services be discontinued. (5/2/07 Exit Form for Social Work Services, SD-65, Ex. 50) According to her testimony and progress notes, [REDACTED] had met with [REDACTED] at least monthly during for the two years that he had been a student at [REDACTED] (See Social Work Progress Notes, PD-290-295, Exs. 51,52) [REDACTED] testified that she and [REDACTED] addressed issues relating to [REDACTED] adjustment to high school, including his poor attendance and his failure to complete assignments. [REDACTED] testified that [REDACTED] was always willing to discuss these issues, but failed to follow through by improving his attendance or work habits. [REDACTED] stated she recommended that social work services be discontinued because [REDACTED] did not exhibit a social emotional disorder, and was not making progress. In addition, since [REDACTED] attendance was already poor, [REDACTED] was concerned that pulling him from his classes for social work sessions merely added to the problem.

#### The 2007-08 School Year

The May 2, 2007 IEP was in effect for most of the 2007-08 school year. [REDACTED], a special education science teacher at [REDACTED] testified that she was responsible for ensuring that [REDACTED] IEP was implemented appropriately. She also testified about [REDACTED] performance in her self-contained physics class. I found [REDACTED] to be a sincere and credible witness. It was clear from her testimony, however, that [REDACTED] IEP did not accurately reflect the services he received during the 2007-08 school year.

First, as noted above, [REDACTED] was responsible for ensuring that [REDACTED] IEP was implemented by his teachers. To that end, she testified that she provided [REDACTED] teachers with copies of his IEP modifications and accommodations. (Ex. 4 at PD-76) [REDACTED] testified that it was also her responsibility to confer with [REDACTED] teachers and complete [REDACTED] special education report cards. (See Reports of Student Progress, PD-337-339, Ex. 40) [REDACTED] testimony on this topic highlighted a significant inconsistency between [REDACTED] IEP and the services he actually received.

Specifically, according to his May 2, 2007 IEP, [REDACTED] special education academic assistance was limited to consultative language arts and several accommodations and modifications that were to be implemented in the regular classroom. (See, Ex. 4 at PD- 76, 78) The only goal included on the IEP related to [REDACTED] speech therapy. Indeed, the IEP specifies that [REDACTED] did not require specialized instruction

in language arts, science and math. *Id.* at PD-74. According to [REDACTED] however, (and confirmed by [REDACTED] transcript and special education report cards) [REDACTED] attended self-contained, special education classes in physics and British literature for the entire 2007-08 school year. Fortunately, [REDACTED] received more -- rather than fewer -- services called for on his IEP. But it must be noted that the team failed to amend [REDACTED] IEP to reflect those additional services and to include goals for science and language arts. Remarkably, though [REDACTED] was never provided with IEP goals or benchmarks in physics or language arts (British Literature), [REDACTED] prepared several IEP report cards for the Parent that stated [REDACTED] was meeting his IEP benchmarks in those subjects.

Besides her involvement in implementing [REDACTED] IEP, [REDACTED] also testified about the Student's performance in her self-contained physics class. According to [REDACTED] the class used the same physics book as their regular education peers, but [REDACTED] reduced the amount of work that she assigned from the text. [REDACTED] stated that she also gave [REDACTED] 50% less work than the other students in her class. Since [REDACTED] IEP did not include any science goals or benchmarks, [REDACTED] testified that she implemented state science goals. She also implemented [REDACTED] IEP modifications and accommodations by allowing him extra time to complete assignments and to respond orally. She maintained that she did not force [REDACTED] to speak in front of the class.

[REDACTED] stated that [REDACTED] performance was hindered by his poor attendance. Indeed, the school's attendance records indicate that [REDACTED] missed 19.5 days of school that year. (*See* Transcript of Student Progress, PD-332, Ex. 30) Moreover, [REDACTED] recalled that when [REDACTED] was in class he often failed to participate in the lesson. He socialized with his friends or checked his cell phone messages instead. Additionally, [REDACTED] frequently failed to complete class assignments or turn in homework. Nevertheless, [REDACTED] stressed that when [REDACTED] applied himself, he was able to do well. His semester grades -- a C and B, respectively -- support [REDACTED]'s observation. (*See* Ex. 8)

[REDACTED] testified that she also was the teacher responsible for implementing [REDACTED] transition plan. Unfortunately, [REDACTED] May 2, 2007 IEP did not include a transition plan, and the team did not create one until May 8, 2008 when it met to write [REDACTED] IEP for 2008-09. Moreover, [REDACTED] conceded that her efforts with respect to the May, 2008 transition plan were limited to interviewing [REDACTED] to see what he wanted to do, and encouraging him to attend a college and job fair held at the school.

As noted above, [REDACTED] May 2, 2007 IEP specified that [REDACTED] was to receive speech and language therapy for 30 mpw to address his disfluency. While the goal and benchmark appropriately addressed [REDACTED] speech needs, the evidence indicated that for the 2007-08 school year, [REDACTED] the speech therapist, failed to provide [REDACTED] with the services that his IEP called for. Specifically, [REDACTED] progress notes indicate that he met with [REDACTED] only 5 times during the entire school year, and that all of those sessions occurred between September and December. Thus, according to [REDACTED] own record, [REDACTED] received no speech therapy for approximately 6 months of the 2007-08 school year. (*Speech Language Progress Notes, SD 153, Ex. 17*) When testifying about his efforts to provide [REDACTED] with speech therapy, Mr. [REDACTED] asserted that he was unable to meet with [REDACTED] regularly because of the Student's frequent absences and class cutting. While there is evidence to support [REDACTED] contention, all of it pertains to the 2008-09 school year. Specifically, [REDACTED], [REDACTED] art teacher in 2008-09, testified that Mr. [REDACTED] regularly came to pull [REDACTED] out of her class for speech, and that [REDACTED] was absent on a number of occasions. [REDACTED] and [REDACTED] both of whom taught [REDACTED] during the 2008-09 school year, testified that [REDACTED] regularly conferred with them about [REDACTED] speech needs. Finally, in his progress notes for 2008-09, [REDACTED] recorded both his sessions with [REDACTED] and [REDACTED] absences. In contrast, [REDACTED] progress notes for 2007-08 make no reference to [REDACTED] absences or any failed attempts by [REDACTED] to meet with [REDACTED]. The entries simply stop after December 3, 2007. Nor was there any credible evidence to conclude that subsequent progress notes may have been misplaced. Finally, there was no testimony by any [REDACTED] teachers to support [REDACTED]' contention that he attempted to provide

████ with regular speech therapy during the 2007-08 school year.

### The 2008-09 School Year

The IEP team met on May 8, 2008 to write an IEP for █████ for the next school year. (5/8/08 IEP, PD-45, Ex. 5) Attendees included █████ his mother (who attended by telephone), █████, █████ who facilitated the meeting as the case manager, and a regular education teacher (whose signature could not be identified). Notably, █████, the speech pathologist, did not attend the IEP meeting. He apparently sent a pre-written IEP goal to be presented at the meeting.

Unlike █████ previous IEP, the May 8th IEP seems to accurately reflect the services that █████ received. In particular, the team significantly increased the amount of █████'s special education instruction time to 690 mpw. This included self-contained classes in science and language arts, and a cooperative team teaching (CTT) class in math. In addition, the IEP specifies 10 mpw to be devoted to implementing █████ transition plan. Finally, █████ also was to receive 30 mpw of speech therapy. (*Id.* at PD-57) The team created an IEP goal to address each area.

