

ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING

In the Matter of:

██████████ by her mother, ██████████)
Student/Parent)
and) Case No.: 2010 - 0038
██████████)
School District.) W. David Utley
Impartial Hearing Officer

DECISION and ORDER

The Hearing in the above captioned matter took place on October 19, 2009 and October 20, 2009 at the Administrative offices of the ██████████. The parties had been advised of their rights under Section 14.08.02 (a) of the School Code, 34 CFR 300.512 and 23 Illinois Administrative Code 226.625. The undersigned Hearing Officer has jurisdiction to hear and decide this case under 105 ILCS 5/14-8.02 (a) of Illinois School Code, 23 Illinois Administrative Code 226.600 et seq., and the Individuals with Disabilities Education Act 20 USC 1415. The Student was represented by her mother and the School District was represented by ██████████ and ██████████ the ██████████.

1. Procedural Background

The Parent's Request for an Impartial Due Process Hearing was dated August 19, 2009 and submitted on the Student's behalf by her mother. In response to this Request, the District convened a Resolution Session on August 25, 2009 which resulted in a Resolution Agreement dated August 25, 2009 which set a IEP meeting for August 31, 2009. Even though a Resolution Agreement was entered and not voided, the parties agreed to continue the Due Process Hearing solely as to the issue of placement (and tangentially transportation). A Pre-Hearing Conference was held on September 28, 2009 and this matter was set for Hearing on October 14, 15 and 16. At the request of the Parent for time to secure legal representation, the parties jointly agreed to continue the Hearing and set a Status for October 12, 2009. Although the Parent was unable to secure legal representation, she agreed to proceed to a Hearing on October 19, 20 and 21. Procedurally, the parties agreed and stipulated to admission of the parent document book [Parent Document (hereinafter PD) 001 - 683] and the School District document book [School District (hereinafter SD) SD 001 - 510] and for admission of all the documents contained therein.

The parent called the following witnesses: the Student, the Student's mother, the Student's grandmother, ██████████ and ██████████. The School District called the following witnesses: ██████████, ██████████, ██████████, ██████████.

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] and [REDACTED]

The parent objected to [REDACTED] N [REDACTED] and [REDACTED]

As to [REDACTED], the Parent objected to his testimony as he was not on witness list given parent. The Parent testified she did not receive the District's Witness list for purposes of the Hearing. The School District provided a Proof of Service (identified as Hearing Officer Exhibit #1) as to its personal delivery of this list as well as the District's Written Submissions. Based upon the Proof of Service tendered, [REDACTED] was allowed to testify over the Parent's objection with the caveat that the Parent would be allowed the evening to review said testimony and prepare a cross - examination and then examine him the following day. The Parent declined this invitation to prepare for her cross - examination of [REDACTED] and elected to examine him after his direct testimony.

As to [REDACTED] and [REDACTED], the Parent objected on the basis that they had not seen or observed the Student. Both were actively involved in the establishment of the [REDACTED] [REDACTED] and had input into the type and quantity of services to be provided to the Student. [REDACTED] participated in one or more of the Student's IEPs and [REDACTED] would be the social worker that would be assisting the Student. As such, both were allowed to testify over objection.

2. Issue Presented

By agreement, the only issue presented in this Due Process Hearing is the issue of Placement (and, by extension, transportation). The Parent believes that the placement at the [REDACTED] [REDACTED] ([REDACTED] for the academic year 2008 - 2009 and as called for in the March, 2009 IEP is the appropriate placement for the Student. The District has withdrawn from the [REDACTED] and believes that its program and the placement as provided for in the August 31, 2009 IEP is the most appropriate placement in the least restrictive environment. Therefore, the issue before this Hearing Officer is whether or not the District's recommended placement per the most recent IEP is an appropriate placement to meet the unique needs of the student in the least restrictive environment.

3. Relief Requested

The Parent's request for relief is for the Student to remain at the then current placement at the [REDACTED] [REDACTED] with the District to provide transportation to and from said placement.

4. Findings of Fact - Testimony

Disclaimer: Hearing Officer was not provided the transcript in this case and had no access to it as it has not yet been transcribed. The recitations of the facts of this case were gleaned from a

review of the documents and the Hearing Officer's notes as to the facts elicited or facts that could have been inferred from the testimony of the witnesses herein.

A. [REDACTED]

1. [REDACTED] is the principal for [REDACTED] school of the [REDACTED] located in [REDACTED] which is about 15 miles from where the Student lives. He described [REDACTED] as a small town, in essence, a grain elevator community. The school has 21 students in its high school program and 17 in its middle/junior year. Currently, there are no other kids from [REDACTED] who attend [REDACTED]. In her class, there are five other 8th graders and four 7th graders. For the Student, [REDACTED] provides a small class and a safe place where she is comfortable in asking for supports when she needs them.

He described the Student as initially withdrawn. Since being at [REDACTED], she has done an exceptional job. She is a very positive young lady, is more social and seeks interaction with staff. She gets along well with teachers and students and seeks out teachers for help. She feels comfortable with other students. She will seek out the social worker if depressed. The other students treat her well. She is well liked and accepted. Emotionally in class, she is very solid. She is taking more pride in what she's doing. She has made great strides this year and is a positive role model for peers and will be missed at [REDACTED]. Her behavior around school is appropriate and she is not an outward acting student. She does work hard in school consistently. While at [REDACTED] she has been at Level 2 which is appropriate. She is one of the very few students to stay on Level 2 continuously. There are rewards for staying on Level 2 such as educational field trips, bowling, free time to do activities with student and staff, and recognition throughout school year. In terms of her behavioral goals, she scored a 752 out of a total of 756 points which correlates to a 99.5 % percentile [SD 309 - 501]. She is considered a model student.

The Student does not exhibit significant behavior aspects and has improved significantly since there. Within his presence, she has not exhibited inappropriate behavior. He is aware of some difficulties that she has had in her peer relations but she will seek out the social worker if she has such difficulties or is depressed.

She is doing well academically and doesn't need much in the way of support in her school work. Her report card for the 2008 - 2009 school year shows that she has been successful. She went from all from "B's" and "C's" to "A's" and "B's" [SD252]

He agreed that although her IEP calls for her P. E. class to be in general education, the only other students in her class are "at risk" students/behavioral disability. This is a violation of her IEP as it limits that class to no more that 30 % of BD students.

His goals for her are to continue to become strong and advocate for herself. The ultimate goal is to return her to her base school. From his perspective, the Student is acting pretty ideal from his perspective. For her social work goal (SD 261), she is exceeding her goals. As of this fall, 2009, she was doing very well.

2. [REDACTED] is a Social Worker at [REDACTED]. She is responsible to run group sessions for each class and to see the students individually.

