ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING JAN 27 2011

In the Matter of:

[redacted] by his parent, [redacted])
)
and) **ISBE Case No.: 2011 - 0024**
)
[redacted]) W. David Utley
Local School District.) Impartial Hearing Officer

DECISION and ORDER

The Hearing in the above captioned matter took place January 11 through January 14, 2011 at the Oak Park ESD # 97 Administrative Offices. The parties were 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 [redacted] of the Law Offices [redacted] and the School District was represented by [redacted]

A. Procedural Background

The Parents' Request for an Impartial Due Process Hearing was dated August 17, 2010 and was submitted on the Student's behalf by [redacted] of the Law Offices of [redacted] The Due Process Request was received by the School District on August 17, 2010. The District retained [redacted] and [redacted] of the firm of [redacted] to represent its interests. Ms. Todd responded to the Impartial Due Process on August 27, 2010. The parties conducted a Resolution Session on September 15, 2010 which was not successful. An initial status call was held on September 27, 2010 and a Pre-Hearing Conference was scheduled for October 14, 2010. Due to medical issues, the Pre-Hearing was re-set to October 25, 2010. The Pre-Hearing Conference was held on October 25, 2010 and, due to scheduling problems with district staff, by agreement, an initial hearing date of December 3, 2010 was set. Thereafter, due to medical issues and surgery with the teacher's special education teacher, the School District presented a Motion to Re-set the first day of hearing to either December 1 or 2, 2010. Over objection from the Parent's attorney, the Hearing Officer granted the Motion of the School District and re-set the Hearing date to January 11, 2011 (see Order on Motion to Re-Set Hearing Date).

Procedurally, the attorneys on behalf of the parties agreed and stipulated to admission of only certain documents from the Parent document book [PD 001 - 477] and the School District

document book [SD 001 - SD 448]. These documents admitted were those that were stipulated to or that were reasonably relied upon during the testimony of a specific witness. See Hearing Officer Exhibit # 1 for a list of those pages admitted into evidence for this Hearing.

The Parents called the following witnesses: the Student's mother, the School District occupational therapist, C[redacted] the School District's special education teacher, [redacted] the School District's 1st grade general education teacher, [redacted] the School District's kindergarten general education teacher, [redacted]; the School District's principal, [redacted] The Language and Music School teacher, [redacted] Developmental Pediatrician, **Dr.** [redacted] Parent Consultant, [redacted] and Parent Consultant, [redacted] CARD. In addition to those highlighted above, the School District called [redacted] Director of Special Education and [redacted] Special Education Coordinator, Those in bold face appear on both parent and school district witness lists and were allowed to testify on behalf of both parties.

B. Issues Presented

The School District did not provide a Free and Appropriate Education (FAPE) in the least restrictive environment from October, 2009 through the present for the Student:

1. by failing to conduct adequate assessments in all areas to address his various disabilities;
2. by failing to develop an appropriate IEP for the student;
3. by failing to appropriately place the student;
4. by failing to offer extended school year services;
5. by failing to provide related services such as assistive technology;
6. by failing to assess and develop an appropriate functional behavior analysis and functional behavior plan; and
7. procedurally, by failing to provide appropriate written communication with the parent.

C. Relief Requested

1. Order the School District to place the Student in a general education classroom with appropriate supports including a full time 1-to-1 teaching assistant;
2. Order an Independent Educational Evaluation - Assistive Technology by a provider chosen by the parent;
3. Order compensatory education services as follows:
   a) ABA therapy for 10 hours per week after regular school hours for at least one year by a therapist supervised by a board certified behavior analyst;
   b) 20 hours of parent training by a board certified behavior analyst;
   c) 6 weeks of Extended School Year Services for summer 2011 in a summer program chosen by the parent.
4. Direct the School District to convene an IEP meeting to consider the results of the evaluation and implement the foregoing relief.

D. Findings of Fact

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.

Student's Mother

She is not an English speaker or reader.

The Student is very sweet and very loving, is not aggressive, loves books, is affectionate with siblings and is very obedient and docile. Currently, he is 6 years old and soon will be 7. He has two brothers: [redacted](10) and [redacted] (4). The Student is the middle child.

He has gone to a number of outside therapies since has diagnosis of Autism. They include neurofeedback; sound therapy; horse therapy; Dolphin therapy in Mexico; and floor time and a technology course at the University of Illinois.

She has gone to all the IEP meetings for Student and has not missed a single one. She thinks that "the Student could do a lot of the work with the help of the assistants" and has asked that the Student be placed in the general education curriculum full time at each of these IEP meetings. The only IEP received in Spanish was in May, 2010 (last IEP from school). She had to ask for it many times until she finally got it. She has a requested copy of Student's schedule many times but has not received it.

She has requested an assistive technology evaluation as she thinks that it will help the Student learn in the general education class. She has also requested ABA therapy as he was receiving ABA therapy at his prior school. She has also requested ESY summer school.

As for the Extended School Year (ESY) document, she does understand this document as it is written in Spanish but it did not show the name of school that he would go to nor give any address or phone number (SD 208). Instead, she enrolled the Student for summer, 2010 in a Language Stars program for normal children. He was in class with 5 to 8 students and one teacher. At the end of the program, she told the teacher he had Autism and she didn't believe her. The teacher told her that kids with Autism can't focus but he did focus, he asked questions, was happy, and followed all instructions.

