

Case Number: 2010-0076  
[redacted] vs. [redacted]  
Hearing officer: Harry A. Blackburn

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 [redacted]  
Address [redacted]  
Represented by [redacted]

Parent Name [redacted]

Phone: [redacted] 6

Address [redacted]  
Parent Name [redacted]  
Address [redacted]  
Represented by [redacted]

Date and Timelines

Date of Written Request: 08/27/2009  
Date of Pre-hearing Conf: 10/08/2009

Date of Hearing: 11/6- 9/2009 and 12/14-15/2009 -9:00 a.m. through 5:00 p.m.  
Date of Decision: January 4, 2010

The parents did not meet their burden of proof through the evidence produced during the four (4) day hearing. The School District appears ready to adopt and implement the 5/21/09 IEP as prepared with parental involvement and agreement by the previous school district of attendance. In order for the parents to avail themselves of the proposed program as offered by the current District of residence as presented by the 5/21/09 IEP, the parent needs to re-enroll the student in school as soon as possible. No further obligation by the School District is required until the parent re-enrolls their child in the School District for either full time or "walk in" services as originally offered by the School District.

ILLINOIS STATE BOARD OF EDUCATION  
SPECIAL EDUCATION DUE PROCESS HEARING

IN THE MATTER OF

[REDACTED]

v.

[REDACTED]

- ) ISBE CASE NO. 2010-0076
- )
- ) **Harry A. Blackburn**
- ) Impartial Due Process
- ) Hearing officer

**DECISION AND ORDER**

**Jurisdiction**

This matter is before the undersigned hearing officer for a due process hearing pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA 2004"). 20 U.S.C. 1400 et seq., 105 ILCS 5/14-8.02a et seq., and 23 Il. Adm. Code 226.600 et seq.

The parents, pro se, filed a due process complaint on August 27, 2009 on behalf of their child, (hereinafter the "student"). [REDACTED] (hereinafter the "District") received the complaint and forwarded it to the Illinois State Board of Education ("ISBE") where it was received on September 2, 2009. The undersigned was appointed as hearing officer by ISBE on September 3, 2009, via letter, which the hearing officer received on September 4, 2009. The hearing officer subsequently contacted the parties and arranged for the convening of a teleconference call for discussing resolution or mediation efforts and establishing prehearing conference and hearing date(s). The parents filed an Amended Request for Due Process Hearing on September 16, 2009. A Pre-Hearing Conference was held on October 8, 2009.

The initial Individualized Education Program ("IEP") team meeting was conducted by the current District of residence on August 27, 2009 finding the student eligible for "walk in" related services in the areas of Speech and Language Therapy and Occupational Therapy, based upon a Mediation Agreement between the parents and the District and the parents' placing their child in a private school and wishing him to remain in the private placement.

The Hearing was commenced November 6, 2009, and continued on November 9 December 14, and concluded on December 15, 2009.

**Issues Presented and Remedies Sought**

**MATTERS IN DISPUTE**

Pursuant to the Pre-Hearing Conference Disclosure Statement filed by the parents dated October 6, 2009 in preparation of the Pre-Hearing Conference convened on October 8, 2009 via teleconference call, the

Parent requested resolution to the following issues pursuant to their Amended Due Process Complaint filed on September 16, 2009 as summarized below:

A. Placement

1. The parents assert that their child's proposed placement in the developmental kindergarten program is not in accordance with the previous placement in a different school district where the parent & student lived prior to moving to the [REDACTED] attendance area. Parents also assert that the placement was made improperly and by administrators without IEP team involvement and without parental consent or input. Parents also assert that the proposed placement will not allow the student to participate in any activities in the general education classroom.

B. Provision of FAPE during the 2009 Extended School Year Program (Summer School)

1. The parents assert that the student did not receive a free appropriate education during the 2009 ESY program as the staff were prohibited from implementing the student's speech and occupational therapy services and that staff distracted the student by observing the sessions, thus preventing him from participating. The Parents also allege that a staff member confiscated a toy leading to the student's emotional upset.

Relief sought by Parent

1. The student should be placed in a specialized instruction early childhood classroom with access to the general education classroom which is located outside of the District and reasonably located near their residence. Parents also seek placement in the same public school that the student's sister is placed.
2. A free appropriate public education without administrative interference.