When the Student first arrived at [REDACTED] her affect was to face the floor, hunched over and was physically fearful. She did not want to engage anyone. Since then, she has grown to hold her head up and look people in eye. With prompting, she will seek out adult assistance and will seek out adults on her own. She finds it easier to be around adults. They are working on peer acceptance and has progressed some on this goal. She appears to be able to stand her own ground. When she first came in this year (2009), she was able to look at secretary and express what she wanted. When she first got there, the staff would have to have inquired of her what she wanted.

She meets with the Student every two (2) weeks in a group session and individually once every two weeks. Her reports show that the Student was "making progress"[SD 263] or "exceeding progress" (SD 262)

It was her professional opinion that when the Student first arrived that she was definitely trying to hide. The Student used to dress in all black - a Goth look - in her clothing, fingernails, hair, etc. Now, she dresses in shorts, hi-top tennis shoes with multi-color laces, colors her hair blond and is experimenting with colors. She is looking a people and smiling. She has made significant progress since being at [REDACTED]

3. [REDACTED] has been employed through [REDACTED] for the past 3 years as a Junior High classroom teacher. She has a degree in Special Education for K- 8 and holds an LBS - 1 certificate. She agreed that all of her students at [REDACTED] are in a behavioral disability program.

When the Student first came to [REDACTED] she was very withdrawn, would not speak up for self and generally would hide. At first, she would sit by herself. Her peers would talk to her but she would not respond.

She teaches the Student empowerment, writing, social studies, health (part of year - elective) and science. As her home room teacher, she sees her at the beginning of the school day and end of the day. As the year has progressed, she has become more open, happier and would be involved more in the classroom with less avoidance. As to empowerment, her skills have really improved [SD272]. Overall, she has been doing well.

The Student is participating well in class, has a positive attitude, good attendance, completes her daily assignments and her behavior is appropriate [SD252]. On her behavioral goals, she generally gets perfect scores. Her professional assessment of the Student is that she is doing well [SD 270 - 271]. She is a joy to have in class, maintains a positive attitude, speaks up for self [SD273] and is doing a fantastic job in writing assignments.

Her program at [REDACTED] helps her. This program was structured to work with the Student for a variety of needs. [REDACTED] has a smaller class size but with a large enough capacity where the

students feel like being at school but in smaller groups throughout the day. She has help throughout the day with access to staff members. The staff at [REDACTED] is caring and working to achieve her goals

She does envision a return for the Student to her home school. This is a decision to be made by her IEP team as to when return to home school. Although objectively she has done very well, she feels it important also to look at subjective factors, particularly as this Student internalizes things and is not an externalizing student.

At the IEP meeting in March, 2009, [REDACTED] stated that he assumed that the Student would be at [REDACTED] next year when discussing placement.

Her understanding of LRE (least restrictive environment) is that a student should be educated in place where she has access to help and where they are best fitted. This would involve inclusion and main streaming - to be educated with peers without IEP to maximum extend possible.

The evidence shows that the Student is excelling.

B. Student, Mother and Grandmother

4 The Student's grandmother acknowledged that currently the Student is emotionally and physically well at home. Among activities she enjoys are drawing and watching television. She also likes animals and has two sets of rats and a kitty. She likes to ride her bicycle. She is a different girl that that in April 2008 in terms of her attitude and behavior

The Student was born in 1995 and has an older sister. The Student has always lived with her and her husband (deceased). The Student was close to her grandpa who died in November, 2006 when she was 11 years old. This was a great loss for her and she suffered emotionally as a result of that. She did not see any emotional issues prior to his death. In the fall, 2007 (about year later), a classmate died which bothered her.

The school personnel noted that the Student was injuring herself. To her knowledge neither she nor the Student's mother realized this. She was hospitalized from April 4, 2008 to April 18, 2008 for mental health and behavioral issues and then went back a second time from May 9, 2008 through May 25, 2008.

She does have her moments when she gets upset but as long as she takes her medications, she is fine. Currently, she is on medication which helps with her moods. If she does not take her medicine, the Student will get out of sorts and argumentative. She has improved since the medications.

She does socialize with kids in the neighborhood. These are new friends who live about 4 blocks from them. Although a little older than the Student, they are a good influence on her and visa versa.

The Student is doing very well in school. She will help her with her homework and sign the homework if the mom is not there. She would do this for the Student whether she was at [REDACTED] or [REDACTED]

5. The Student's mother testified that the placement at [REDACTED] has brought about significant transformations in the Student, particularly as to personality and emotional stability. She does not believe that the Student would be able to handle the new environment of the [REDACTED] program. Her concern is based upon the difficulties that the Student had prior to her hospitalization and transfer to [REDACTED]. The mother invited the Hearing Officer to review the medical records from the S [REDACTED] with concurrence from the School District. These records were admitted into evidence as part of the Parent's document submission [See Parent Documents p. 239 - 683]. The Student was there on two (2) separate occasions - once in April and then again in May, 2008. These documents reflect the emotional difficulties that the Student has suffered including a diagnosis on the DSM - IV. The root cause of these difficulties is unclear as they and the testimony make reference to non-school incidents including the deaths of her grandfather and a friend of the student. In addition to these, the records and testimony reflect substantial references to 'bullying' and teasing from students at the [REDACTED] which had adversely affected the Student. In fact, the School District is the one who first recognized the problems of the student and referred her to [REDACTED] for counseling and ultimately was placed at the [REDACTED] facility. However, based on these events, the Parent and Student fear a return to the [REDACTED] will lead to a re-occurrence of these behaviors.

The Student is currently on 3 medications: Lithobid, Risperdal and Wellbutrin [PD 683]. As long as the Student is taking the medications, she is okay but if she doesn't take her medicine, she starts having problems. She agreed that the Student is a well behaved girl when on her medications

When the Student first attended [REDACTED] her mother acknowledged that the Student didn't feel good about going to [REDACTED]. She had her head down during school, was crying and upset about school [SD313]. She was wondering why she was there and unhappy about it. The mother agreed that that point sheets show that she didn't get the best points in the early weeks. However, she pretty quickly adapted to [REDACTED] and then did very well including her behavior. The mother feels that the Student is doing extremely well there and has made a pretty good transition into [REDACTED]. She characterized the Student as a 'pretty resilient young girl'.

She has had a number of discussions with the school district personnel about the Student's transition back into [REDACTED] as she didn't think that the Student could safely transition back into the [REDACTED] system. She agreed that she and her mother (the Student's grandmother) were in attendance at the 1st parent meeting on Oct 28, 2008. The staff was explaining the transition and trying to make it as comfortable as possible. It was her feeling that the district wanted the parents to feel comfortable about it so as to not negatively affect the students. She also attended the 2nd meeting on Nov.13 where the Parent Advisory Committee was established. She admitted that she did not attend any of the parent advisory meetings subsequent to this i.e. 02/17; 04/06/05/13; 08/31; 09/21. She did meet with school staff as the placement for the Student could be

either at [REDACTED] or [REDACTED] as her age would allow placement at either. It was decided that the Student would be better served at [REDACTED] for one more year.