While the academic IEP goals appropriately focus on █████ areas of need, they are nevertheless lacking in clarity. The science goal, for example, lists █████ present levels of performance in reading, spelling and math, but sets no baseline for █████'s performance in science. (Ex. 5 at PD-51) Likewise, the language arts goal, which targets vocabulary and reading comprehension, provides a vague description █████ present levels of performance. It also includes an equally vague benchmark that requires █████ to "analyze, interpret and compare the purpose structure and content [of what?] with 60% accuracy." (*Id.* at PD-53) The math goal makes no mention █████ current grade level in math, and instead describes █████ modifications, i.e., the use of a calculator and extra time. (*Id.* at PD-54)

The team drafted a transition plan for █████ that appears to provide meaningful goals, benchmarks and a coordinated set of activities to help him reach his stated goal of working in the field of computers. (Ex. 5 at PD-55, 56, 62) The team, however, apparently failed to consider the fact that █████ goal of attending college and pursuing a career in computers may not have been realistic in light of █████'s known deficiencies in math, and his very low grade point average.

As noted, the May 8th IEP also includes a speech goal that addresses █████ disfluency. The goal appears to be appropriately written, other than its suggestion that █████ speech therapy was to be limited to 40 minutes per month.

████ testified that the May 8th IEP was in effect for the remainder of the 2007-08 school year. In the fall of 2008, █████ assumed responsibility for implementing █████ IEP. She provided extensive testimony about her efforts in that role and about █████ performance in her self-contained world literature class. I found █████'s testimony to be credible and helpful.

First, like █████, █████ testified that it was her responsibility to make █████ teachers aware that █████ had an IEP, and to see that they were aware of modifications and accommodations that were to be implemented in their classes. █████ also stated that she frequently touched base with █████ teachers to check on his performance. At least once a marking period, she would seek the teachers' input regarding █████ attendance, behavior, punctuality, assignments completed, grades, and any other comments █████ teachers might have. Unfortunately, █████ did not include that level of detail in preparing █████ quarterly IEP report cards. Most of the entries simply state that █████ had met the benchmark for that quarter. On one occasion when █████ did not meet his benchmark in U.S. history, Ms. █████ included the teacher's comment that █████ failure was attributable to missing assignments and his refusal to follow instructions. (*See* 2008-09 School Report of Student Progress, SD-191-96, Ex. 46)

Notably, though [REDACTED] IEP specified that he was to attend a special education math class, [REDACTED] did not prepare a math IEP report card for [REDACTED] until the second semester. When asked, she explained that [REDACTED] had mistakenly been placed in a regular math class for at least part of the first semester. She recalled that she assisted in correcting the scheduling error, and [REDACTED] began attending a CTT math class.

As noted, [REDACTED] also was a student in [REDACTED] world literature class. She described the class as a typical English class. They worked on reading comprehension, grammar, and regularly completed writing assignments in a journal that [REDACTED] required the Students to keep. With respect to reading instruction, [REDACTED] testified that she required all of her students -- including [REDACTED] -- to read out loud. She stressed, however, that she made it clear that her class was a safe environment and that she would not allow anyone to tease [REDACTED]. After some initial hesitance, [REDACTED] willingly participated in oral reading exercises. Indeed, according to [REDACTED] [REDACTED] was "very comfortable" in her class and his disfluency did not interfere with his learning.

When asked to describe [REDACTED] performance, [REDACTED] stressed that in terms of his ability to do the work, [REDACTED] was one of the top students in her class. Unfortunately, however, [REDACTED] didn't live up to his potential because he didn't come to class regularly and didn't do his work. Thus, according to [REDACTED] [REDACTED] was a "B student" who got a D for the first semester. [REDACTED] said she talked with [REDACTED] about improving his attendance and work habits and also called his mother on several occasions. She noted that [REDACTED] performance improved in the spring of 2009 and he received a C for the second semester.

[REDACTED] also was responsible for working with [REDACTED] to implement his transition plan. She testified that by the fall of 2008, [REDACTED] was no longer interested in computers, but wanted to attend cosmetology school instead. Though his career focus had changed, [REDACTED] stated that the transition plan goals were still applicable, and she worked with [REDACTED] throughout the school year to complete them. For example, [REDACTED] testified that she assigned [REDACTED] a research project that required him to identify two hair design schools to which he wanted to apply. Because he had no real work experience, [REDACTED] also encouraged [REDACTED] to try to get an entry level job at a salon to gain experience. She also required him to complete a resume, but was uncertain whether [REDACTED] ever sent it to prospective employers.

[REDACTED]'s testimony about [REDACTED] classroom performance was echoed by [REDACTED], who taught [REDACTED] in a self-contained biology class during the 2008-09 school year. I found [REDACTED] to be a very credible and helpful witness. Like [REDACTED], [REDACTED] observed [REDACTED] to be a capable student when he put forth the effort. [REDACTED] described [REDACTED] as being a strong reader who often volunteered to read aloud, and who showed good comprehension of what he read. As [REDACTED] put it, he could always rely on [REDACTED] to come up with the answers to his questions. Moreover, when asked, [REDACTED] testified that he agreed with the results of a September, 2008 Wide Range Achievement Test that showed [REDACTED] to be reading on the 7th grade level. Significantly, [REDACTED] stressed that in his opinion, [REDACTED] skills were strong enough that he did not require a self-contained placement.

With respect to [REDACTED] work habits, [REDACTED] testified that the "lowest point" was at the beginning of the year when [REDACTED] absences and failure to complete assignments hindered his performance. [REDACTED] testified that he called [REDACTED] mother, who "really got on [REDACTED] and it helped." With the Parent's support, [REDACTED] began attending [REDACTED] tutoring sessions. [REDACTED] biology grade improved from a D in the first semester to a B in the second semester.

[REDACTED] also testified that [REDACTED] stuttering did not hinder his performance in the classroom. To the contrary, [REDACTED] stated that [REDACTED] was a leader in his class, who often volunteered to present to the group. [REDACTED] conceded that there were occasions when other students teased [REDACTED] [REDACTED] responded by reprimanding the students and calling their parents. With respect to [REDACTED] disfluency, [REDACTED] noted that [REDACTED] speech therapist, touched base with him regularly throughout

the year and suggested several classroom modifications to use with [REDACTED] that proved to be successful. In particular, [REDACTED] suggested giving [REDACTED] extra time when reading and giving oral presentations, as well as allowing [REDACTED] to work in small groups. In addition to suggesting modifications, [REDACTED] testified that [REDACTED] pulled [REDACTED] from his class about 5 times during the course of the year for speech therapy.

Consistent with [REDACTED]'s recollection, [REDACTED] progress notes of his therapy sessions with [REDACTED] indicate that he was more consistent in his attempts to meet with [REDACTED] during the 2008-09 school year than he had been the previous year. (See Ex. 18, 27) While there were still a number of missed sessions, they appear to have been due to [REDACTED] numerous absences -- he missed 39 days in 2008-09 -- rather than [REDACTED] failure to provide services. (See Transcript Posting Report, SD-163, Ex. 8) As noted above, [REDACTED] testimony also supports the conclusion that Gruodis made regular attempts to provide [REDACTED] with speech therapy in 2008-09.

- **The April 15, 2009 IEP**

The IEP team met on April 15, 2009 to write a new IEP for [REDACTED]. The IEP was in effect for the remainder of the 2008-09 school year, and for a short time this school year (2009-10). [REDACTED] and his mother attended the meeting, as did [REDACTED] the case manager, [REDACTED] the school counselor, and [REDACTED]. [REDACTED] was primarily responsible for writing [REDACTED] academic and transition goals.