The District's response to Parent's identified issues and relief

The District alleges that it has offered the student a placement designed to provide him a free appropriate public education in the least restrictive environment. The District has adopted the student's IEP dated May 21, 2009 and has offered to place him in a developmental kindergarten program at [REDACTED] where he will receive 1390 minutes of educational services in a developmental kindergarten (a special education classroom), 120 minutes per week of speech and language services, 30 minutes per week of social work services, 30 minutes per week of occupational therapy services and integration into the regular education classroom for calendar activities, all specials (art, music, gym and snack and lunch) with assistance of an aide. The District avers that the student was offered a free appropriate public education during ESY 2009 in that he was offered the speech and language services and occupational therapy services that the Parents requested. The District denies that its administration or staff interfered with the delivery of appropriate services and that the student was benefiting from the services until the Parents removed him from the program.

FINDINGS OF FACT

1. The student, at age 3, began attending an "at risk" pre-school program in the 2007-2008 school

year at parent request since he did not have prior experience with same age peers. The program was provided at the then district of residence of the student's mother and father, although the parents' were separated, which is not the school district of concern for purposes of this due process hearing matter. The student received only speech and language services although a full case study was offered but declined by the parent. (SD A004, A056).

2. The student, at age 4, continued in the at risk pre-school program in the 2008-2009 school year, identified as "developmentally delayed" receiving 750 minutes per week ("m/p/w") in special education classes (570 m/p/w—Academic Classes; 120 m/p/w—Speech/Language Services; 30 m/p/w—Social Work Services; 30 m/p/w—Occupational Therapy Services). (SD A070k).

3. An IEP meeting was convened near the end of the academic school year, 2008-2009 on May 21, 2009, wherein the IEP team recommended 1390 m/p/w in special education instructional classes and 120 m/p/w—Speech/Language Services; 30 m/p/w—Social Work Services; 30 m/p/w—Occupational Therapy Services). (SD A091). Additionally the student was to receive 300 m/p/w of art, music, gym and snack/lunch in the general education setting with a 1:1 aide. This was the recommended and agreed upon program by the parents for the student's 2009-2010 school year.

4. The student's mother moved from the school district and enrolled the student into the now current District of residence having some of the student's records faxed to the new District of residence so as to have the student participate in Extended School Year services (ESY). Registration, although alleged by the parent to be difficult even more so than what others may have to endure, was accepted by the District on June 8, 2009. (There apparently has been a previous history within this District, where the parents formerly resided but left due to a fire that destroyed their home. Upon completion of the home being rebuilt, the mother returned to the rebuilt home with the student and a sibling to live permanently).

5. The District, upon registration by the parent and admission of the student, enrolled the student into its ESY program upon the parents' request, where the student began receiving Speech/Language and Occupational Therapy Services. The District did so in accordance with the student's 5/21/09 IEP that was completed by the student's previous attending school district.

6. The parent and District agreed that the student would receive 30 minutes per day ("m/p/d") of Speech/Language Therapy and 30 m/p/d of Occupational Therapy as a co-treat by the therapists of the ESY program. The 6 week ESY program began on June 15 and ended on July 24, 2009 with sessions provided on Monday's through Thursday's. Accommodations were made by the District as to the time when the services would be provided so that the student could attend summer day camp.

7. On or about July 1, 2009 an incident involving the removal of a "special" toy by District staff from the student occurred during one of student's initial therapy training sessions in the ESY program causing the student distress and disrupted the session temporarily. The incident occurred while the parent was at the school observing, but not in the presence of the parent. District staff believed the toy, in the child's possession at the time the therapy sessions were being conducted, was disruptive to his receiving instructional benefit. The mother believes removal of the toy, despite specific instructions given by her not to take the toy away, shows the District's insensitivity to her child and children in general.

8. The toy "incident" caused "tension" between the parent and the District. The parents began registering their concerns with the District and Special Education Co-operative Administration concerning improper management of their child during his therapy sessions. The District responded to parents' concerns by establishing a regular supervisory plan by District administration of the training sessions. The student's mother expressed further concern with this plan as being "distractive" to the educational process of her child.