While at work one day in May, 2009, she did talk to [REDACTED] about the program and expressed her concerns. She wanted her guarantee that the Student would make a good transition. [REDACTED] gave her word on this. On June 2, 2009, at a town hall meeting, she approached [REDACTED] and again discussed the Student and the [REDACTED] program and told Dr. [REDACTED] that she would hold her personally responsible for her daughter's success during the transition. She wanted her assurance that her daughter would succeed and [REDACTED] again gave her word that she would succeed.

As the [REDACTED] staff scheduled an IEP meeting for July 31, 2009 but did not invite the [REDACTED] staff to be present, she asked to continue it. Per the resolution agreement, they agreed to have an IEP meeting on August 31, 2009. The [REDACTED] staff including [REDACTED] and [REDACTED] were in attendance. Again the decision was to transition the Student to the program at [REDACTED].

She also talked to [REDACTED], the OCEC director, on several occasions about her Student's transition to [REDACTED]. He told her that she should stay at [REDACTED] because she was doing so well and being successful. He felt that transitioning her from [REDACTED] to [REDACTED] right now would negatively affect her although possibly a slow transition would be okay. After the August 2009 IEP meeting, she again talked to [REDACTED]. He did tell her eventually the Student would have to go back but should be weaned back to [REDACTED].

She understands that the recommended placement is an E/D classroom. The Student would be placed at the Middle School to begin her transition back. She would be in that classroom for all of periods until they see how she transitions. She would remain in that placement until all the staff (psychologist, social worker, teacher and others) agree that she could transition out of the classroom for a specific class, lunch, etc.

She did go to the [REDACTED] for a tour of the facility and met with [REDACTED] and [REDACTED]. They showed her the program, classroom and other facilities. She agrees that all staff at [REDACTED] thinks the Student could excel in art and they do have good art facilities and a good drama program there. The mother does believe that the school district is interested to do what is best for the Student and believes that they are committed to educating students to best of their ability.

6. The Student likes school at [REDACTED] and likes it a lot. She feels that it is the best school for her. She has made a lot of friends (most of the kids in her classes) including the teachers. She described her teachers as amazing. She does well in school, getting "As" and "Bs". One of the things that she likes is that she can go to counselor whenever she needs to. The counselor helps her by talking about her issues and telling her to express how she feels. She also likes the activities at [REDACTED] including basketball, baseball, soccer and kick ball.

She does not have any friends that go to [REDACTED]. The other student who transitioned back to [REDACTED] has called and left a message as to why she is not back at [REDACTED] but

she does not consider her a friend. She has two (2) older friends at home: [REDACTED] (14) and [REDACTED] (16). Both attend [REDACTED]. They visit almost everyday when have the chance to visit. They recently moved into the neighborhood and school.

She is on medicine everyday although she doesn't believe that they work. She did agree that if she does not take her medication, she will to 'berserk', yelling and stuff. She did acknowledge that even with her medications, if she is mad, she will probably yell anyway.

At the end of her testimony, she presented Hearing Officer with a document as to why she wanted to stay at [REDACTED]. On Hearing Officer's own motion and on that of the School District, this document was not admitted into evidence and was not and has not been reviewed by the Hearing Officer. It is included in the Record as Hearing Officer Exhibit # 2. Copies were made for both the School District and the Parent.

C. [REDACTED] District Employees

7. [REDACTED] has been employed at [REDACTED] for 9 years. She teaches 6th grade science. She has a Bachelor's degree in biology (SIU) and is in her last semester at NIU on her Master's degree.

She knew the Student at [REDACTED] in the 6th grade. She was described as quiet in the classroom, shy and an average student in terms of ability/performance, i.e. "C" average. She acted appropriately in class by raising her hand; answering questions; following directions; gathering materials appropriately; using appropriate language with her and peers; remaining on task; and asking for help when needed. The Student was in a general education inclusion type class with two (2) adults in class including a special education aide. The Student had no significant difficulties in class and was considered a normal student. Homework completion was a weakness and she was allowed accommodations such as modified assignments (shorten or use of a word bank). She was allowed extended test time with alternate test setting.

She did notice that the Student was more withdrawn between the 1st and 2nd hospitalization. Upon her return, she was allowed extra accommodations including the ability to see a social worker on an as-needed basis. Academically, between hospitalizations, she was doing about the same academically as before or possibly a little below as she was out of classroom more.

8. [REDACTED] has been with the [REDACTED] District for 10 years, for the last five years as the Principal of the Middle School. He has 20 years teaching experience. He holds a Bachelor degree in Education (ISU) and a Masters in Educational Administration (NIU)

He knew the student from her time in the 6th grade. He remembers her as quiet. There were a group of kids she would hang around with. At that time, she seemed to be going through a Goth type look - black clothing - dark hair, etc. This was very different for her grade level as no one else was doing that. The only behavior issue was on the bus when she said that she was going to kill everyone on the bus. He determined she was just being a kid and administered only a

detention for it. He denied that the Student ever told him that she was being teased or bullied at school.

He knew that she spent some time in a hospital during the second semester. In between her two hospitalizations, her behavior was not that much different than before. There was no behavior that she exhibited that brought her to his office.

After her hospitalization, she went to [REDACTED] and he did not see her again until her IEP meeting at [REDACTED] in March, 2009. At beginning of meeting, before the Student came in, [REDACTED], the principal at [REDACTED] told them that they were not going to discuss the issue of the Student's return to [REDACTED] as it would be upsetting to the Student to discuss this. He was surprised since he went expecting to talk about transition from [REDACTED] to [REDACTED]. As the [REDACTED] staff was outnumbered, they acquiesced. The March 10, 2009 IEP was already written that the Student was returning to OCEC. [SD167]. They were not asked to give any input at this IEP meeting.

The [REDACTED] District has started its own Special Education program and transitioned students from [REDACTED] and other locations to its own program. The Middle School has its own B/D classroom. The program got off to rough start the first week or two as the program was new, had a new teacher and the students were new to program. However, due to the efforts of the teacher ([REDACTED]), the program and students are doing well. The other two (2) of students who were at [REDACTED] that transitioned to their program this year are both doing well.

Programs that would be available to the Student at [REDACTED] which are not available at [REDACTED] include extra curricular activities such as athletics (cross country, cheerleading, track, girls basketball and volleyball), student council, powerhouse (a program that works with kids with difficulties - an enrichment for them), art club and builders club.