[REDACTED] testified that she presented a report [REDACTED] attendance and provided the team with his then current transcript. As noted above, [REDACTED] was absent a total of 39 days for the year. Indeed, he missed 21 days in the first semester alone. (See Ex. 45) [REDACTED] attendance was of significant concern to the team, as were his grades. According to [REDACTED]'s report, which is reflected in the IEP, [REDACTED] third quarter grades were: U.S. History: F, Algebra/Trig: D, Spanish: B, Art: D, World Literature: D, and Biology: D.

The team responded to [REDACTED] report by increasing [REDACTED] special education assistance to 1190 mpw. Though the record indicates that [REDACTED] and several other teachers believed [REDACTED] was capable of succeeding in a less restrictive environment, the team nevertheless determined that [REDACTED] would attend self-contained classes in language arts, science and world language. In addition, [REDACTED] was to attend CTT classes in social science and math. The IEP also provided 30 mpw of speech therapy, and 10 minutes per month devoted to overseeing [REDACTED] progress on his transition goals.

The IEP includes goals and benchmarks in each academic area and speech, as well as goals for post-secondary education and employment. The goals and benchmarks appear to be written in clear, measurable terms. None of the academic goals, however, provide objective present levels of performance that expressly relate to the goals and benchmarks. In science, language arts and social studies, for example, the present levels of performance focus on [REDACTED] frequent absences and missing assignments. The goals and benchmarks, however, address specific academic skills.

Consistent with past IEPs, the team did not believe an assistive technology evaluation was necessary. Rather, the IEP states that [REDACTED] will be given access to calculators and computers during the school day.

(*Id.* at PD-26) Also, consistent with [REDACTED] previous IEP's for the relevant time period, the team determined that [REDACTED] was not eligible to receive extended school year services. According to Ms. [REDACTED] the team's decision was based on the fact that [REDACTED] is a strong student when he applies himself, and does not exhibit problems with recoupment, as is required for ESY eligibility. When asked, Ms. [REDACTED] conceded that staff members considered the relevant factors and decided [REDACTED] was not eligible for ESY prior to the IEP meeting. She stated, however, that the issue was discussed at the IEP meeting, and that neither the Parent nor [REDACTED] disagreed with the staff's determination.

Neither the Parent nor [REDACTED] provided a formal objection or dissent to the IEP. It's clear that the Parent did

not agree with the IEP, however, because she filed a request for a due process hearing just a few days later, on April 20, 2009.

- **The October 1, 2009 IEP**

The parties held another IEP meeting on October 1, 2009 to consider the results of evaluations conducted by [REDACTED] and [REDACTED]. (10/1/09 IEP, PD-1, Ex. 25) [REDACTED] testified that the team did not agree with [REDACTED]'s recommendation that [REDACTED] should attend a private day school. Rather, the team determined that [REDACTED] should continue to receive special education instruction in each of his academic subjects. The IEP also states that [REDACTED] would continue to receive speech and language services 30 mpw to address his disfluency. Notably, the October 1st IEP includes a number of modifications and accommodations that were not included on the April 15th IEP. Several accommodations were intended to minimize [REDACTED] oral participation in class. Others specified that [REDACTED] would be allowed to turn in assignments late. (Ex 25 at PD-8)

The Parent also called [REDACTED] current speech pathologist, [REDACTED] to testify about [REDACTED] speech services and performance. I found [REDACTED] to be a knowledgeable and helpful witness. [REDACTED] described [REDACTED] as a motivated student who tries his best. [REDACTED] reported that as of the date of her testimony (October 14), [REDACTED] had not missed any speech sessions.

[REDACTED] also testified that she attended the October 1st IEP meeting. She prepared for the meeting by reviewing [REDACTED]'s and [REDACTED]'s evaluation reports. [REDACTED] did not agree with [REDACTED] recommendation that [REDACTED] should receive intensive speech therapy. She believes that [REDACTED] has progressed to the carry-over stage of therapy, where he must begin applying the fluency techniques he has learned outside of the therapy setting. Thus, [REDACTED] believes that 30 minutes per week of speech therapy is appropriate for [REDACTED] and that he has made progress even in the short time that she has been meeting with him. Notably, however, [REDACTED] testified that [REDACTED] told her that he sometimes doesn't attend classes because he is embarrassed about his stuttering.

### [REDACTED] Testimony

[REDACTED] testified about his experiences as a student at [REDACTED]. Though his stuttering was prominent, he didn't allow it to hinder his testimony. He stressed that he wants to graduate from high school and go to college. [REDACTED] was personable and sincere, but his recollection of certain events was at times, contrary to the weight of evidence.

In describing his experience at [REDACTED] [REDACTED] made clear that he believes his teachers have not provided him with the support he needs to be successful. In particular, [REDACTED] testified that his IEP meetings were always rushed and staff members were not interested in his or his mother's opinions. As a result of the team's inattentiveness to his needs, [REDACTED] asserted that he was placed in classes that were too hard for him, which he failed.

When asked, [REDACTED] rejected the testimony of his teachers that his failures were due to poor attendance and work habits. According to [REDACTED] he "always" asked for help, but his teachers refused to give it to him. Incredibly, [REDACTED] charged that not one of his teachers was willing to help him in over two years. (He subsequently modified that assertion by conceding that a Spanish teacher and a history teacher had helped him in the past.)

[REDACTED] was also asked about his poor attendance. He conceded that he frequently skipped classes and missed school. He asserted, however, that he was afraid and embarrassed to go to class because other students, and even some teachers made fun of his stuttering. While the record is undisputed that students

sometimes teased [REDACTED] his testimony failed to provide a complete picture of his classroom experience. Specifically, most, if not all, [REDACTED] teachers who testified stated that [REDACTED] socialized easily with the other students in his classes. Indeed, several teachers testified that [REDACTED] talked too much in class, and that his socializing hindered his performance. [REDACTED] teachers also stated that while [REDACTED] initially showed some reticence, he quickly became comfortable participating in the classroom lessons. Several noted, for example, that [REDACTED] often volunteered to read aloud to the class.

With respect to his experiences in speech therapy, [REDACTED] maintained that he rarely saw his speech therapist, [REDACTED]. According to [REDACTED] this was not because of his poor attendance, but because [REDACTED] simply never came to get him. As noted above, the record supports [REDACTED] recollection for much of 2007-08, but not for the 2008-09 school year.

When testifying about the social work services that [REDACTED] provided, [REDACTED] did not deny [REDACTED]'s testimony that they discussed his poor work habits. Nor did he deny that he failed to follow through on her suggestions. It was clear, however, that [REDACTED] did not have a good rapport with [REDACTED]. He firmly asserted that she had encouraged him to drop out of school, which caused [REDACTED] to conclude that she didn't have his best interests at heart. Notably, [REDACTED] and his mother refused to allow [REDACTED] participate in the October 1, 2009 IEP meeting to consider reinstating social work services.

Finally, when asked about his failure to complete service hour requirements, [REDACTED] faulted others for not telling him how he could earn service hours. He also suggested that he has avoided completing service hours because all of the projects require some sort of oral presentation. [REDACTED]'s testimony contradicted [REDACTED] assertions, however. Specifically, [REDACTED] testified that there are countless ways that students can earn service hours, many of which don't require an oral presentation. [REDACTED] also testified that the school regularly announces these opportunities to the students. Indeed, on several occasions during the hearing, school-wide announcements were made concerning opportunities for service hours.