9. Prior to the conclusion of the ESY program, the parent “removed” the student from attendance of the program placing the student elsewhere in a private school.
10. Attempts to convene an IEP meeting prior to the beginning of the school year 2009—2010 regular school year were made. The parents made known to the District their unavailability to attend an IEP meeting during the month of July. An IEP meeting was scheduled for August 4, but cancelled due to parents not showing up.
11. The District and parents agreed to participate in Illinois State Board of Education Mediation Services. A Mediation Agreement was reached on August 19, 2009 between the District and the parents. The Agreement provided that the “Parents and district will meet asap to complete IEP meeting for unilateral placement and walk in ST and OT for Student.” (SD A106a). The Agreement further provided as follows, “District assigning a case manager for students’ family. Case manager will handle any communications and concerns family will have. Case manager assigned is social worker Christine Sicinksiki.” (SD A106b).
12. An IEP meeting was scheduled and held on August 27, 2009. The parents participated. (SD A107). The purpose of the IEP meeting, as expressed by District staff, was to adopt and modify as necessary, the 5/21/09 IEP developed by the student’s previously attended school district and to discuss the parents’ decision to privately place the student and discuss the level of “walk-in” services that the District will provide for Speech Language Services and Occupational Therapy Services for the 2009-2010 school year. (SD A118). The conference notes indicate that District staff person and Program Supervisor, Eileen Parente, would be assigned as Case Manager/Facilitator for IEP and programming concerns. This change from the Mediation Agreement, which provided for another person to be assigned, was made through discussion with an agreement by the parents. (SD A118).
13. The parents declined services offered in the 8/27/09 and instead filed a Request For Due Process Hearing Complaint on August 27, 2009.

### **Burden of Proof**

Under the IDEA, the burden of proof in an administrative due process hearing is upon the party seeking relief, whether that is the disabled child or the school district. *See generally Schaffer v. Weast*, 546 U.S. 49 (2005). The issue of the burden of proof is most significant when the proceedings produce a record that indicates that both sides have presented significant evidence that is equal in weight and persuasive in nature. In the matter at hand, this is not the case. In the hearing held over four days (11/6-9 and 12/14-15/2009) the testimony elicited from all witnesses, mostly consisting of District employees, and the documentary evidence, demonstrate that the student’s parents have not satisfied their burden of proof.

### **DISCUSSION AND CONCLUSIONS OF LAW**

#### **A Placement**

1. Whether the proposed placement in the developmental kindergarten program is in accordance with the previous placement in a different school district where the Parent & student lived prior to moving to the District’s attendance area. Parents also assert that the placement decision was made improperly and by administrators without IEP team involvement and without parental consent or input. Parents also assert that the proposed placement will not allow the student to participate in any activities in the general education classroom.

*Bd. Of Ed. Of the Hendrick Hudson Central School District Westchester Co. v. Rowley* instructs

that an IEP is valid when (1) it was adopted according to the IDEA's procedures and (2) it is "reasonably calculated to enable the child to receive educational benefits." *Rowley*, 458 U.S. at 206-07. To meet the second, substantive criterion of *Rowley*, an IEP must respond to all significant facets of the student's disability, both academic and behavioral. *Alex R. v. Forrestville Valley Comm. Unit Sch. Dist. #221*, 375 F.3d at 613. That is why a school district's IEP team is required to assess whether the student's disability-related "behavior impedes his or her learning or that of others" in the classroom. 20 USC 1414 (d)(3)(B)(i).

The District has maintained and established, through credible testimony of its administrators, [REDACTED] Director of Student Services for the District, and [REDACTED] Director of the District Special Education Cooperative, that it stood/stands ready, willing and able to adopt and implement the IEP developed at the end of the previous school year by the student's former school district in order to provide a smooth transition for the student. IDEA, 20 USC §1414 (d)(2)(C)(i)(I) provides, in pertinent part, as follows:  
parents.

(C) PROGRAM FOR CHILDREN WHO TRANSFER SCHOOL DISTRICTS—(i) IN GENERAL.—“(I) TRANSFER WITHIN THE SAME STATE. In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in the same State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with Federal and State law.

Additionally, 23 Il. Adm Code Section 226.50 provides, in pertinent part, as follows:

**Section 226.50 Requirements for a Free Appropriate Public Education (FAPE)**

A “free appropriate public education (“FAPE”)” as defined at 34 CFR 300.17, must be made available by school districts to children with disabilities in accordance with 34 CFR 300.101 through 300.103, unless otherwise specified in this Section.

a) Transfer Students

Provision of FAPE to students who transfer into a local school district shall be made in accordance with the requirements of 20 USC 1414(d)(2)(C). The additional requirements of this subsection (a) shall also apply.