As to the behavior plan, she had no input on the behavior plan. The Student understands these sheets because he cries a lot when they give him "0".

She has observed the Student in both the special and general education classroom. He does have a personal visual schedule.

She was very concerned about an incident at school. Her son, [redacted] told her that the school staff was screaming at the Student and pulling him. They were hitting him and throwing him against the wall and were yelling at him.

Her aspirations for her Student are for him to be placed in a general classroom and to have evaluations for assistive technology and for ABA therapy. He needs the support of the school to be in a regular class.

As to the point sheets (PD260), she doesn't know what they say. She did receive them every day and did sign them. Either [redacted] her ex-husband or her 10 year old son, [redacted] will help to translate (for example, see PD 276).

The Student's mother was a very credible witness who wants the best for her student. She has been actively involved in the various IEP meetings, in school meetings and in communications with the school staff, even with the language difficulties.

[redacted]

She has worked for the Center for Autism and Related Disorders (CARD) since 2004 as the managing supervisor of Chicago office. She holds a Bachelor's degree in psychology and a Master's degree from Chicago School of Professional Psychology with a concentration in Autism

Applied Behavior Analysis is the application of principles of behavior and is most widely used with kids with Autism. It is an effective treatment for Autism and the only one that has been found effective.

She has met the Student on 3 occasions. The first was on November 8, 2010 at her office for about 1 ½ hours with the parents and the Student. This was to discuss concerns and current functioning. She spent time with Student as to age level, skills and abilities. Her second visit was on January 3, 2011 for a school observation. The last time was on January 11, 2011 when the parent dropped off materials.

She did observe the Student on January 3, 2011 in both the special and general education classes. She did not know that there was a substitute teacher in his Special Education class. She believed that the time for the observations were adequate. She did not see him with an individual visual schedule. Kids with Autism have anxiety about what is happening next and a visual schedule will help them know what is next. She also did not observe any visual prompts (picture, cue card, prompt by teacher) in his general education room. During her observations, she did not observe any problematic behaviors in special education class that would impact his general education class. In the general education classroom, the Student transitioned well with a peer and aide. He was doing Social Studies. All were on the carpet for group lesson with the aide sitting next to him but on periphery.

The daily communication log/behavior check was used to know how his day was and how student was doing (PD302). This type of check list is very similar to those used across various

districts. She did feel that although the targets identified can be objectively measured, it is subjective dependent upon who is doing measuring. She did believe that it is appropriate as a communication tool but it would not qualify as a valid means of assessing progress due to subjectivity. Based upon her communication and documentation of/with the Student, he did understand the "+", " /" and "o" .

He needs to work on behaviors such as self-regulation in class room (not lying down) and being able to answer academic type questions.

She has formulated the following opinions as to the Student:

1) His current placement is meeting his educational needs but a component is missing - an explanation of what is needed to move him forward.
2) The Student is capable of learning in general education classroom. He followed instruction in his special education classroom which would allow him to be successful in the general education setting.
3) From the information she had and her observation, the Student should send more time in main stream environment with additional supports;
4) ABA therapy is necessary. This would be after school as she would not want to pull him out of class during the day. However, he does need assistance and support in what he is learning in the classroom

Services and Supports recommendations to assist the Student include:

1/ A formalized Functional Behavioral Analysis so that the Student can move forward based upon problematic behaviors (toileting, etc.);
2/ IEP goals need to be written specifically between his special and general education needs to allow him to be successful in general education population;
3/ ABA therapy for 15 - 20 hours per week of ABA therapy 1-to-1 with therapist and 6 hours of supervision (oversight of program - curriculum that he is working on); and
4/ Parent's training as the parent would benefit from additional training. She would encourage but not require additional training. This therapy does require the parent to be aware of what's going on around them and to be trained in how to implement the plan at home.

Age is a factor in considering ABA therapy. The Student will be 7 in March. When working with younger children, it is easier to see issues. Although older children can benefit, the acquisition rate is slower.

[redacted] was a credible witness who was knowledgeable about Autism. Although her comments were more general that specific, she seemed to have a good understanding of the Student's issues.

Mark Doyle

[redacted] is an educational consultant & advocate. He is the owner and President of Everyone is Welcome, Inc. [redacted] which provides technical support and training to school

districts. He holds a Bachelor of Arts degree in psychology (1980) - SIU and a Master of Science degree in Education with a concentration in Severe/Profound disabilities - SIU

He was hired by the Student's mother to take review the Student's record which included correspondence, IEP's and evaluation information and conduct an observation of the Student at school. As he understood his role, it was how better to support the Student in a least restrictive environment (LRE).

He observed the Student on Jan 4, 2010 in his special education classroom and in a library class. Each was 30 minutes. He knew that there was a substitute in his special education class that day. The Student had already started a task when he entered the special education class. He was seated in back of classroom. There were 5 students (1 female/4 male) and the teacher who was there by herself. The class was working on an assignment about "What I dislike about Winter". The teacher was using an easel and there were some ideas about what to write as well as samples of what to write. Each student was to work individually on their sheet. The teacher was circulating and the Student was within 3 - 4 feet of her. He had pencil and paper out and was seated at a desk. He was fidgeting, i.e., falling out of chair, looking out of room, etc. The teacher would get back to him and prompt him to work on questions. Although she tried to get his attention, the Student was not focusing on her. Once she left him, he was disconnected from the activity.