Based on his prior knowledge of the Student as well as the current issues that she has, he believes that the Student would fit into the [REDACTED] program. In his opinion, she would be great and would feel comfortable

9. [REDACTED] has been with the [REDACTED] District for 10 years and teaches core classes, ie. Math, Social Studies and English. She holds a Bachelor's degree in Special Education and a Master's degree in Behavior Disorder. She holds an LBS - 1 Unlimited.

She knows the Student only through observation as they were planning for students to come back to [REDACTED]. She saw her in [REDACTED] which is 16 miles from [REDACTED]. It would be considered rural and somewhat isolated. She observed her in two classes - US History and Science. During History, the Student was working on a power point presentation. She seemed fluent with a computer. She was typing as she thought. The Student was acting appropriately, following directions and using appropriate language. She remained on task even though there were distractions from other students that demanded attention. This didn't seem to bother her. During Science Class, they were doing an experiment in the lab and she was working by herself. She did ask for assistance from teacher. During this class, she was also acting appropriately, following

directions, using appropriate language and remaining on task. She was putting effort in what she was doing. Her lab worked so she was happy with that.

10. [REDACTED] is the Director of Special Education for the [REDACTED] School District. His background includes service as the Director of Special Education for [REDACTED] for 8 years and previously as Assistant Director. He also served as a school psychologist for 13 years. He holds a B. S. in Psychology (WIU) and an M.S. in School Psychology (ISU).

The District opted to withdraw from the local cooperative (OCEC) and start its own program. The new E/D program at [REDACTED] mirrors what happens at [REDACTED] for severe E/D and L/D. The [REDACTED] program is a comprehensive program including small class size in a structured setting. There are a maximum currently of 5 students with 2 adults. There is the opportunity for mainstreaming and extra-curricular activities. The staff would help make her feel comfortable. The teacher is very nurturing but also has high expectations both academically and emotionally for the students. Students have extra help with homework and would be able to talk to a teacher if depressed or having bad day. The social worker is available at moment's notice, and if busy, then the guidance counselor would be available. They have walkie - talkies for instant communication. In addition, other support personnel (agencies in community) can be accessed. Their program has a very active component of working with parents. The District has formed a parent advisory committee to talk about what can do outside of school to assist students.

The goal of the [REDACTED] program is to get kids involved in general education setting as soon as they are ready for this. The teachers are extremely willing to work with students with disability issues.

The program recommended for the Student is available at [REDACTED]. Currently, at the [REDACTED] School, there are two (2) students full time and two (2) other students for a portion of the day in the E/D program. It was not their intent to mainstream her right away as they did not have sufficient information across all domains - academic, social, emotional. Since they didn't have all the available information, when the team opted to move the Student's placement from [REDACTED] to [REDACTED] School, they wanted to be conservative. As transitions are often difficult, coming from a smaller environment at [REDACTED] and going into a school of 370, he felt that the School district owed it to her to measure carefully to help her success. Among the support that [REDACTED] is able to provide are a strong teacher and assistant, a school social worker that can be there 100 % of time and the assistance of peers to support her. The Student would get instruction at her level. The program would address her strengths which can often lead to main stream settings. Social work would be a significant part of service provided for the Student. If she needed 300 minute per day, the social worker is there to accommodate this. This is important especially at the transition phase. The ultimate goal is to re-integrate students into the mainstream. Their program works as quickly as a student is able to be transitioned back in normal base school.

Although [REDACTED] is an excellent program, the children there don't have the opportunity to walk in the hallway with their non-disabled peers. It is more isolated where the Student only interacts with students with same/similar issues. Unlike [REDACTED], their program has access to whole school

community. Services available at [REDACTED] that are not available at [REDACTED] include education with her general education peers, enhanced social work services, the opportunity for mainstreaming, clubs and athletic activities and it is in her home community. Their program would give her opportunity to socialize with students both in and out of school.

11. [REDACTED] has been employed by the [REDACTED] District for 7 years. She holds a Bachelor's degree in Special Education (WIU) and a Masters degree in Special Education (NIU)

She knew the Student when she was in 4th grade from working with her in the resource room. She did inclusion with her in reading and writing. Her academic ability was below grade level but her ability was high enough that she could be successful in school. Her behavior was appropriate in that she was acting appropriately, following directions, using appropriate language and remaining on task. She put effort in what she was doing. She worked with the Student on daily basis - 40 -60 minutes per day.

She was involved in development of the [REDACTED] Education program. The District decided to implement its own program to fill in gaps for the students who were not placed appropriately, i.e. academic gaps and social- emotional issues. Prior to that time, [REDACTED] was not equipped to deal with them. Now, the program at [REDACTED] School can address this

She was a participant in the Student's August 2009 IEP which determined placement in E/D program in [REDACTED] School would be appropriate. The Student has shown that it was time to start mainstreaming her back to [REDACTED]. The Student's placement at [REDACTED] would still be a separate E/D placement. The benefits from the [REDACTED] program are that there are more mainstream activities where she could be placed, she would be close to people in community, peers that she sees outside of class would be nearby, other services are available and she would have all the services that she would have at [REDACTED]

In terms of the transition to [REDACTED] Dr. [REDACTED] the Student's mother and grandmother and she discussed how to provide a smooth transition. The fact that the Student's sibling was in same building would provide a certain amount of security. She also had contact with the Student's mother/grandmother over the summer and talked about setting up an IEP meeting. She agreed that the District could do a part time transition - part of the day at [REDACTED] and part at [REDACTED]

Since the August, 2009 meeting, they have received certain records relative to the student. These records re-enforced her view that it was time to transition the Student back to the [REDACTED] program. The scores suggest she is ready to come back [SD311-SD312].

12. [REDACTED] is a school social worker at the High School for the [REDACTED] District. She has a Bachelor's degree from Bradley University, a Masters of Social Work from University of Illinois - Chicago and administrative degree - Type 75 from National Louis University.

She attended the March 2009 IEP meeting to gather information about the Student to better prepare for her to return to [REDACTED]. She was not asked her opinion about this placement, participation or attendance at school. There was no discussion about the Student attending [REDACTED] School as the Principal at [REDACTED], told them that they weren't discussing a return to [REDACTED] since it would upset the Student. The IEP document was already prepared when they got there. She did not agree with conclusion that the Student should continue at [REDACTED] as she felt the program starting at [REDACTED] would benefit her. She understood that the Student was doing very well with the placement at [REDACTED].

The IEP recommendation at [REDACTED] School is in a self-contained E/D program (one classroom) with no general education students in this classroom. Based on what she heard from [REDACTED] in the March IEP meeting, the Student needed a small class size with greater support.

The [REDACTED] program would allow the student to be integrated in non-academic activities, communication and social skills and life skills. The staff is able to provide extra support if needed at the Middle School.

As to transition to [REDACTED] School for the OCEC student, the District provided multiple opportunities to tour the building, learn the schedule and generally provided information and reassurance to the parents about the transition.