1) In the case of an eligible student transferring into a district from another district within Illinois, when the new district obtains a copy of the student's IEP before or at the time the child is presented for enrollment:

A) The district may adopt the IEP of the former local school district without an IEP meeting if: i) the parents indicate, either orally or in writing, satisfaction with the current IEP; and ii) the new district determines that the current IEP is appropriate and can be implemented as written.

B) If the district does not adopt the former IEP and seeks to develop a new IEP for the child, within ten days after the date of the child's enrollment the district must provide written notice to the parent including the proposed date of the IEP meeting, in conformance with Section 226.530 of this Part. While the new IEP is under development, the district shall implement services comparable to those described in the IEP from the former district.

The District clearly met the requirements of both Federal law and State regulations pertaining to attempting to provide a program in its developmental kindergarten program but for the fact that the parents chose to remove their child from the District. Testimonial evidence given during the course of the Hearing by [REDACTED] and [REDACTED] substantiates this conclusion. District attempts to convene an IEP meeting were documented both by the testimony and letters from the District to the Parents dated July 3, 2000 (SD C001); July 17, 2009 (SD C003) and July 23, 2009 (SD C004). Additionally after the parent declined services offered at the August 27, 2009 IEP meeting, the District, through its attorney, [REDACTED] continued to reach out to the parents with the offer of providing sixty minutes per week of speech and language therapy services and thirty minutes per week to address the goals that were included in the student's IEP. (SD C005) and to further engage in Mediation and/or Resolution meetings. (SD C010). The parents' declined Mediation but participated in a Resolution Session that was unsuccessful in resolving the issues separating the District and the parents. (SD C013). The District reiterated its position at the Resolution Session of its intent:

The District proposes that an IEP meeting to "review the student's May 21, 2009 IEP and discuss the continuum of placement available through District 159 and/or District 843 (Special Ed. Co-op), to identify the placement where the Student's IEP can best be implemented in the least restrictive environment based upon a review of the goals and objectives, supplementary aids and services, instructional minutes, related services and regular education participation set forth in the document. While the District has recommended that the student be placed in the Developmental Kindergarten program with access to the general education classroom for calendar activities, all specials (art, music and gym) and snack and lunch, it remains willing to meet with Parents and their representative in an IEP meeting to review all of the placements available and determine the placement most appropriate to meet the student's educational needs. (SD C0016-17).

The parents position to remove their child from the District and place him in a private school located outside the District was based primarily on their belief that the student did not receive a free appropriate public education during the 2009 ESY program as staff were prohibited from implementing the student's speech and occupational therapy services, staff and administrators distracted the student by observing the sessions thus preventing him from participating and by a staff member confiscating a toy resulting in the student becoming emotionally upset. The parents' do not believe, based upon past history with the District, that they cannot trust the District and request that they pay for services to be provided in a neighboring Public School District to which the District will not agree, nor does it believe the law provides for. Finally, although the District acknowledges that the student received a majority of the 6 week ESY program provided to him until the parents removed him from it, it is willing, as a "gesture of good faith" to provide the student with an additional six (6) hours of speech and language services and three (3) hours of occupational services at the elementary school in response to the parents' concerns over the the 2009 ESY program.

The District, through its attorney, wrote to the parents on October 9, 2009, subsequent to the Pre-Hearing Conference being held in preparation for Hearing, which again showed its willingness to attempt to work with the parents in getting the student back into its school by offering a program that meets the goals and objectives outlined in the student's last IEP on May 21, 2009 that was developed by the school district of previous attendance and agreed to by the parents. (SD C021-23). The parents declined the offer and proceeded to the Due Process Hearing. Testimony presented by [REDACTED] and [REDACTED], a program supervisor, established that the District, through its Developmental Kindergarten Program, has the ability to match the services recommended in the previous District of residence. The parents' however remain