He next observed the Student for library time. The Student walked with his aide to the library where a 1st grade class arrived at the same time. The Student was seated towards the back of group. The Resource Center teacher read a story but after few minutes, he started to drift off. The Student sat with group and was not disruptive. He appeared to be struggling to be engaged with the story. There was no interaction between the Student and the aide. The Resource Center teacher asked him a comprehension question from story but he didn't answer. He was given "0" for participation on his behavior sheet. He then walked over to where he looked at his book until it was time to leave.

There were modifications in his special education class - the teacher was providing verbal and gestural prompts but he did not see any modification in the library - the Student was given the same support as any other student in the 1st grade given. He did not see any visual prompts in either special or general education class other than what was in environment.

He felt that the Student would benefit from an assistive technology evaluation as there may be technology that may assist Student. Many kids on the Autism spectrum need assistive technology to communicate their wants, desires and needs. Even sensory diet can be considered technology.

The Student could benefit with the general education class as his LRE if the Student is provided with 1) sensory regulation, 2) collaborative communication to "fuse" his goals and objectives and 3) the classroom is differentiated. However, if the student is just placed without such accommodations or even with just a 1-to-1 aide, the Student will not succeed. He needs the proper supports to be successful.

[redacted] was also a credible witness but has only seen the Student on one occasion – the observation. He admitted that he had only a limited background in sensory integration and would rely upon the Occupational Therapist for this.

[redacted]

Dr. [redacted] has a medical degree from Medical College of the University of Pennsylvania. He took a fellowship in Neurodevelopmental at John Hopkins. He is Board Certified in Pediatrics with a Joint Certification by American Board of Pediatrics and American Board of Psychiatry and Neurology in Pediatric Neurodevelopmental.

His involvement included reviewing the Student's educational records, meeting mom and the Student. Based on his evaluation, in July 26, 2009 (1 ½ years ago), the Student was diagnosed as follows: (1) Autism Spectrum Disorder (ASD), (2) low birth weight and (3) prematurity. He found that the Student had (1) delayed language development, (2) atypical social communication and (3) repetitive behaviors which interfere with normal social interaction.

The Student had made tremendous progress since last evaluation. His cognitive skills were in the normal range with language skills being mild-to-moderate impaired range. He found that the Student had functioned well in a mainstream kindergarten program (although it was brought out on cross examination that he assumed that it was a "normal" classroom contrary to the actual "kindergarten" experience). His recommendation was that he be placed in a mainstream kindergarten class based upon information that he was functioning well in a private kindergarten. He wanted to see how he "fared" in a general education kindergarten. He would also need related services including Speech/Language, Occupational Therapy and Social Work. For the family, he recommended that they emphasize floor time therapy and ABA therapy.

In his opinion, the Student could be mainstreamed with 1-to-1 aide with appropriate accommodations. The Student may need a Functional Behavioral Analysis and a Behavior Intervention Plan to assist his functional behavior. As to Assistive Technology and Functional Behavioral Analysis, the doctor would need more information and could not therefore render an opinion at this time if these are necessary or would benefit the Student.

He has not observed the Student in a classroom setting. He but has not spoken to any of the Student's teachers or related service providers. He has not observed the Student in either the general education classroom or the special education classroom. He has not attended any IEP meetings for the Student

[redacted] was a credible witness. His opinions, to an extent, were based upon information that was not necessarily accurate – especially as to the Student's inclusion in a private kindergarten. As was brought out, this kindergarten had only a limited number of students so that the Student was receiving services much in the way that he was in his Special Education classroom at [redacted] School.

[redacted] is the principal at [redacted] School. In her interactions with the Student's mother from 12-16-09 to present, the Student's mom has asked for general education placement with a 1-to-1 aide for the Student.

To her knowledge, there is no one person responsible for translating documents into Spanish for the parent.

In his special education classroom for 2010-2011, there is one classroom teacher and 4 teaching assistants with 8 students in that class. Two of the teaching assistants are assigned as 1-to-1 aides. The Student does not have specific 1-to-1 aide in his Special Education classes but does have a 1-to-1 aide in his general education class.

The staff will have meetings generally one time a week as an intervention planning team. The make-up of this team would be the same as IEP team including a Social Worker, a Psychologist, the Speech/Language pathologist, herself, the resource teacher, and two instructional/special education teachers. They would discuss every student in the building as to all needs noticed during that week.

[redacted] has a degree in EMH (educable mentally handicapped) and TMH (trainable mentally handicapped) from the University of Illinois – Urbana (1977). She has an elementary and secondary learning disorder certification (1984), a behavior disorder/ physically handicap certificate and certification in behavior management. She also has a Master's degree in Early Childhood Special Education (1984 or so) from Northeastern University.

She has been employed a[redacted]school for approximately 20 years. Currently she is the primary cross - categorical teacher.