[REDACTED] mother, [REDACTED] also wants her son to graduate from high school and go to college. She clearly believes [REDACTED] has failed to provide [REDACTED] with the appropriate services to help [REDACTED] achieve that goal. For example, [REDACTED] testified that [REDACTED] was not provided with speech therapy because the speech pathologist [REDACTED] (s) was never there. Nor, according to [REDACTED] did [REDACTED] provide [REDACTED] with transition services. In addition, [REDACTED] testified that [REDACTED] IEP meetings were of little value to [REDACTED] and that staff was unresponsive to her questions and concerns. When asked how she, as [REDACTED] parent, addressed his poor performance, [REDACTED] asserted that for much of the period at issue, she was unaware [REDACTED] wasn't succeeding because [REDACTED] staff failed to provide her with reports of [REDACTED]'s progress. She stressed, though, that she contacted, or tried to contact various teachers on several occasions. In particular, [REDACTED] testified that she tried to contact [REDACTED] and [REDACTED] but was generally unable to reach them.

In testifying about [REDACTED] attendance, [REDACTED] seemed not to appreciate that regular attendance is critical to a student's success. The evidence revealed, for example, that [REDACTED] often allowed [REDACTED] to stay home simply because it was cold outside. (See [REDACTED]'s record [REDACTED] absences, PD-432, Ex 44) From her testimony it appeared that [REDACTED] was not concerned with the number of [REDACTED] absences as long as she saw to it that they were excused. [REDACTED] also asserted that the school's attendance records were inaccurate. Notably, however, [REDACTED] testified that she met with an assistant principal on several occasions this year and during the 2008-09 school year, and that the assistant principal recorded [REDACTED] attendance corrections into the school's records.

### Additional Evaluations

A central issue to the Parent's complaint is her contention that [REDACTED] failed to conduct appropriate evaluations of [REDACTED] to correctly identify his needs. To that end, in an effort to resolve the dispute, the parties agreed that [REDACTED] would conduct psychological and speech evaluations of [REDACTED]. Subsequent to [REDACTED] evaluations, the Parent retained [REDACTED] to conduct a private psychological evaluation of [REDACTED] and Mr. Arnell Brady to conduct a speech and language evaluation. Evidence concerning the results of the evaluations is considered below.

- **Psychological Evaluations:**

1. [REDACTED]

[REDACTED] conducted a psychological evaluation of [REDACTED] on June 6, 2009. (6/8/09 Report of Psychological Evaluation, PD- 236, Ex. 36) Unlike his record review of 2007, [REDACTED] administered several tests to [REDACTED] including the Wechsler Adult Intelligence Scale (WAIS), the Wechsler Individual Achievement Test - S, (WIAT) and the Monroe Sherman Reading Comprehension Test. [REDACTED] also administered an informal writing sample to [REDACTED]. On the WAIS, [REDACTED] received the following standard scores:

Verbal Comprehension: 81  
 Perceptual Reasoning: 92  
 Working Memory: 83  
 Processing Speed: 76  
 Full Scale IQ: 80

These scores were consistent with [REDACTED] previous scores on the WISC (*See* Ex. 31), and placed him in the low average range of intellectual functioning. (*See* Ex. 36 at PD-237)

With respect to his academic skills, testing showed that [REDACTED] has made some progress in reading and spelling and is performing commensurate with his cognitive abilities. In math, however, [REDACTED] continues to function below expected achievement levels. Specifically, [REDACTED] received the following standard and grade equivalent scores on the WIAT:

Reading: SS 86, GE 7.4  
 Math Reasoning: SS 73, GE 5.1  
 Spelling: SS 84, GE 6.9  
 Composite Score: SS 76, GE 6.5

As noted, [REDACTED] also administered the Monroe Sherman, which indicated [REDACTED] reading comprehension to be at a grade equivalent of 8-6. When questioned, however, [REDACTED] conceded that the Monroe Sherman is a very old test and did not dispute [REDACTED] research suggesting that the test has not been updated since 1937. As a result, I concluded that the results of the Monroe Sherman Test were not reliable, and I did not consider the score in this decision. Likewise, the writing sample that Mr. [REDACTED] administered to [REDACTED] yielded little, if any, insight into [REDACTED] writing skills. [REDACTED] simply reached the general and unhelpful conclusion that [REDACTED] writing skills were "below high school standards, but typical for most special education students." (Ex. 36 at SD 112)

Based on his assessments, [REDACTED] concluded that [REDACTED] should receive mild to moderate learning disability support services. He stressed, however, that he believed that the primary factors contributing to

underachievement were his excessive absences, cutting classes, motivational concerns and family stressors. (*Id.*)

2. [REDACTED]

As requested by the Parent, [REDACTED] conducted a psychoeducational evaluation of [REDACTED] on July 20 and 21, 2009. The evaluation was quite comprehensive, as was [REDACTED] report. (7/20/09 Psychoeducational Evaluation, PD-198, Ex. 21) Some of the tests that [REDACTED] and her assistant administered were the Test of Nonverbal Intelligence (TONI), several subtests from the Woodcock Johnson Tests of Cognitive Ability, as well as the Woodcock Johnson Tests of Achievement, the Gray Oral Reading Test, the Test of Written Language and the KeyMath Diagnostic Mathematics Test. In addition to describing her testing results, [REDACTED] report also summarized the results of [REDACTED] evaluations, including the most recent psychological evaluation administered by [REDACTED] in June, 2009.

In assessing [REDACTED] cognitive ability, [REDACTED] chose to administer the TONI -- a non-verbal measure -- to avoid difficulties caused by [REDACTED] disfluency. (Ex. 21 at PD-205) For purposes of her evaluation, she stressed that [REDACTED] score on the TONI "determined the standard against which his performance in all other areas was compared." (Ex. 21 at PD-206) [REDACTED] received a standard score of 90 on the TONI, which according to [REDACTED] indicated that [REDACTED] cognitive skills are within the average range of ability.

Relying on her conclusion that [REDACTED] has average intelligence, [REDACTED] asserted that [REDACTED] can be expected to achieve at grade level in all academic areas. (*Id.* at PD-221) Her testing, however, indicated that he functions below grade level in reading, math, writing and spelling. (Ex. 21 at PD- 224) [REDACTED] therefore concluded that [REDACTED] is eligible to receive special education services as a student with a learning disability and communication disorder (stuttering). (*Id.* at PD-221-22) She made a number of specific recommendations to address what she described as the "complexity of his learning needs and his co-morbid impairments." (*Id.* at PD-222 -230)

Most notably, [REDACTED] recommended that [REDACTED] should be placed in a school with specialized instruction such as [REDACTED] (*Id.* at 222) She also recommended that [REDACTED] receive daily, multisensory structured phonics instruction through an Orton-Gillingham program to address his reading deficits. (*Id.* at 226) For [REDACTED] math deficits, [REDACTED] recommended remedial instruction in math computation and in problem solving. She stressed that the focus in math should be on "real-life goals," such as survival and consumer math. (*Id.* at PD-228) To address [REDACTED] writing deficits, [REDACTED] recommended that [REDACTED] be taught the rules of narration, which she described in some detail, and that he be allowed to dictate stories applying those rules. She also recommended that [REDACTED] be taught to type. (*Id.* at PD-227-28)

Evidence presented at the hearing called into question some of [REDACTED] conclusions and recommendations. Most significantly, [REDACTED] conclusion that [REDACTED] has average intelligence was shown to be unsupported by the weight of the evidence. Specifically, [REDACTED] made clear in her report and in her testimony that she relied on the results of the TONI to determine [REDACTED] level of cognitive ability. In doing so, however, she disregarded [REDACTED] scores on the WISC and the WAIS, which both indicate that [REDACTED] functions in the low-average range of cognitive ability. [REDACTED] psychologist, Mr. [REDACTED] pointed out that both the WISC and WAIS are much more comprehensive than the TONI. Indeed, [REDACTED] stressed that the TONI is merely comparable to one of the subtests on the WISC or WAIS. In addition to being inconsistent with [REDACTED] scores on the Wechsler tests, [REDACTED] score on the TONI is also at odds with the Comprehensive Test of Nonverbal Intelligence that [REDACTED]

administered. (See 8/6/09 Speech Language Assessment, PD-192 -93, Ex. 6) [REDACTED] received a nonverbal intelligence quotient of 84 on that test, which is consistent with his scores on the WISC and the WAIS. Consequently [REDACTED]'s conclusion that [REDACTED] has average cognitive ability, and her reliance on the TONI as the "standard against which his performance in all other areas was compared," is simply not reliable. Nor are her conclusions that flow from that assumption.