unconvinced. It is unfortunate that the parents' cannot/will not attempt to re-try efforts to mend what has risen to be a "serious" communication breakdown. The parents "drove" home the point that a deep "mis-trust" has developed over the previous involvement they had with the District involving the student's sibling, when they had to temporarily leave the District when their home burned down of which they harbor ill feelings toward the way they believe they were mis-treated by the then District administration by not being allowed to continue receiving an education in the District. When they returned to the District, they believed they were being treated unfairly in the "registration" process by having to provide more documentation than is necessary in order to establish a bona fide residency within the District. This mis-treatment, they believe, rises to the level of a denial of FAPE. A great deal of testimony was allowed to be presented on this issue. The witnesses called to testify on explaining the District's registration process were observed as credible and without "malice or ill-will" toward the parents. The parents testified to their first attempts to register both children on May 20, 2009 but the process was not completed due to "proper documentation" not being available and received by the District. The parents also allege that one District person also told them at that time that there was no need to register for ESY services to begin, a statement that was disavowed by the staff person to whom the statement has been attributed when she was called to testify at the hearing. When the parent returned with the documentation asked for by the District on June 8, 2009, the children were then considered registered for purposes of receiving ESY services. The parents also testified that on one occasion, when they were at the school sitting in the office after their children had been enrolled, they observed another parent registering her children by presenting only one form of identification, a process that took less than 10 minutes. This one incident compared to what the documentation that was required of them raised their concern that the District required more of them than others. Considering the totality of testimony given, in the experience of this hearing officer, the District's procedures appeared consistent with standard procedures implemented by other school districts throughout the State, including the documentation that may be required to be produced prior to registering a student. While school districts are required to have written policies and procedures established to follow, a school district must treat each situation on a "case by case" basis in order to establish bona fide residency within their school district before children can be enrolled and services provided. The parents believe the District was unfair in its registration process, inferring that the District was being "retaliatory" or "vindictive" because of "issues" involving their older daughter, who is also the subject of a separate, pending due process hearing before a separate independent hearing officer. This hearing officer does not agree. The student was allowed to register as all requirements were met prior to the beginning of the start of ESY program therefore, no "potential" denial of FAPE has been established (SD C026 -038).

B. Provision of FAPE during the 2009 Extended School Year Program (Summer School)

1. The parents assert that the student did not receive a free appropriate education during the 2009 ESY program as staff were prohibited from implementing the student's speech and occupational therapy services and that staff distracted the student by observing the sessions, thus preventing him from participating. The Parents also allege that a staff member confiscated a toy leading to the student's emotional upset.

Much of what is stated above is applicable to this issue raised by the parents. In addition, testimony by the two direct service providers of the student, [REDACTED] the Speech and Language Pathologist and [REDACTED] the Occupational Therapist and personal friend of the family for several years, provided valuable insight. Both testified to the benefit their co-treat teaching provided to the student while in attendance in the ESY program. The parents questioned the teachers for changes they admitted they made in the method of delivery of services to the student which was different than what was recommended in his 5/21/09 IEP, and testified that

when the parent voiced concerns with the changes, they immediately went back to teaching as prescribed in the IEP. They expressed their reasons for making the change was based on the student's difficulty in paying attention. They both testified that having supervisory staff in the classroom while instruction was going on was not a distraction nor was there interference on the part of the supervisors that did observe the class. Only the Speech Therapist could verify the incident that occurred with the toy and recalls that a staff "secretary" removed the toy from the child, and although upset for awhile, the child calmed down and was able to resume therapy. As a result of this incident, the parent and therapists worked out a plan where the student would be allowed to bring his toy in a back pack and place it in the back pack during his therapy sessions. Staff were questioned by parents on whether or not they were receiving direct instructions from administration on how to deal with the student's family. Both denied receiving any interference from any District or Co-op Administrator with respect communications to or with the family.