She is familiar with students with Autism. Considerations for students with Autism include looking at areas that are most difficult for these students including communication, language (verbal and non-verbal), social interactions and serial/ritualized behaviors that need to decrease. She has training in supporting students in an inclusive setting. District 97 has offered workshops on Autism and recently she attended a conference on assisting children with Autism in the general education setting and increasing their performance. She is also familiar with ABA therapy which is the behavioral application of targeted behaviors. It is used mostly to develop functional skills in the environment. She is not trained in how to implement an ABA program.

She first met the Student and parent when they registered at Longfellow - she coincidentally was in the office in Oct, 2009. She described the Student as a sweet, happy loving boy.

Classroom

She has 9 students from kindergarten thru 3rd grade with a variety of disabilities including autism, learning disability and behavioral disability. Although she is the only teacher, there are other staff members in her classroom including a full time teaching assistant, a part time teaching assistant and two (2) 1-to-1 aides. In 2010-2011, the Student does not have 1-to-1 aide assigned to him in her class but does in his general education class.

She does use assistive technology in the classroom with Student. She would use low tech items with the Student i.e. scheduling, models, and computer in reading and math. Computer programs are available in all classrooms.

The Student made good progress during his first several months (14/SD 107). He started to make more eye contact, was generating sentences of 3 - 5 words, was having one on one exchange and conversations with students in class, was participating in group activities and liked sitting at table with other students. She was seeing great leaps in short period of time. Within 1st month, he was able to extinguish the behaviors such as lying on the floor. He would stand up on request. She saw less of covering his head and ears and he would not turn his back to them.

These changes were based in part in the daily point sheets. Initially, he didn't understand "+" and "/" and "0" on the point sheets. Then, he began making a connection with the point sheet and his behavior. He would point out "+" to her. He was proud of them. She saw his associating behavior to his point sheets. The point sheets were used across several environments.

In 2009 – 2010, she would communicate with [redacted] every day as her classroom was across the hall. They would chat briefly about issues and successes of the Student during the day. [redacted] would tell her how he was doing in her classroom. She understood that during Ms. [redacted] class, the Student refused to go to various stations - would only stay at one station. The Student would only work with one student - not others.

By April, she saw an explosion of language with the Student. He was talking in 5 - 6 word sentences that were relevant, he started using humor and teasing the other students. He was engaged with students in the classroom. He could read the daily schedule on the board. She would always refer him to the schedule on the board. He was very engaged in finding out about the other students. He was affectionate with hugs and kisses for the teacher. He was questioning things in classroom and processing things. She was amazed at the things he was doing in classroom. This was in **stark contrast** to his mainstream academic classes where he was still withdrawn and not participating and not interaction with other student's and would not share materials. He was not initializing behaviors in the general education class that he was doing appropriately in her class. By the end of April, she saw some changes in the general education classes. He stopped putting his hands over face and started looking at the teacher . On one time, he got up in front of the class and led a song. She would bring activities into her classroom to practice skills so he was stronger when he went into the general education class

In [redacted] 1st grade classroom, he has had difficulty with academic activities. She saw him in a science activity and he was not participating at all. She did a slight adaptation of the

lesson with the teaching assistant and he was able to do lesson as adapted. Most of the time, he had difficulty with academic aspect of the work and would not answer questions of Ms. [redacted] He still has the assistance of a 1-to-1 aide.

Behavior Plan

She has not referred the Student for a Functional Behavioral Analysis as they had a behavior management plan in place that was working. The behavior management plan included point sheets with re-enforcers and consequences attached to point sheet. Consequences might include a time out (dependent upon when and where an incident happens). It might also include either standing against the wall or walking during that time, loss of computer time, and privileges in classroom. Classroom re-enforcers could include Stickers; prize day on Friday, cooking or a special treat. This year, there is another level of re-enforcers - the students could earn McDonalds and have lunch with the teacher.

They talk daily about what he did well and what he needed to work on. He liked getting "+" on his worksheet. She would stress things that he did well and things that he needed to work on.

He had no toilet training issues until Nov. There were several incidents after this. Once the staff started using "0" on his point sheet, this stopped the toileting issues. The hearing was the first time that she was aware of this typo – the document stated that when they stopped using the point sheet, the behavior stopped but it should have read when they starting using the point sheet, the behavior stopped.

The behavior management is written down and given to his teachers at beginning of year. She sends reminders during the year (e-mail).

IEPs

The mom was present for all of the IEP meetings. Her ex-husband and the Student's father who speaks fluent English attended a majority of IEP meetings.

She was present for the 0ct 9, 2009 IEP meeting (PD93). The Student had not yet started at [redacted] They accepted the PAEC recommendations and PAEC IEP. Based upon the IEP recommendation from PAEC, it was their determination that the appropriate plan for the Student was an instructional class with mainstreaming. (13/SD102/PD 95) They felt that the instructional program was the best place to meet the language and instructional needs of the Student based upon the PAEC documents. They also felt that it was important to have contact with other students so the recommendation was to attend specials (art, etc.) and lunch with Ms. [redacted] kindergarten class.