13. [REDACTED] has been employed at the [REDACTED] School since August, 2009 as a school social worker. As part of her job, she does individual and group counseling as well as intervention and crisis intervention.

As to this Student, she would provide related services of 30 minutes per week of individual social work services [SD 199]. In addition, even though not on her IEP, she would be in the classroom for 30 minutes per week so the Student would be getting a total of 60 minutes per week. If she was having a hard day, she was welcome to come and talk to her. With the transition from [REDACTED] to [REDACTED] she would initially want to see her every day at the beginning of day and then possibly at the end of the day to see how things are going.

As part of the IEP plan, the Student has goal/objectives [REDACTED]. Part of her work with the Student would be to develop self awareness and self management skills both for school and for life success. She would work with the Student in dealing with decision making and choices. As to any bullying/harassment issues, the Student needs to say something.

If there are mainstream issues with the Student, her role will be to assist them with transition. She will work with the school psychologist and teacher to develop goals/plan/process for the student.

14. [REDACTED] is in her 1st year with the [REDACTED] School as the E/D teacher. She holds an LBS-1 from NIU with an early childhood endorsement. She also has her crisis prevention intervention certificate. Prior experience includes the Mill, a therapeutic day school

and Samonack (sp) where she dealt with students with intensive needs in E/D, Autism and Cross Category

The [redacted] program is able to offer a non-disabled population for interaction and mainstreaming. It also has extra-curricular activities. The social worker is part of team as they collaborate every day. They have walkie-talkies for instant communication for dealing with immediate problems. The students are encouraged to get involved with extra curricular activities and to get out into the community and work in the community. Programs at [redacted] are flexible as to mainstream issues. This transition will depend upon class size, students who are in class, etc.

She was hired this year to be the E/D teacher. Her academic instruction would be individualized with the curriculum being set up for students. Her classroom is a highly structured environment so that they know what they are doing. Her expectations are high for each student and are laminated and put on the wall. The student's schedules are on their desk. At times, she will use timers for students transitioning to another class. All goals/plans/work are designed to make a successful transition out of school.

She has an assistant in class and they will model behavior for students. This includes going to lunch and recess with kids. As part of her instructional approach, she uses point sheets, observation and academic assessments to see if a student is meeting his/her goal(s). She uses a weekly point sheet wherein the student can earn up to 10 points. The student gets 2 target goals to work on for week, i.e. not speaking out in class, etc. This point system builds self-esteem and provides needed re-assurance that the students are succeeding. These point sheets throughout the year help to plan and assess where student is and what he/she should be working on socially and emotionally. She will e-mail this to parents.

Currently, she has four (4) students on her case load. The Student would make 5. During first period, there are 4 students and then in second period, there is only 1 student.

At the August 31, 2009, the IEP team came to conclusion that the Student should be at [redacted]. She reviewed the Student's behavioral progress at [redacted] and noted that generally she scored above 90 % almost all of the time and was meeting or exceeding expectations. She felt that this is important so as to have decisions based on data, i.e. so that you have a reason for doing something. Academically, the Student had some issues with comprehension and math issues. She felt that they would be able to use the Student's love of art to work on comprehension by reading paragraphs and drawing a summary instead of writing. She agreed that the Student's transition from a therapeutic day school to the [redacted] program could be difficult transition. It depends on the student and what the parent will allow them to do.

She did not agree with [redacted] assessment of the Student's continuance at [redacted] as their point sheet says she is capable of making a successful transition back to [redacted]. [redacted] would be the suggested placement as the most appropriate in the least restrictive environment.

15. [redacted] is currently the school psychologist at the [redacted] school. She holds a Bachelor degree (UW - Whitewater), a Master of Science in Education (UW -

Whitewater) and is certified in school psychology. She has worked for the district for the past 10 years.

The [redacted] School program would provide a smaller environment, allowing for more immediate teacher feedback. It is easier in a small classroom to meet needs of the Student as she needs a highly structured environment. The program at [redacted] is based on a behavior plan with frequent feedback i.e. every ½ hour, point system, rewards, behaviors and consequences defined.

She attended the August 31, 2009 IEP for the Student and agreed with the conclusion. This plan was based on input from teachers and the parent. They felt that the Student needed significant support but did not feel that a separate therapeutic day school was appropriate any longer. Rather, a E/D classroom would be appropriate. As part of the process, they looked at where her IEP goals would best be met. As part of the continuum of service, they must start at an appropriate level to allow success and then raise the bar a little more - this will improve her self-esteem

She also did not agree with the principal of [redacted] that the Student was not ready for transition. [redacted] She believed that the Student was ready to make the change to [redacted]. This was based upon looking at her IEP goals and functioning level. The information gleaned from the meeting per the teachers, principal and social worker at [redacted] all indicated that the Student was doing well and had made great gains although she still struggled with self-esteem issues.

If the Student remained at [redacted] there was very real concern with the limited integration activities available. She felt that a gradual transition would be appropriate - ½ day at [redacted] and then ½ day at her base school. She thought that this would be appropriate since it allows integration in flexible mode.

She felt that the Student would improve her self esteem by experiencing successes. The goal is to move past a therapeutic day school and be able to integrate her into classroom. The job is to take what she has done successfully and raise the bar to better integrate the student with her peers. The [redacted] program allows her to be involved in the larger community. At [redacted] the bar becomes too high since there is no intermediate step/interval step to re-integrate her into [redacted] School.

16. [redacted] has been the assistant Principal and Athletic Director at [redacted] School for the past 2 years. Prior to that, he was at the elementary school as building principal.

He gave the parent a tour of [redacted] and showed her the school including the E/D room and the 8th grade pod area. The majority of classes are located at this location. There is also a library, fine arts area and band and chorus room, auditorium (drama and theatrics). The other student from [redacted] who made the transition back has done well in their program.

The Parent did ask questions. She had a notebook and took notes. She was told that they would have a full time teacher. [redacted] was also there and talked to her. They have a full time

guidance counselor, social worker and school psychologist all available to help the Student. The mom seemed accepting of program.

17. [REDACTED] has been the [REDACTED] School District [REDACTED] Superintendent of Schools for the past 4 years. She holds a Doctorate from Loyola in Curriculum, a Masters degree (NIU) and Bachelor in Elementary Education.

In 2007-2008, the Board adopted a resolution to withdraw from the [REDACTED] Cooperative [REDACTED] effective for the 2009-2010 school year and start its own program. [REDACTED] School District has been a member of the [REDACTED] until the school year 2009 - 2010. The building where the program is based is a brand new middle school. She took an active role in design and set forth design criteria. They added a "cross cat" classroom with appropriate facilities including a sensory room and a toileting area with shower. She believes that they have addressed every educational need and personal needs of the students.