The parents' testimony raises many concerns about their experiences with respect to general issues of failed communication between themselves and the District, Special Education Co-operative Administrators and the District's School Board, through its President. Some examples include: insensitivity to parental frustration and concerns in the District registration process; perceived interference by District staff in the services being provided their child(ren); numerous telephone and e-mail communications seeking answers to questions being proposed by the parents and in their view point not receiving "direct" answers to; introduction of the District's attorney to handle communications between themselves and the District. Of significant concern to them was the way they believed the District attempted to force holding of an IEP meeting without taking into consideration their personal life situations including health, family and work. The parents each testified as to how they believed the District was being insensitive in arranging a convenient and "mutually" agreeable time for holding an IEP meeting, one in which the parents could have sufficient time to make the necessary arrangements considering issues regarding the mother's general health problems during the month and the parents' daughter's commitments relative educational testing during the month of July and the early part of August. The parents also expressed "anger" in the District setting a "timed" agenda for the proposed IEP meeting, expressing their frustration with having a set time to express all of the concerns they have with respect to the education of their children. The parents documented their communications and made them a part of this record. Given all of these cited instances by the parent resulted, they stated, into feeling "forced" to proceed to Due Process. What this hearing officer concludes from this issue is that careful and deliberate efforts need to be undertaken by both the District and the parents in order for future "meaningful" communication to occur so as to insure that the parents' interests and concerns are being heard and given the understanding and respect that they believe they deserve. This District appears to have followed proper procedures in attempting to convene an IEP meeting, including the setting of an "agenda" to follow during the course of the meeting. This hearing officer did not consider the creation of an agenda as being an attempt by the district to curtail parental input or involvement at the IEP meeting. Rather, it is viewed as a "guide" in facilitating time for the process to occur and move forward.

The parents, in their closing arguments cited case law and other miscellaneous information in furtherance of their position: *Mills v. Bd. Of Ed. Of the District of Columbia*, 348 F.Supp.866, (1972); *Polk v. Central Susquehanna Intermediate Unit 16*, 853 F.2d, 171, (1988); *Florence County School District four v. Shannon Carter*, 510 U.S. 7 (1993) and Official Transcript of Proceedings before the Supreme Court of the United States. The materials provided and regulations cited demonstrate the parents' thorough preparation in moving forward with their Due Process claim. Additionally, citation to relevant laws and regulations further demonstrate their expressed wishes to have the District take notice that they regard the education of their child with the utmost priority and sincerity. Their devout attention to detail throughout the four day hearing

was evident. They are to be commended for their strong advocacy and concern for their child's education. However, this being said, it is this hearing officer's belief that the District has complied with the procedures of IDEA and its implementing Rules and Regulations when it comes to providing a free and appropriate education for the student who is the main focus of this hearing. Whatever events, real or perceived, that have gotten the parents and the District off to a rugged start in the beginning of this student's educational experiences with the District, should be set aside and a fresh new start should be attempted from this day forward. The parents and District would be better served in trying to find a way to re-open the lines of better communication and set in place a communication procedure to ensure that ideas are shared freely and openly to best serve the needs of this student. Having found that the District has complied with FAPE there is no need to determine whether or not placement in a private school is appropriate nor should the school district reimburse the parents for the child to attend a public or private school outside the boundaries of the District.

### **ORDER**

- 1) The hearing officer finds that the parent has not met its Burden of Proof in its allegations against the District and therefore finds against the parent and for the District.
- 2) The hearing officer also finds that:
  - a) the District has provided an appropriate education for the student, as brief as his exposure within the School District less than 6 weeks in the ESY program;
  - b) placement in the District's Developmental Kindergarten program appears to be appropriate and consistent with the recommended placement set forth in the student's May 21, 2009 IEP while at a previously attended school district;
  - c) the procedures the District attempted to utilize in convening an IEP with the parents were appropriate and in accordance with law.

#### **Right to Request Clarification:**

Either party may request clarification of this decision by submitting a written request for such clarification to the undersigned hearing officer within five (5) days of receipt of this decision. The request for clarification shall specify the portions of the decision for which clarification is sought, and a copy of the request shall be mailed to the other party(s) and the Illinois State Board of Education. After a decision is issued, the hearing officer may not make substantive changes to the decision. The right to request such 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 Civil Action**

This decision is binding on the parties unless a civil action is timely 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 105 ILCS 5/14-8.02a(i), that civil action shall be brought in any court of competent jurisdiction within 120 days after a copy of this decision is mailed to the parties.

Dated this 4th day of January, 2010.

HARRY A. BLACKBURN  
Hearing Officer

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the attached Decision and Order was sent via e-mail and placed in the U.S. Mail via certified mail at Joliet, Illinois, and directed to:

Mr. Andrew Eulass  
Due Process Coordinator  
Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777-0001

[REDACTED]

[REDACTED]

[REDACTED]

before 5:00 p.m. on January 4, 2010.

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