She attended the 11-12-09 IEP (14/SD103 - 128). At that point, the Student had been in her classroom less than 1 month. Academically, the Student was able to identify a few letters, count to 10, liked to look at pictures but was unable to answer direct questions about what was reading. He had limited handwriting skills but could write his first name and a few letters. He would not answer direct question. He would use gestures coupled with one or two word utterances.

Socially, he was not interacting and not making eye contact. He would lie on the ground and cover his ears/eyes. He would run out of the classroom and would turn his back to them. He would not do any of work that they were doing.

Based upon his May, 2010 IEP, his educational placement for 2010 - 2011 was to continue mainstreaming in special areas, reading centers, math centers, reading buddies program and he would remain in the cross - categorical class. She made this recommendation since she was seeing progress in her class but not in the general education class. The team also recommended ESY for Student (SD 174). Mom said she was going to have him go The teacher filled out the form for data, talked to his summer school teacher and gave her information and shared goals. She assumed that he was in attendance but found out in September that he wasn't there.

In May, 2010, they tried to reduce his dependency on the teaching assistant/1-to-1 aide by reducing the time he spent with the teaching assistant. They spent a week to 2 weeks trying this but the Student had a very difficult time. He would grab the aides hand to have him/her go with him to class. He had trouble lining up. When he entered the classroom, he would run away, leave class, cover his face and lay on ground. Within a short time, they needed to put the teaching assistant back in the general education classroom for his safety and ability to function in classroom.

It was very difficult for her to ascertain what level of understanding that the Student had. There were discrepancies in the Student's behavior in her class versus what she knew of Ms[redacted]class. She was of the opinion that as to academic mainstreaming, the Student wasn't ready for it. He did not have the academic, social and language skills to function with his peers.

In her opinion, his current IEP is appropriate and his placement is appropriate and there is no meaningful educational benefit to general education class with a 1 on 1 aide.

Upon return to class in August for the school year 2010-2011, she noticed a decrease in his spontaneous language, he had some return of running away and covering his head and ears and did not respond to direct questions. In her opinion, this was a substantial regression.

Miscellaneous

The parent is native Spanish speaker and she does not speak Spanish. She would communicate with the mother every day via the point sheets. The mom signs and returns the point sheets. She would talk to her on the playground. She did ask mom if there was someone to help her to read comments in English. Her son, [redacted] would translate for her. He would assist on point sheets and information from school.

Although she was not present for an incident on the playground during lunch, she understood that the Student had run into street and lay down prone. The lunchroom supervisor ran to get him out of street, asked him to stand up but he refused. After repeated requests to stand up, one of lunchroom supervisors picked him up and carried him off street and onto the playground. The Student was crying when he was put down on playground. The lunchroom supervisor and teaching assistant (aide) told her about it. She talked to the Student about it at length but he

could not articulate why. She emphasized the need for safety and if a teacher asks him to stand up, he needs to. According to lunchroom supervisor and her teaching assistant, he had been playing on the playground and there was no antecedent for the action. (PD30) They did develop a plan on what would happen on the playground if lying down and shared it with lunchroom teachers, principal and teachers. He did not exhibit any other behaviors to this extreme in either 2009 - 2010 or 2010 - 2011. From what she could tell, it was an isolated incident.

Ms. [redacted] was a very good witness and very credible witness. She spoke very knowledgeable about the Student. As she worked with him every day, her observations and opinions are given considerable weight.

[redacted]

[redacted] is employed a[redacted] school as a 1st grade teacher. There were no other staff members in her general education classroom on a full time basis. She has 17 students in her class all day and 2 special education students on occasion. She does speak conversational Spanish and she can read and write Spanish.

She denied expertise in supporting student's with Autism in the general education setting.

She had the Student for four afternoons and once in morning. The Student was included for Social Studies, Science, Math Stations and Poetry. In her classroom, the Student is very quiet. He needs a lot of guidance and does not complete assignments unless someone is giving him step by step directions. He does not co-operate with other students on projects. She will attempt to re-direct the student as necessary. In order to focus him, she would tell him that she will call on him next and then call on him next. She will modify a question if he doesn't answer. She also would have him physically come forward to point on some visual chart. She denied having visual prompts for the Student specifically. The Student does have visual schedules and other visuals such as large books. The teacher will ask to come and point out pictures. He also likes to read poems. He also has a lot of visual aids. However, the Student doesn't use aids. He will go to what visual he is interested and not what the class was working.

In Science, Social Studies and Math, the other students work independently to complete their assignments. The Student can't do this even with 1-to-1 aide. As an example, on the date of her testimony, she worked with him on a poem and had to re-direct him 5 times and he still wouldn't engage with what they were doing. The Student does have a 1-to-1 aide but this isn't really helping - the Student isn't digesting what they are doing. He will only begin work after she initiates this with him.

She does meet with M[redacted]on almost a daily basis to discuss Student's participation.

The Student has a behavior plan in place which has been consistent since the beginning of the year. As to his behavior plan, he does have point sheet which is filled out daily and sometimes two times a day (40/SD 409). From her review of his behavior sheets, he follows the rules in his special education classes but he doesn't always in her class. He will receive "0's" in her class

much of the time. As to his behavior, he has never demonstrated aggressive actions towards peers or staff.