In [REDACTED] view, the [REDACTED] as a deficit model approach - referral, assessment and if the student qualifies based on a/the deficit, it will determine the IEP based on the deficit. This approach does not look at the instructional approach and other factors as to the student. She also noticed a reluctance of [REDACTED] to utilize LRE as there is little opportunity for student to be re-introduced into the general education school environment as they do not have the facilities to do this. They are dependent upon the student's ability to be successful in a different placement. A student at [REDACTED] would not have opportunity to participate in a variety of courses as it does not have the classes/instructional model to accommodate student. There is very little opportunity for student to be mainstreamed on a flexible basis. [REDACTED] approach is customization - an attempt to build on the strengths that the student exhibits while supporting deficiencies. [REDACTED] wants kids to be as successful as possible. It is not a cookie cutter type of program which is her view of [REDACTED] model. [REDACTED] is unable to customize their program due to size of staff, course offerings and student base. The [REDACTED] curriculum is student centered.

To prepare for the transition from [REDACTED] to [REDACTED] for the students, there were meetings in October and November, 2008 with the parents. They also established a special parent advisory committee with meetings every month.

The Student's mother and grandmother attended the October 28, 2008 meeting. The parent had concerns if [REDACTED] could deliver appropriate education for their students. They attempted to address these concerns. At the November, 2008 meeting, the parent advisory council was organized for returning kids. Everyone was invited through "Alert Now", phone calls and e-mail. They also had a website devoted to this. If a parent did not access to the internet, they would make them available through the schools. Documents identified included the District newsletter [SD210], the agenda for meetings [SD 216], sign in sheet [SD217], letter inviting parent [SD218] and minutes of parent advisory meeting [SD220].

On February 9, 2009, she met with the Student's mother to make sure that they had a smooth transition for the Student. One topic was placement at the high school versus the middle school.

In their discussions, there never was a question of coming back but rather which program was she going to attend. Ultimately, they opted to place the Student in the middle school program.

In May, 2009, she had an in-person conversation with the Student's mother at her work, i.e., questions about approval, what was going on, etc. and a little conversation about the Student. The mother said that she would hold her "feet to fire" that she wanted to make sure that [REDACTED] has a quality educational experience for the Student.

There was a Town Hall meeting on June 2, 2009. She had a conversation with Student's mother who expressed concerns about the Student's future. She was very nervous about her returning to [REDACTED]. After talking for awhile, she thought that the mother was satisfied that they would work hard as a District to work with her daughter. She was not aware of any resistance to the program at that time.

In her opinion, the Student's placement at [REDACTED] is more than appropriate and the Student should be successful as other returning students are. Based on her education and experience, placement based upon the August IEP is appropriate. That placement is the least restrictive environment. As to the Student, she believes that they have the programs including classroom instruction to the facilities and staff to help the Student make a successful transition. The Student will have the opportunity to transition back and have a structure in place to be initially successful. Once back, the teacher, in working with Student, mom and the social worker, can decide what are the next steps for the Student to be successful. They will monitor with teacher and staff to make sure that the Student gets what she needs to be successful at [REDACTED].

5. Documentary Evidence - Findings of Fact

- a. Student was first referred for evaluation in January, 2000 at the age of 4.5 years [SD 1].
- b. She was determined not to be eligible for Special Education services at that time [SD 6].
- c. The Student was first identified as eligible for Special Education services on or about January 21, 2004 in the area of Learning Disability [SD 49].
- d. The Student was re-evaluated on several occasions and continued to be eligible for Special Education services in the area of Learning Disability [SD 60-, 78, 101 and 110].
- e. The Student was hospitalized on two occasions - April, 2008 and May, 2008 - for emotional problems [PD 239 - 683].
- f. Subsequent to the last hospitalization, the Student was determined to have eligibility for an Emotional Disability in addition to a Specific Learning Disability [SD149 & 151].
- g. The District through the [REDACTED] convened an IEP meeting on **May 27, 2008** [SD149 - 166] in which it was determined that the Student warranted services greater than 60 % of the time [SD 149].

- h. The Student needed a structured program with close supervision and counseling support [SD 151].
- i. At this IEP meeting, the Student's placement was changed to the [REDACTED] Center [SD 158].
- j. On **March 10, 2009**, an IEP review/revision and transition meeting was held [SD167].
- k. The behaviors which the Student exhibited prior to attending [REDACTED] were not observed since she had been attending [REDACTED] [SD168].
- l. Per the Report of Progress on Annual Goals, the Student was improving and doing a good job generally. She still had areas of difficulty. She was making "expected progress" on all of her goals but for vocabulary skills [SD 180 - 187].
- m. Student was progressing exceptionally on her behavioral goals through the school year 2008 - 2009 [SD 309 - 483].
- n. In the school year 2009 - 2010, the Student continued her excellent progress on her behavioral goals [SD 484 - 510].
- o. The Goals and Objectives/Benchmarks addressed (1) Social Work goals and (2) Reading goals [SD173 - 174].
- p. On **August 31, 2009**, an IEP review/revision, transition and other meeting was held. The parent and her mother (the Student's grandmother) attended. Staffs from both [REDACTED] and the [REDACTED] District were in attendance [SD188].
- q. The Behavioral Intervention Plan remained essentially the same [See SD 175 - 176 and SD 201 - 202]
- r. The Goals and Objectives/Benchmarks developed at this IEP meeting will address: (1) Self Management and Emotional Difficulties; (2) Maintaining Positive Relationships; (3) Improving Reading Comprehension; (4) Improving Math Skills; and (5) Improving Vocabulary Skills [SD 192 - 196].

6. Relevant Case Law and Conclusions of Law

Based upon the agreement as to the Issue involved, there is no procedural violation and the sole issue to be determined here is the appropriate placement for the Student. The key question is what is the appropriate placement for the Student in the Least Restrictive Environment. The IDEIA is the appropriate starting point for this analysis. IDEIA (34 CFR Section § 300.114, 2006) instructs that:

- (2) Each public agency must ensure that—
- (i) To the maximum extent appropriate, children with disabilities including children in public or private institutions or other care facilities are educated with children who are nondisabled; and
 - (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature of the severity is such that education in a regular classroom with the use of supplementary aids and services cannot be achieved satisfactorily.

Here, prior to the school year 2009 - 2010, there was no dispute as to the appropriate placement for the Student. [REDACTED] District did not have in place the program that would best assist the student as determined from the May 28, 2007 IEP meeting. As such, placement at the [REDACTED] Center) was the appropriate placement for the student based on her unique needs.