To be sure, [REDACTED] conducted additional achievement and psychoeducational tests which confirm that [REDACTED] functions below average in a number of areas. However, [REDACTED] testimony and the results of her report indicate that most [REDACTED] scores are consistent with, or even higher than his cognitive ability as measured by the WISC and WAIS. In reading, for example, [REDACTED] received standard scores of 93, 93 and 96, respectively, on Woodcock Johnson subtests measuring sound blending, phonemic grapheme knowledge and word attack skills. (*Id.* at PD-233) These scores, which are well within the average range, are actually higher than [REDACTED] expected level of performance. Such scores fail to support [REDACTED] conclusion that [REDACTED] "critically needs" an Orton-Gillingham phonics program to address his reading deficits. (Ex. 21 at PD-215)

With respect to reading comprehension the picture is less clear. On the Woodcock Johnson, [REDACTED] passage comprehension standard score of 82, is consistent with his cognitive ability. On the Gray Oral Reading Test, [REDACTED] received a lower than expected grade level equivalent of 4.2. (*Id.* at PD-232) It must be noted, however, that [REDACTED] disfluency may have negatively affected his performance on the GORT, which as the name suggests, requires a student to read orally. Indeed, given [REDACTED] decision to avoid an oral test when measuring [REDACTED] cognitive abilities, it was curious that she selected the GORT to measure his reading level.

In writing, testing indicated that [REDACTED] is performing as expected in his ability to tell a story using complete, complex and compound sentences. His use of punctuation and capitalization, as well as his editing skills, were lower than expected. (*Id.* at PD-216-17) Significantly, [REDACTED] math skills as measured by the KeyMath, were consistently lower than his expected level of performance.

- **Speech and Language Assessments**

1. [REDACTED] administered a speech-language assessment to [REDACTED] on June 6, 2009. In addition to assessing [REDACTED] fluency, [REDACTED] measured [REDACTED] receptive and expressive language and receptive and expressive vocabulary. (See Speech-Language Assessment Summary, PD- 245, Ex. 10) These skills were found to be in the moderately low to low average range. [REDACTED] noted that [REDACTED] had the most difficulty when testing required him to attend to multiple details. He made no recommendations to address that observation.

[REDACTED] also concluded that [REDACTED] level of speech fluency was judged to be moderately impaired, but that he was able to use speech fluency techniques to bring his disfluencies down to the mild level. (*Id.* at PD-246) Based on those findings, [REDACTED] recommended that [REDACTED] continue to receive speech services to improve carryover of speech fluency techniques to the conversational level. (*Id.*)

2. [REDACTED]

[REDACTED] is an experienced speech pathologist whom the Parent retained to conduct a private speech and language evaluation. (See 8/6/09 Speech-Language Assessment, PD-192, Ex 6) His assessment was thorough, but somewhat unusual in that he administered several measures not normally associated with speech and language assessments. In particular, [REDACTED] administered the IVA Plus, which led him to assert that [REDACTED] has attention-deficit/hyperactivity disorder. Since the Parent failed to present any evidence to demonstrate [REDACTED]'s qualifications to assess or make such a diagnosis, I disregarded it.

I did, however, consider [REDACTED]'s testimony concerning his fluency assessment of [REDACTED] and found him to be a credible witness in that regard.

[REDACTED] assessed [REDACTED] fluency through an informal measure where he counted [REDACTED] disfluencies while [REDACTED] spoke and read. This is the same type of assessment administered by [REDACTED] in [REDACTED] 2007 speech evaluation of [REDACTED]. The results of his assessment caused [REDACTED] to conclude that [REDACTED] has a severe speech disfluency disorder. He recommended that [REDACTED] receive speech language services to address [REDACTED] impairment. (Ex. 6 at PD-195-6) [REDACTED] report does not recommend a specific amount of therapy for [REDACTED]. At the hearing, [REDACTED] was shown a speech language eligibility criteria matrix used by [REDACTED] speech pathologists to help determine the amount of services students should receive. (Speech/Language Matrix, SD- 161, Ex. 12) [REDACTED] testified that based on the descriptions provided in the matrix, [REDACTED] disfluencies are within the profound range and would entitle him to 90 or more minutes per week of speech therapy. [REDACTED] believes that [REDACTED] therapy should include both direct and consultative services. He suggested that consultative services might be provided to allow the speech pathologist to confer with the school social worker to help [REDACTED] implement fluency or carryover strategies.

When asked, [REDACTED] testified that he believed [REDACTED] 2009 Speech-Language Assessment (Ex. 10) of [REDACTED] was "acceptable." With respect to the 2007 assessment [REDACTED] questioned [REDACTED] conclusion that [REDACTED] language was normal, when no language assessment had been given. He did not voice any disagreement with [REDACTED]'s fluency assessment [REDACTED]

### CONCLUSIONS OF LAW

The Individuals with Disabilities Education Act (IDEA) establishes that all students between the ages of 3 and 21 are entitled to a free appropriate public education. (FAPE) (34 C.F.R. § 300.301) To satisfy that obligation IDEA requires districts to identify and evaluate students who are in need of special education and related services. (34 C.F.R. §§ 300.111(a), 300.301, 300.303-300.305) Once identified, IDEA mandates that a district address a student's educational needs by providing the student with an individualized education program in the least restrictive environment. (*Id.* at §§ 300.111, 300.112, 300.114)

In analyzing whether a school district has provided FAPE, the starting point must be *Board of Educ. v. Rowley*, 458 U.S. 176, 188-89 (1982). That case established that a free appropriate public education is an education "specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child to benefit from the instruction." In *Rowley*, the United States Supreme Court set forth a two pronged test to determine whether a school district has offered a student FAPE. The first inquiry is whether the school district has complied with the statutory procedures required by IDEA. (20 U.S.C. 1401 et seq.) IDEA establishes that procedural violations cannot be deemed a violation of FAPE unless they have impeded a child's right to a free appropriate public education, significantly impeded the parents' right to participate in the decision making process, or caused a deprivation of educational benefit. *Id.* at § 1415(f)(3)(E)(2007)

The second prong of the *Rowley* test is whether the district has developed an IEP reasonably calculated to enable the child to receive an educational benefit. *Rowley* at 206-07. To meet this requirement, *Rowley* establishes that a school district must provide a "basic floor of opportunity" in the form of specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child. *Id.* at 201. In addition, FAPE requires a school district to "open the door of public education to handicapped children, not to educate a child to her highest potential." *Board of Education of Murphysboro Comm. Unit. Sch. Dist. No. 186 v. Illinois State Board of Educ.*, 41 F.3d 1162, 1166 (7<sup>th</sup> Cir. 1994) An individualized education plan is acceptable "when it is likely to produce progress, not regression or trivial educational advancement." *Alex R., ex. Rel. Beth R. v. Forestville Valley Community*

*Unit School Dist. # 221*, 375 F.3d 603, 615 (7th Cir. 2004)(quoting *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F.*, 118 F.3d 245, 248 (5th Cir. 1997)). Moreover, whether an IEP confers meaningful benefit to a child must be gauged in relation to the potential of the child at issue. *Deal v. Hamilton County Bd. of Ed.*, 392 F.3e 840 (6th Cir. 2004) Finally, in considering whether the District has met the requirements of FAPE, it is important to note that the burden of proof rests with the party seeking relief. *Schaeffer V. Weast*, 546 U.S. 49, 62 (2005) Here, the Parent bears the burden of proof on all of issues raised in her complaint.