Even with his behavior plan (point sheet), the Student has not shown any improvement from beginning of year. He has had ups and downs through year but overall, there is no improvement. Since the beginning of this school year, she has been using the point sheet since she is following what Ms. [redacted] is doing. She understands that it is working for her. Socially, if the Student is sitting in a group together, everyone will have turn to give opinion but so far, the Student will not participate. She even has him with a boy who helps him but he doesn't participate.

In her opinion, if the Student was full time in her class, he would not receive an educational benefit. This is based upon his lack of participation. He does not have the skill set academically or socially to succeed. His current placement is appropriate- small group, one on one time, etc.

Ms. [redacted] was a good witness on behalf of the School District. Her testimony suggests that the School District needs to take further steps to assist the Student to be successful in the general education environment.

[redacted]

[redacted] has been employed by the School District as an Occupational Therapist.

Occupational Therapy deals with fine motor coordination, sensory regulation, Activities of Daily Living, self-care as it pertains to school, etc.. It would not deal with toileting needs other than in terms of its aspects in a school setting, i.e. clothing management and hygiene. It will not cover socialization. In terms of transitioning (going from class to class) in a school setting, it depends on what's impeding the transition.

She does have expertise in supporting students with Autism and, in fact, works with five (5) students with Autism. She is also the consultant to the school for Autism. She denied being a behavior analyst. She is familiar with ABA therapy but has not had training in it.

She has known the Student since the fall of 2009 and has been involved in drafting IEPs for him. The Student is a sweet, kind boy who requires a lot of attention. He works better in small settings and requires a lot of prompting. He is not a behavior problem and likes to please and to do well.

She has observed him in both the general education classroom (Spring and Fall, 2010) and has worked with him in his special education room. She does talks to other staff members about the Student's difficulty in general education setting and what they can do to enhance his experience.

The Student is able to manage (with assistance) noise, tactile and all sensory systems without difficulty. She has not noticed any issue with the Student getting to classroom. It is only when he gets to the general education classroom that he becomes emotionally overloaded. In her opinion, this is not a sensory issue.

She has not documented a formal occupational therapy evaluation as he was already receiving services via the prior evaluation from PAEC.

She is aware of what a sensory diet is (recipe of strategies to self-regulate) but the Student does not have a need for a written sensory diet as he does not exhibit these traits. As she has not seen any issues with his sensory needs, she did not feel that it was necessary to draft any goals for this. For his current school year, she wrote a goal for involvement in general education classroom. This goal was for both the general education and special education work.

The Student has participated in an Engine group to learn how to self - regulate. The Engine Group is a group of 6 to 8 students where the students learned to identify how their bodies are feeling, i.e. running on low/high and then regulating how they are feeling. This group was formed in [redacted] class. Engine Group teaches the Student to self - regulate across all sorts of environments. She agreed that these strategies could be carried over to the playground, the library, in essence, any setting. She started working with the Student last year. In her opinion, his engine is running on "neutral". The Student has identified his appropriate "engine speed" and currently his speed is "just right".

In the November and December 2009 IEP, 2009, she was present. As to November IEP, this was written based upon what came in from PAEC. At that point, they only knew the Student for a short period of time. The December 2009 was called to continue the November meeting to discuss placement. The parent was concerned about the lack of time that the Student was spending in his general education classes.

The May 2010 IEP was his annual review meeting. During this meeting, everyone had chance to express opinions as to placement, to discuss the Student's educational needs, his occupational therapy needs and his social needs. Each member of team was asked about placement. She recommended a cross-categorical classroom with main-streaming for specials (art, music, etc.). He would still receive the majority of his academic subjects in special education and an increase time in his general education class. Their recommendation was based upon where the Student would be the most successful. During this meeting, the parent expressed interest in the Student having more time in the general education classroom. Even with this, the parent agreed to the placement proposed in the May IEP meeting. The mother did present new information from an outside therapist suggesting placement in a general education classroom. However, based upon what they had seen at school, they did not feel that this was appropriate. The mom did not request an evaluation for behavioral therapy

In her opinion, if the Student was in a full time general education classroom with 1-to-1 aide, he would not successful. In fact, even with a 1-to-1 aide in general education classroom, she felt that he would become more isolated as he relies upon the aide too much.

Ms. [redacted]s a credible witness. She seems to know the Student and his needs and is dealing with issues observed.

The [redacted] IEP

The [redacted] IEP dated June 1, 2009 was considered a reevaluation review, a continued eligibility determination, an annual review, a review of IEP, a behavior intervention plan and a program/related service change (PD 97 - 133). In attendance at this meeting were the program supervisor, the district psychologist, the district supervisor, the district speech pathologist, the occupational therapist, social worker, the autism EC teacher, the district administrator, the mother, and an interpreter. In addition, several relatives were present.

A social work adaptive behavior performed by [redacted] noted that the student's broad independence is comparable to an average individual at age 3 years three months. His motor skills were age appropriate. However, his social interaction, communication skills, personal living skills and community living skills were noted to be limited. Eight adaptive skill areas including language expression, eating and meal preparation, toileting, dressing, personal self-care, time and punctuality, money and value, and home/community orientation were noted. He demonstrated moderately internalized maladaptive behaviors. He was able to communicate using 2 - 4 words in the sentence. When he has difficulty communicating verbally, he will point, gesture, or lead the adult to what he wants (PD100 - 101).