In Letter to Wessels, 16 IDELR 735 (OSEP 1990), OSEP stated,

“ In making placement decisions, the placement team must “[d]raw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior” and ensure that such information “is documented and carefully considered.” 34 CFR § 300.533(a)(1)-(2). In addition, under 34 CFR § 300.533(a)(4), the placement decision must be “made in conformity with the least restrictive environment rules in §§ 300.550-300.554.” These least restrictive environment (LRE) provisions require, among other factors, that a child's placement be determined at least annually, based on his or her IEP, and made in the school or facility “as close as possible to the child's home.” 34 CFR § 300.552(a)(1)-(3). EHA-B's LRE requirements also mandate that public agencies make available a continuum of alternative placements, or a range of placement options---including “instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions”---to meet the needs of children with handicaps for special education and related services. 34 CFR § 300.551(a) and (b)(1). Further, under 34 CFR § 300.552(b), public agencies must ensure that these placement options are made available to the extent necessary to implement each child's IEP.

“The above requirements indicate that the placement team must determine the specific option from the options on the continuum of alternative placements in which a child's IEP can be implemented. Based on that specific placement option, the placement team must then select the appropriate school or facility “as close as possible to the child's home” in which the child's IEP can be implemented. 34 CFR § 300.552(a)(3) and comment 2. Thus, the reference in the EHA-B regulations to “placement decisions” that must be made by “a group of persons” encompasses a determination as to the specific placement option and school or facility in which a child's IEP can be implemented.”

More recently, the Department of Education via the 2006 regulations "strongly encouraged public agencies to place a child with a disability in the school and classroom the child would attend if the child did not have a disability". Analysis of Comments and Changes to 006 IDEA Part B regulations, 71 Fed. Reg. 46576 (August 14, 2006). If there are two or more locations that could provide the appropriate services for the unique needs of the student, that Analysis indicated that the administrators should have the flexibility to assign a student to a particular school.

The Second Circuit addressed this same issue recently in *In P by his parent/next friend, Mr. And Mrs. P v. Newington School District*, 546 F.3d 111 (2nd District, 2008). That Court of Appeals stated that IDEA mandates that:

"[t]o the maximum extent appropriate, children with disabilities ... are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." 20 U.S.C. § 1412(a)(5)(A); *Walczak*, 142 F.3d at 122. "Educating a handicapped child in a regular education classroom ... is familiarly known as 'mainstreaming.'" *Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036, 1039 (5th Cir. 1989). We have underscored the IDEA's "strong preference for children with disabilities to be educated, 'to the maximum extent appropriate,' together with their non-disabled peers." *Walczak*, 142 F.3d at 122. Nevertheless, we have also acknowledged that, "[w]hile mainstreaming is an important objective, we are mindful that the presumption in favor of mainstreaming must be weighed against the importance of providing an appropriate education to handicapped students. Under the [IDEA], where the nature or severity of the handicap is such that education in regular classes cannot be achieved satisfactorily, mainstreaming is inappropriate." *Briggs v. Bd. of Educ. of Conn.*, 882 F.2d 688, 692 (2d Cir. 1989) (citations omitted); *see also Lachman v. Ill. State Bd. of Educ.*, 852 F.2d 290, 295 (7th Cir. 1988). Understandably, courts have recognized some tension between the IDEA's goal of providing an education suited to a student's particular needs and its goal of educating that student with his non-disabled peers as much as circumstances allow. *Daniel R.R.*, 874 F.2d at 1044. As such, courts have used a case-by-case analysis in reviewing whether both of those goals have been optimally accommodated under particular circumstances. *Id.* at 1048.

Although the Seventh Circuit has not yet enunciated a test in determining the Least Restrictive Environment (LRE), several other circuits have established at least a threshold. In *Greer v. Rome City Sch. Dist.*, 950 F.2d 688 (11th Circuit, 1991), the 11th District Court of Appeals suggested a multi-factor inquiry.

‘First, the school district may compare the educational benefits that the handicapped child will receive in a regular classroom, supplemented by appropriate aids and services, with the benefits he or she will receive in a self-contained special education environment. We caution, however, that ‘academic achievement is not the only purpose of mainstreaming. Integrating a handicapped child into a nonhandicapped environment may be beneficial in and of itself.’ Accordingly, a determination by the school district that a handicapped child will make academic progress more quickly in a self-contained special education environment may not justify educating the child in that environment if the child would receive considerable non-academic benefit, such as language and role modeling, from association with his or her nonhandicapped peers ...

‘Second, the school district may consider what effect the presence of the handicapped child in a regular classroom would have on the education of other children in that classroom.

‘Third, the school district may consider the cost of the supplemental aids and services that will be necessary to achieve a satisfactory education for the handicapped child in a regular classroom.’

More recently, *In P by his parent/next friend, Mr. And Mrs. P v Newington School District*, 546 F 3d 111 (2nd District, 2008), the Second Circuit Court of Appeals addressed this issue and adopted the two prong inquiry of the Third, Fifth, Ninth, Tenth, and Eleventh Circuits. This approach provided guidance without "too intrusive an inquiry into the educational policy choices that Congress deliberately left to state and local school officials." *Daniel R.R.*, 874 F.2d at 1046. In grappling with the Least Restrictive Environment, that court noted that:

‘In sum, in determining whether a child with disabilities can be educated satisfactorily in a regular class with supplemental aids and services (the first prong of the two-part mainstreaming test ...), the court should consider several factors, including: (1) whether the school district has made reasonable efforts to accommodate the child in a regular classroom; (2) the educational benefits available to the child in a regular class, with appropriate supplementary aids and services, as compared to the benefits provided in a special education class; and (3) the possible negative effects of the inclusion of the child on the education of the other students in the class ... If, after considering these factors, the court determines that the school district was justified in removing the child from the regular classroom and providing education in a segregated, special education class, the court must consider the second prong of the mainstreaming test whether the school has included the child in school programs with nondisabled children to the maximum extent appropriate.’ (Emphasis added).

In the instant case, there is no question that the Student is in need of a separate classroom that is highly structured. All—the parent and the school district—are in agreement that the student was not able to be in a regular classroom. Her IEP's have addressed this and determined that a self-contained classroom for more than 60 % of the time is the appropriate placement for the student based significantly on her emotional/behavioral issues and her academic progress. As the School District did not have the resources and expertise to place the student in its own program at that time, it appropriately placed the Student in the [REDACTED] [REDACTED] [REDACTED] [REDACTED]. However, effective in the school year 2009 - 2010, the School District implemented its own Special Education program and withdrew from the [REDACTED]. In her August 31, 2009 IEP, the District determined that the appropriate placement for the student was in a self-contained classroom for more than 60 % of the time - the same placement that the Student was in before. The significant change was the location. The District believed that its program offered the Student a better chance at re-integration into the full gamut of services available at a school district that were lacking at the [REDACTED] School.

The School District pointed to the location of the [REDACTED] and its limited course offerings as well as its limited opportunity to provide general education services for the Student. As [REDACTED] noted, [REDACTED] is located in [REDACTED] which is about 15 miles from where the Student lives. He described [REDACTED] as a small town, in essence, a grain elevator community. The school has 21 students in its high school program and 17 in its middle/junior year.