In applying the law to the facts of this case, I find that the District appropriately identified [redacted] as a student with learning disabilities and a speech impairment. For the most part, the District also provided the Student with IEP's that were reasonably calculated to enable [redacted] to receive educational benefit by providing him with special education classes, accommodations and modifications, and speech therapy to address his needs. The District denied [redacted] FAPE, however, by failing to address his needs in math for much of the relevant time period, despite the fact that its own testing showed math to be [redacted] greatest area of need.

In terms of its adherence to procedural requirements, the evidence showed that District's practices -- particularly relating to [redacted] IEP's -- were often sloppy. Yet on balance, the evidence failed to show that the District's procedural violations resulted in a denial of FAPE. Rather, the facts overwhelmingly showed that it was [redacted] poor attendance, class cutting and failure to complete assignments that impeded his progress and led to his failures. There were, however, two instances where the District's procedural violations denied [redacted] FAPE. Specifically, the evidence showed that the District failed to provide [redacted] with speech therapy for much of the 2007-08 school year, even though it was specified in his IEP. During that same year, the District also failed to provide [redacted] with a transition plan.

My findings on the specific issues alleged by the Parent are discussed more fully below.

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**Whether the District Failed to Properly Evaluate [redacted]**

The Parent contends that the District failed to adequately assess [redacted] in all areas of potential disability. (See *supra*, Issues Presented, No. 1) In particular, the Parent asserts that the District's 2007 triennial evaluation of [redacted] was inadequate because the psychological evaluation consisted solely of a record review with no additional testing. The Parent also argues that the District failed to assess [redacted] need for assistive technology, social work services or psychological services either through its 2007 reevaluation or at any time thereafter during the relevant time period. Finally, though it is not expressly mentioned in her complaint, the Parent also asserted at the hearing that the District's 2007 speech and language assessment of [redacted] also was inadequate.

First, in considering the adequacy of the District's 2007 triennial evaluation/record review, the law makes clear that once a student has been identified as a student with a disability, a district has a duty to reevaluate that student at least every 3 years unless the parent and district agree otherwise. (34 C.F.R. § 300.303(b)(2)) While a reevaluation generally includes testing, it may consist solely of a review of the existing evaluation data if the IEP team determines that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs. (*Id.* at § 300.305(a) & (b)) If the team determines that no additional data are needed, the District must notify the parent of its decision, and must also inform the parent of her right to request an

assessment. (*Id.* at § 300.305(d))

Here, the evidence showed that in early 2007, the District timely responded to its obligation to conduct a three year reevaluation. [REDACTED] the school psychologist, reviewed [REDACTED] file, interviewed some [REDACTED] teachers, and determined that no additional information was needed to complete his evaluation [REDACTED]. He shared his recommendation with the team in a domain meeting on April 21, 2007. Notes of the meeting confirm that the team agreed that a record review was appropriate for assessing [REDACTED] general intelligence. With respect to [REDACTED] academic performance, however, notes of the meeting, as well as testimony from the case manager, [REDACTED], confirm that the team determined additional evaluation data was needed to determine [REDACTED] then current achievement levels. Indeed, though the Parent did not attend the domain meeting, she subsequently provided her written consent to allow [REDACTED] to obtain additional evaluation data. Neither [REDACTED] nor any other staff member completed the testing that the IEP team had recommended and that the Parent expected.

[REDACTED] failure to adhere to the team's determination to conduct additional achievement testing is a violation of the procedural requirements of IDEA. But as explained above, that violation is not a denial of FAPE unless it impeded [REDACTED] right to a free appropriate public education, significantly impeded the Parents' right to participate in the decision making process, or caused a deprivation of educational benefits. Here, the evidence failed to show that the lack of additional testing denied [REDACTED] FAPE. Rather, the evidence showed that as a result of his record review, [REDACTED] recommended that [REDACTED] continue to receive learning disabilities services, and the District provided him with those services. Moreover, Mr. [REDACTED] testified that the basis for his decision not to test was his belief that [REDACTED] levels of achievement were consistent with his cognitive ability. Subsequent testing by [REDACTED] and Dr. [REDACTED] largely confirmed [REDACTED]'s observation.

My decision concerning the lack of achievement testing specifically takes into account the District's failure to formally assess [REDACTED] writing skills. Despite the lack of assessment data in writing, the evidence showed that [REDACTED] appropriately addressed [REDACTED] needs in writing. [REDACTED] testified, for example, that much of her instruction during the 2008-09 school year concentrated on writing skills. [REDACTED] so testified that [REDACTED] was a strong writer who had a lot to say, but whose work product was hindered by his desire to finish quickly.

Second, in considering the Parent's contention that the District failed to adequately assess [REDACTED]'s assistive technology and social emotional needs, I find that the Parent has failed to meet her burden of proof. There was no showing that [REDACTED] required assistive technology-- beyond what was provided-- to access the curriculum. To the contrary, the evidence overwhelmingly showed that [REDACTED] was successful in his classes when he chose to attend and apply himself. With respect to [REDACTED] social emotional needs, the evidence showed that [REDACTED] met regularly with [REDACTED] for two years before she recommended that his social work services be discontinued. Though she completed no formal assessment, she testified that her observations of [REDACTED] during that two year period led her to conclude that [REDACTED] did not have a social emotional disorder. The Parent failed to show that [REDACTED] decision was inappropriate, or that a more formal assessment (either social work or psychological) was warranted. In any event, the evidence indicated that [REDACTED] recently offered to conduct a formal social emotional assessment of [REDACTED] to determine if social work services are now appropriate. The Parent and Student refused that offer, apparently because of their poor rapport with [REDACTED].

Last, the evidence failed to support the Parent's assertion that [REDACTED] 2007 speech evaluation was inadequate. As specifically noted in my discussion of the facts, the evidence indicated that [REDACTED] appropriately assessed [REDACTED] speech fluency. Indeed, she conducted the same type of fluency assessment that [REDACTED] did. Nor did the evidence show that her recommendation that [REDACTED] receive 30 minutes per week of speech services was inappropriate. To the contrary, [REDACTED]'s testimony, for example, confirmed that [REDACTED] is able to make good progress in weekly, 30 minute sessions. To the extent that [REDACTED]

failed to make 's failure to make more progress is due to [REDACTED] failure to implement his IEP, and [REDACTED]s poor attendance.

Given that [REDACTED] evaluations of [REDACTED] met the requirements of FAPE, I find that the Parent's consultants, [REDACTED] and [REDACTED] are not entitled to reimbursement from the District for their services. In addition, with respect to [REDACTED] report, the evidence simply did not support several of her key findings and recommendations.

### **Whether the District Committed Procedural Violations that Resulted in a Denial of FAPE?**

As explained above, IDEA requires school districts to comply with relevant statutory, or procedural requirements in order to satisfy the requirements of FAPE. In this case, the Parent alleges that the District denied [REDACTED] right to FAPE by committing the following procedural violations: 1) The District failed to provide [REDACTED] with the 30 mpw of speech and language services as required by his IEP; 2) The District failed to develop an appropriate transition plan; 3) the District failed to provide the Parent with accurate and objective progress reports; 4) the District failed to appropriately identify a separate day school as the least restrictive environment; 5) [REDACTED] IEP's of May, 2007, May, 2008 and April, 2009 included numerous omissions and inadequacies; and 6) the District failed to authorize extended school year services despite evidence to the contrary. (*See supra*, Issues Presented, Nos. A3(b), A5, A7, B1, B2, B8)

Two of the District's allegations of procedural violations are not supported by the evidence. Specifically, the Parent wholly failed to demonstrate that the District should have identified a separate day school as the least restrictive environment for [REDACTED]. To the contrary, the evidence plainly showed that [REDACTED] is capable of succeeding in self-contained and CTT classes at [REDACTED] when he attends class and puts forth the effort. Nor did the Parent show that the District erred when it failed to authorize ESY for [REDACTED]. As Ms. [REDACTED] testified, [REDACTED] was one of her strongest students when he applied himself. He did not exhibit difficulties with recoupment.