The school psychologist observed the student on March 9, 2009. She noted that the student had demonstrated some growth from the previous year. Specifically he responded to his name when called, followed one step directions, provides more eye contact, and is cooperative during group play. He greets people, knows everyone's name and calls upon staff members when assistance is needed. He does not display any aggressive behaviors at school. His visual skills are a personal strength. A Gilliam autism rating scale – II showed that the behaviors that she indentified previously have occurred less frequently this year with the exception of common symptoms of autism including staring at his hands, object, or items in the environment for at least 5 seconds, doing certain things repetitively, ritualistically, and lining up objects in a precise, orderly fashion and becomes upset when the order is disturbed. (PD 101)

An observation on March 12, 2009 by the psychologist noted that the student was a happy individual who enjoys engaging and interacting with familiar adults. He demonstrated academic concepts in early numeracy which seemed to be a relative strength. His bilingual needs are minimal. Delays were noted in his speech, play and social skills. He works on activities independently but requires assistance to get started on past.(PD 102)

An occupational therapy evaluation was conducted on April 21, 2009. The student scored in the average range on a visual motor section of the Peabody Developmental Motor Scales - II. Although his skills were scored in the average range is perseverative behavior, frequent visual cell stimulation and his decreased attention span distractibility in large groups have a significant impact on his ability to function independently in the classroom setting. As such, the student may need additional support to reach his highest potential this next educational setting. (PD 105)

Their eligibility determination criteria for autism noted that the student demonstrated a marked impairment in the use of multiple nonverbal behaviors such as eye to eye gaze, facial expression, body posture, and gestures to regulate social interaction; failure to develop peer relationships

appropriate to developmental level; delay in or total lack of development of spoken languages; marked impairment in the ability to initiate or sustain conversations with others; and lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level. He also demonstrated preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal in either intensity or focus; stereotyped and repetitive motor mannerisms such as hand or finger flapping or twisting and complex whole body movements; and persistent preoccupation with parts of objects. As such, the student met the eligibility criteria for autism. (PD 107)

The adverse effects of his disabilities was that he was impaired in his ability to do the following in a school setting: 1) verbal and nonverbal communication with adults and peers; 2) manage/regulate sensory experiences; 3) develop social interaction skills and proficiency; 4) manage environmental changes are changed to his daily routine; 6) engage in non-repetitive or non-stereotypical movements; and 6) regulate his behavior to comply with classroom/school expectations. (PD 108)

A number of goals were developed for the student (PD 111 – 120). The IEP team did not feel that participation in standard education was appropriate for the student. He was to receive 60 min. per week of direct speech/language services with 15 min. per week of consultation speech language services to be provided by the speech language therapist. He was also to receive 120 min. per week occupational therapy and 15 min. per quarter consult with the occupational therapist. It was felt that the student required assistive technology devices and had alternative or augmentative communication needs (PD 121).

In terms of placement, they added a program of time i.e. in drop the artistic/early childhood program. He was to start at the [redacted] Early Childhood program on August 27, 2009 the Riley school. He was to be outside of the general education classroom for 1500 weekly minutes and provided specialized service for that Student 1500 min. per week which was 100% of the time for a one-year period. The team felt that due to the need to modify all academic instruction and to provide low student – teacher ratio instructional setting, the standard education classroom was not appropriate for this student. (PD 120)

A functional analysis was performed. The student did well in a structured environment when he knows what is happening next. Visual schedule verbal prompts should be given to him. The staff noted that the student got upset when he would order things carefully and then they were disturbed. However by the time of the evaluation, this was no longer the case. The consequences of that behavior were a time out in class or proximity control, that is, the teacher moving closer to the student and verbally redirecting him. They noted that he seemed to do better when his environment was highly structured and he is kept busy. Recommended behavior interventions included planned ignoring, positive reinforcement, reinforcing incompatible behaviors, timeout in class, teaching alternative strategies and verbal redirection.

[redacted]

October 9, 2009 IEP meeting

In attendance at this meeting were the students parent, the school principal, the Spanish teacher, the kindergarten teacher, the instructional teacher, the school coordinator, the social work intern, a speech and language pathologist as well as the psychologist. In addition, the team facilitator, resource teacher, school nurse and occupational therapist were all present. As well, two friends of the students mother were present (PD 093). The team had reviewed the [redacted] for Exceptional Children IEP which had nine goals encompassing academic, self-help, motor, speech/language, and social/emotional goals. These were read at the meeting. The Students mother verbalized that she wanted the student to be enrolled in regular education. However, the school coordinator stated that the student needed a lot of structure to accomplish the goals listed in the IEP and that Ms. [redacted] instructional class would be the best place for that to be accomplished. He would attend all specials including art, gym, music and Spanish with the kindergarten class. The team noted that in the [redacted] rogram, the student had limited exposure with his typically developing peers. At Longfellow, they felt that it was important to have his needs met in a special education placement but also give him as much exposure with non-special-education peers as possible. To further this, he was to attend all special classes as well as lunch with the kindergarten class. In addition he was to go on field trips, parties and do some special projects in the kindergarten class. For his academic so he would be in the instructional class. (PD 095).