Conversely, the student is within a short distance to the [REDACTED] School. There are 370 students at the [REDACTED] School. Programs that would be available to the Student at [REDACTED] which are not available at [REDACTED] include extra curricular activities such as athletics (cross country, cheerleading, track, girls basketball and volleyball), student council, powerhouse (a program that works with kids with difficulties - an enrichment for them), drama and theater, an art club and builders club. The student would benefit from access to the programs as well as the student body. The program that she would be in was a self contained classroom with both Ms. [REDACTED] and an aide. There are only four other students in the program and only one in the second session. Support staff including social workers, psychologist, nurse, etc. are all available to the Student. The physical setting/classroom has been designed especially for their Special Education program.

More importantly, the Student appears to be ready to transition back into some portion of the general school population i.e., into the mainstream, at least on a part time basis. The staff at [REDACTED] including the Principal, [REDACTED], [REDACTED] and [REDACTED] all evidence that the Student is going well. Her behavior consistently exceeds expectations and her academic skills are increasing - getting all "A's" and "B's". The documentary evidence in the School Districts submissions [SD 228, SD 252, SD 269 - 273 and SD 310 - 510] all confirm the testimony of the [REDACTED] staff that the Student is doing quite well.

Although the Parent is concerned, and rightfully so, about transition back to [REDACTED] given the Student's prior experiences there, the testimony of the [REDACTED] personnel is that the Student would likely transition back into their program without significant difficulty. She would be placed in

the E/D program with, at this time, no more than 4 other students. As appropriate and based upon the recommendations of the teacher, psychologist, social worker and input from the Parent, the Student would gradually be re-introduced into the general education population on a limited basis. There would be support personnel who would be able to address any concern or issue that she had. In fact, there would be an aide that would shadow her - to make sure that she was doing well.

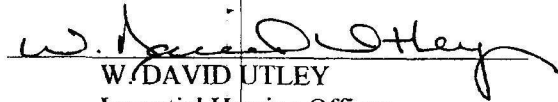
The District has determined that it now has the ability to provide in-house quality services that the student needs. That placement in its B/D program at the [REDACTED] School is the most appropriate for the Student in the Least Restrictive Environment. That placement will result in more closely following the mandate of the IDEA to educate a student with a disability to the maximum extent appropriate with children who are nondisabled. As the IDEA requires annual re-evaluation, if there is deterioration in the student's behavior or academic success, they are always welcome to re-evaluate the services and placement/location for the Student. Likewise, the Parent can always request a re-evaluation.

There were concerns about the transition from [REDACTED] back to the [REDACTED] School. The District points to her transition to [REDACTED] for guidance. There, she was initially unhappy and questioned her placement. Shortly thereafter, she felt comfortable and now does not want to leave. The evidence and the mother's comments that she is a 'resilient girl' suggest that she would be able to transition back to [REDACTED] without significant or long lasting difficulty. However, several of the support staff both at [REDACTED] and [REDACTED] felt that a slow transition would be the most valuable for the Student, that is, that the Student would spend part of the day at [REDACTED] and part of the day at the [REDACTED] School. Although this type of transition may be easier on the Student, conversely, it may make it more difficult for the transition as the Student will be 'tugged' in two separate directions which may negatively impact her emotional well-being. Accordingly, it will be necessary for the IEP team to review carefully the student's records and particularly her medical and behavioral information and in conjunction with the Student herself and her mother to fashion a transition plan that is in the best interest of the Student.

ORDER

1. Placement in the [REDACTED] School program per the August 31, 2009 IEP is the appropriate placement for the Student;
2. The [REDACTED] School District will convene an IEP meeting within fifteen (15) days of receipt of this Order to plan for the transition of the Student back to the [REDACTED] program. The IEP team is to carefully consider the speed of the transition and carefully consider the suggestions of both the [REDACTED] and [REDACTED] staff that a slow, gradual transition would be in the best interests of the Student;
3. The School District shall increase the Student's Social Work minutes per week during the first semester of attendance at [REDACTED] by 30 minutes per week or a total of 60 minutes per week to assist in the transition; and

4. The School District is to provide proof of compliance with this Order to the Illinois Board of Education, Compliance Division, 100 N. First Street, Springfield, IL 62777-0001 within forty-five (45) days or on or before December 14, 2009.


W. DAVID UTLEY
Impartial Hearing Officer

Dated this 29th day of October, 2009

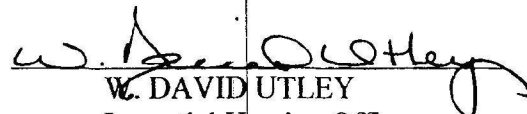
RIGHT TO REQUEST CLARIFICATION

Either party may request clarification of this decision by submitting a written request for such clarification to the undersigned Hearing Officer within five (5) days of receipt of this decision. The request for clarification shall specify the portions of the decision for which clarification is sought and a copy of the request shall be mailed to the party and to the Illinois State Board of Education, Program Compliance Division, 100 North First Street, Springfield, Illinois 62777. 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 decision has the right to commence a civil action with respect to the issues presented in the hearing. Pursuant to ILCS 5/14.8.01 (I), that civil action shall be brought in any court of competent jurisdiction within 120 days after a copy of this decision was mailed to a party.

THE EFFECTIVE DATE OF THIS DECISION IS THE DATE OF RECEIPT OF ANY CLARIFICATION OF THIS DECISION.


W. DAVID UTLEY
Impartial Hearing Officer

Dated this 29th day of October, 2009

Post Office Box 681487
Schaumburg, IL 60168
(847) 321-1044

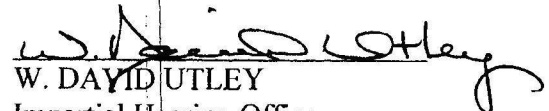
CERTIFICATE AND AFFIDAVIT OF DELIVERY BY MAIL

Under penalties as provided by law, pursuant to 735 ILCS 5/1-109, the undersigned certifies that he/she served the foregoing document by mailing a copy certified to the above named parent/attorney(s) at the address(es) indicated above and to the Illinois State Board of Education, 100 N. First Street, Springfield, IL 62777-0001 by depositing the same in the U.S. Mail at the United States Postal facility at Schaumburg, IL on the 29th day of October, 2009

[REDACTED]
[REDACTED]
[REDACTED] n
[REDACTED]

Illinois State Board of Education
Attn: Andrew Eulass, Esq.
Office of the Due Process Coordinator
100 N. First Street
Springfield, IL 62777-0001

Via First Class Mail—Certified Only to the Above


W. DAVID UTLEY
Impartial Hearing Officer

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Schaumburg, IL 60168
(847) 321-1044