The Parent has shown that the District committed procedural violations with respect to the four remaining allegations. In particular, as detailed in my discussion of the facts, there were a number of inadequacies in [REDACTED] IEP statements of present levels of performance, as well as goals and benchmarks. But the evidence failed to show that these violations led to denial of FAPE. Rather, the weight of the evidence confirmed that, to the extent [REDACTED] did not fully benefit from the services provided by [REDACTED] it was because he didn't regularly attend his classes and didn't do the class work. Likewise, while [REDACTED] IEP progress reports lacked detail and contained a few inaccuracies, those recording errors do not rise to the level of a denial of FAPE.

Much more significant than its imprecise IEP statements was the District's failure to provide [REDACTED] with the 30 mpw of speech therapy specified in his May, 2007 IEP. Indeed, the evidence showed that [REDACTED] failed to provide [REDACTED] with any speech therapy from December, 2007 to the end of the school year. [REDACTED] failure unquestionably deprived [REDACTED] of educational benefit and denied him FAPE. Likewise, the evidence also showed that the District failed to provide [REDACTED] with a transition plan in the May, 2007 IEP as is legally required. (*See* 34 C.F.R. § 300.320(b)) This procedural violation by [REDACTED] also denied [REDACTED] FAPE. Moreover, though the May, 2008 IEP included an appropriate transition plan, the evidence showed that it was not implemented for the remainder of the 2007-08 school year. In short, [REDACTED] failed to offer [REDACTED] a transition plan -- and denied him FAPE -- for the entire 2007-08 school year.

**Whether the District Failed to Develop an Appropriate IEP for [REDACTED]**

In addition to a district's obligation to adhere to the procedural requirements of FAPE, *Rowley* imposes the substantive requirement that a district also must develop an IEP that provides specialized instruction reasonably calculated to enable the child to receive an educational benefit. The Parent has alleged the following substantive violations of FAPE: 1) The District failed to provide [REDACTED] with essential related services in assistive technology, social work and/or psychological services; 2) the District failed to provide [REDACTED] with speech therapy with sufficient intensity to insure reasonable progress; 3) the District failed to utilize effective teaching methodologies with sufficient intensity to enable [REDACTED] to make appropriate progress in reading; 4) the District failed to offer [REDACTED] a complete curricula accessible by the Student in reading, language arts, math, social studies and science, with the result that [REDACTED] did not make academic progress; 5) the District failed to address attentional and organizational limitations of the Student. (*See supra*, Issues Presented, Nos. A2, A3, A4, A6, B3)

First, the Parent has failed to meet her burden of proof concerning related services and speech services for [REDACTED]. My findings on those issues are discussed above and I will not repeat them here.

Second, the evidence does not support the Parent's allegation that [REDACTED] requires a teaching methodology in reading that employed a systematic, multisensory program such as the Orton-Gillingham or Wilson program. The Parent's assertion was supported by [REDACTED] conclusion that [REDACTED] poor decoding skills caused him to read slowly, and hindered his ability to comprehend the text. The evidence, however, did not support [REDACTED] conclusion. To the contrary, [REDACTED] own testing indicated that sound-blending and word attack skills are learning strengths for [REDACTED]. In addition, [REDACTED] findings on the [REDACTED] indicated that [REDACTED] basic reading skills and passage comprehension are commensurate with his cognitive skills. The WIAT administered by [REDACTED] in June, 2009 also shows [REDACTED] reading levels to be commensurate with his cognitive skills. And while [REDACTED] has not made significant progress in reading, his latest grade equivalent score of 7.4 on the WIAT shows improvement when compared to his scores on previous achievement tests.

Third, the evidence supports the Parent's assertion that [REDACTED] failed to provide [REDACTED] a math curriculum that was accessible to the Student. [REDACTED] own testing showed math to be [REDACTED] greatest area of need. Yet the District failed to provide [REDACTED] with any special education support in math during the 2007-08 school year and for the first semester of 2008-09. [REDACTED] poor attendance -- nearly 20 full day absences in 2007-08, and 39 in 2008-09 -- undoubtedly hindered his progress in math. Nevertheless, the fact remains that [REDACTED] functioned at least 4 years below grade level in math, which was well below his expected level of achievement. Even if his attendance had been better, the team's failure to provide him with *any* math support precluded [REDACTED] from accessing the math curriculum and virtually ensured that he would fail. With respect to the other subject areas, i.e., language arts, science and social studies, the evidence fails to support the Parent's claim. Rather, the evidence showed that [REDACTED] provided [REDACTED] with a complete curriculum in each subject area. [REDACTED] also made the curriculum in each subject area accessible to [REDACTED] by providing him with special education instruction and classroom modifications and accommodations. Though [REDACTED] failed a number of classes in those subject areas, his teachers unanimously testified that [REDACTED] had the capability to succeed if he had regularly attended class and completed the class assignments.

Finally, the Parent failed to meet her burden of proof on her claim that the District failed to address [REDACTED] attentional and organizational limitations. There was no credible evidence in the record indicating that [REDACTED] exhibited deficits in those areas, or that his IEP should have expressly addressed attentional or organizational issues. While [REDACTED] diagnosed [REDACTED] with ADHD, there was no showing that he, as a speech pathologist, is qualified to make such a diagnosis, and I disregarded it.

**Pursuant to the above findings of fact and conclusions of law, it is hereby ordered:**

The Parent's request that [REDACTED] be directed to place [REDACTED] at [REDACTED] as the Student's least restrictive environment is denied.

The Parent's request that I order independent educational evaluations to assess [REDACTED] in reading, written language, emotional/social needs, attention and organizational deficits, and assistive technology is denied. Though the evidence did not indicate that an IEE is warranted, I agree that as [REDACTED] nears graduation, a social work assessment by [REDACTED] would be helpful in identifying and addressing the stresses and challenges that [REDACTED] may feel as a result of his speech impairment. Social work support may be warranted as [REDACTED] contemplates attending college and/or entering the work world. I understand that the Parent and Student rebuffed [REDACTED] recent efforts to initiate a social work assessment because of the family's poor rapport with [REDACTED]. Accordingly, though I cannot order the Student to submit to a social work assessment, I am directing [REDACTED] to offer to conduct an assessment that will be completed by another [REDACTED] social worker.

The Parent's request that [REDACTED] be directed to provide the Student with social work and/or psychological counseling and assistive technology is denied. If a social work assessment is conducted as discussed above, the IEP team may decide that social work services are warranted.

The Parent's request that [REDACTED] be directed to provide [REDACTED] with compensatory services is granted with respect to the following services:

For a 6 month period, [REDACTED] is directed to provide [REDACTED] with an additional 30 minutes per week of speech therapy. Though I leave it to the IEP team to decide how best to utilize this additional time, the team should consider [REDACTED]'s recommendation that some consultation time might be useful in helping [REDACTED] to implement carryover of the fluency techniques he is learning in his therapy sessions. Since the school year will likely end before this 6 month compensatory period does, it is for the IEP team to decide whether [REDACTED] should continue to receive speech therapy in the summer, or whether the this compensatory service will resume in the fall.

To compensate [REDACTED] for [REDACTED] failure to address his needs in math, the District will provide [REDACTED] with individual math tutoring for one hour per week for one full school year and an additional semester. The Student may choose whether the tutoring will take place before school ([REDACTED]), or after school at an alternative, mutually agreeable location. [REDACTED] attendance at these sessions is mandatory. The tutoring may be discontinued if [REDACTED] misses 4 sessions. Absence due to illness will not count against [REDACTED] if he provides a doctor's excuse.

To compensate [REDACTED] for its failure to provide him with a transition plan, [REDACTED] will provide [REDACTED] with a comprehensive vocational assessment to be administered by a trained vocational evaluator. The evaluation must include assessments to measure the Student's interests, aptitudes and skills. Once the assessment is completed, [REDACTED] is ordered to convene an IEP meeting to consider the results and recommendations by the evaluator, and to create a new transition plan for [REDACTED] if warranted. If possible, the evaluator should attend the IEP meeting. Once the vocational evaluation has been completed, [REDACTED] is to provide [REDACTED] with one hour per month of career/vocational counseling for a period of one calendar year. This counseling must be provided by a trained vocational counselor, and is to focus on assisting [REDACTED] meet the goals of his transition plan. The counseling sessions are to be provided either before or after school at a mutually agreeable location. As with his math tutoring, [REDACTED] attendance at the vocational counseling sessions is mandatory and may be discontinued if [REDACTED] misses 4 sessions. Absence due to illness will not count against [REDACTED] if he provides a doctor's excuse.

The compensatory services described above are to continue for the amount of time specified and are not to be terminated as a result of the Student graduating or turning 22.

Within three weeks of this order, the parties shall convene an IEP meeting to develop an IEP for [REDACTED] that takes this decision and order into account.

The above-described services may be provided by a [REDACTED] employee so long as the employee satisfies the specified qualifications. If the District obtains services from a provider outside of [REDACTED], the District shall pay the provider for his or her services.

The District shall provide proof of compliance with the aforesaid orders to the Illinois State Board of Education, Compliance Division, 100 No. First St., Springfield, Il. 62777-001, on or before February 12, 2009.

**RIGHT TO REQUEST CLARIFICATION**

Either party may request clarification of this decision by submitting it in writing to the undersigned Hearing Officer within five 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 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 5/14-8.02a(i)(2004), 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 hereby certifies that a copy of the aforesaid Decision and Order was transmitted to the parties by email on December 22, 2009 and will sent by U.S. Mail on December 23, 2009 with first class postage prepaid and directed to the Parent's counsel and District's counsel at their respective addresses.

DATED: December 22, 2009

[Signature box containing a small 'x' icon]

Kristine L. Anderson

Impartial Hearing Officer  
P.O. Box 7065  
Evanston, Il. 60204

111 The family pointed out a few inaccuracies in the District's attendance records. Some of the inaccuracies in [REDACTED] attendance records, however, were subsequently corrected. More importantly, the family did not dispute the basic fact that the Student was frequently absent. Nor did they dispute that [REDACTED] also skipped classes.

112 [REDACTED] transcript along with the testimony of [REDACTED] School scheduler [REDACTED], confirmed that [REDACTED] had taken two regular education math classes by the spring of 2007. (*Id.*) [REDACTED] testified that prior to the 2008-09 school year, course numbers on a student's transcript indicated whether a course was a regular or special education class. Course numbers that ended in "0" were regular education classes, course numbers ending in "1" were cooperative team teaching classes, and course numbers ending in "2" were self-contained special education classes. Thus, according to his transcript, [REDACTED] had taken (and failed) regular education algebra and geometry by the time the team met to write his February 22, 2007 IEP.

113 [REDACTED] asserted that he also met with [REDACTED] during his record review, but his testimony on this point was not credible. Though the report references his communications with teachers, it fails to mention any contacts with [REDACTED]. Curiously, [REDACTED] sought to rely on the report's references to [REDACTED] teachers as evidence that he had met with [REDACTED] too. Both the Parent and the Student recalled that [REDACTED] had not attended the May 2nd IEP meeting. An IEP sign-in sheet, however, showed otherwise. Moreover, [REDACTED] and other attendees testified that [REDACTED] was present.

114 A special education report card completed by [REDACTED] also indicated that [REDACTED] attended a special education advanced algebra with trigonometry class in the spring semester of that year. This is not supported by [REDACTED] transcript, which indicates the course was a regular education class. (*See* Ex. 8 at SD-163) In addition, [REDACTED] a special education teacher who teaches in the advanced algebra class, testified that [REDACTED] was his student during the spring of 2008-09. [REDACTED] testimony is supported by [REDACTED] transcript, which shows that [REDACTED] was enrolled in a CTT (cooperative team teaching with a regular ed. and a special ed. teacher) advanced algebra class in the spring of 2009. (*Id.*)

115 Several witnesses testified that in a CTT class, students are taught the regular education curriculum by a regular education teacher and a special education teacher. It is a less restrictive placement than a self-contained special education class.

116 The goal sheet that [REDACTED] prepared prior to the IEP meeting indicates that [REDACTED] intended to meet with [REDACTED] for just 40 minutes per month. (*Id.* at PD-51) Either the team didn't agree with this recommendation or didn't notice it, since the IEP grid sheet specifies 30 mpw.

117 The May 8, 2008 IEP made the same recommendation and also includes the use of graph paper, rulers and highlighters. (Ex. 5 at PD-49) With respect to the May 2, 2007 IEP, the team concluded that [REDACTED] did not need assistive technology to access the curriculum. (Ex. 4 at PD-75)

118 This IEP was written almost 6 months after the Parent filed her due process complaint, and is therefore not a focus of the complaint. Both parties, however, included the October 1, 2009 IEP among their exhibits and presented evidence relating to the IEP. Thus, I considered it in determining whether the District is currently providing [REDACTED] with FAPE.

119 For the most part, when offering examples of teachers mistreating him, [REDACTED] seemed to equate being held accountable with "being mean." His testimony about [REDACTED] mocking him, however, was very credible. In contrast, [REDACTED] who claimed that he had never even noticed that [REDACTED] stuttered -- was not a credible witness at all. Indeed, [REDACTED] evasiveness on this point only served to bolster [REDACTED] testimony about [REDACTED]

120 [REDACTED] denied that she ever encouraged [REDACTED] -- or any student -- to drop out of school. She could not recall, however, whether she encouraged [REDACTED] to consider attending an alternative school.

121

█'s testimony about her knowledge of █ failures was somewhat contradictory. On the one hand, she asserted that she didn't receive progress reports. On the other hand, █ also asserted that she received information about █ progress but didn't understand it.

113

Indeed, though counsel for the Parent suggested that █ absences were related to his disabilities, there was no credible evidence to support that assertion. Rather the evidence showed that neither the Student nor the Parent considered regular school attendance an important priority.

114

The █ evaluations were administered after the Parent filed her complaint and are, therefore, not at issue. At the hearing, however, both parties introduced evidence concerning the evaluations, and I consider them in my decision for purposes of assessing the Parent's request for reimbursement.

115

The one notable exception is that █ was not performing as expected in math. This is not an issue, however, of the District's failure to identify █ deficiencies in math. To the contrary, the evidence showed that the District had evaluated █ in math and was aware of his deficiencies, but failed to address █ need for math assistance. That is a substantive violation of FAPE that I will address below.

116

The evidence showed that █ appropriately implemented the goals of █ transition plan in 2008-09.

117

Issues B4-B7 are duplicative, and are addressed in this decision.