November 12, 2009 IEP meeting

In attendance at the November 12, 2009 IEP meeting were the parent, the principal the kindergarten teacher, instructional teacher, the social worker, speech and language pathologist, the team facilitator, the occupational therapist, a Spanish translator, the community support services coordinator, and several family members including the father. The purpose of the meeting was to review existing data and for potential revision and review of the IEP (PD 069).

This meeting was to discuss the Student's progress since he was enrolled at the school about 3 ½ weeks ago. His instructional teacher noted that he had made good progress in the time at school. He was speaking more, using 3 to 5 word sentences. He was playing more during recess time. He also made progress was following one step directions and answering yes and no questions as well as initiating conversations. The parent again wanted the student to be in a regular education class as much as possible (PD 071).

Since the student had only been at [redacted] school for 3 ½ weeks, the IEP team utilized the evaluation information from the proviso area for exceptional children's May 8, 2009 IEP (PD 072) . In terms of the eligibility determination criteria, the IEP team listed the same criteria as that in the Proviso Area IEP. The team did not feel that the student needed any assistive technology devices and services but were concerned about his communication needs (PD 087)

The team determined that his educational services and placement was to be instructional classroom greater than 50% of the time and, five days a week at 282 min. per day. In addition, he was to receive speech and language therapy two times a week for 30 min. and occupational therapy one time a week for 30 min (PD090).

December 16, 2009 IEP meeting

An IEP meeting was held on December 16, 2009(PD 028 - 066) to review existing data and to revise and review the current IEP. In attendance were the mother, the principal, the kindergarten teacher, the instructional teacher, the social worker, the speech language pathologist, the psychologist, the team facilitator the school coordinator, a Spanish-language interpreter and the occupational therapist. In addition, the students mother, father and family members were present(PD 028)

The mother indicated that she really wanted the student in a regular education classroom with an assistant so he can learn more. She noted that he is very visual. The special education teacher noted that the student was doing well in her classroom. She has charts to show his behavior is very strong during the time that the students is in her classroom. However when he is an art, gym, music and in the regular education classroom with the kindergarten teacher, he struggles even with a one-to-one aide by his side. However, the mother believed that he would just to a regular education classroom. She believes that the change back and forth between the special education classroom and the general education classroom was difficult for him. It was the team's goal to ultimately get the student in the regular education curriculum (PD 030 - 031).

At this time, he was to receive speech and language therapy twice a week for 30 min., instructional setting for 1410 min. per week and 30 min. per week of occupational therapy (PD045).

May 3, 2010 IEP meeting

His most current IEP was conducted on May 3, 2010 (PD 001 – 023). In attendance were the students mother, father, his kindergarten teacher, is instructional teacher, the social worker, the speech language pathologist, the first grade teacher, the coordinator and the occupational therapist as well as a friend of the family. The purpose of this IEP was a review/revision. The Student was determined to be eligible under the autism spectrum.

At that point, the students mainstream classes include art, music, physical education, Spanish, library, drop everything and read, math stations and he was to start going to reading centers. In first grade, he was to be in mainstream classes in art, music, physical education, Spanish, library, reading buddies, science, reading centers as appropriate, math centers is appropriate. His instructional classes will be reading, math writing. He will also receive his related services of speech therapy, social work and occupational therapy in the instructional classroom. (PD 005)

Starting on May 4, 2010, the student was to go to the kindergarten class without his teaching assistant for math stations daily and 20 min. once a week for reading centers to see how he will do. (PD005)

The IEP team felt that the student had made tremendous gains in his skills in the area of academics and interpersonal skills and communication. They noted that he loves to read books and working in workbooks. They noted he has made friends with other students in both his instructional and mainstream classes. Accommodations for the student were small groups,

problems being done together on a one-on-one basis, checking for understanding after each concept, extra time slower pace for concepts, review of math vocabulary, supplemental materials and additional problems to reinforce skills, extra time for tests, support to read and write answers for extended responses, use of manipulatives, extra supplemental materials to increase comprehension for learning concepts and additional tutoring to complete and correct homework. Of significance, although the student had made significant gains in reading and math this year, he was not able to do work independently at that time. (PD 006) He continued to need much teacher support to keep him on task and sustain attention to finish a task. He cannot navigate the school independently. These situations are still uncomfortable for him and he will hide behind his hands and refuse to participate. As to social/emotional status, the student was beginning to engage in play with adults and students and was verbally engaging both adults and peers. However, when he is not engaged, he will line things up and visually stimulate the objects. They did believe that the student had made significant gains this year. In speech/language/communication, they were going to continue to work on his expressive language skills especially in the areas of increasing his vocabulary as it relates to the school and home environment.(PD 007) In occupational therapy, he successfully met both of his annual goals including the ability to write the alphabet in upper and lower case letters with appropriate sizing and positioning and independently complete fasteners including buttons, snaps and zippers with 85% accuracy in 4/5 trials. He continued to be eligible for occupational therapy services at the rate of 30 min. per week to address fine motor skills as they pertain to school related tasks (PD 008).

In terms of supplementary aids, accommodations and modifications, the team did not feel that he needed any assistive technology devices and services. The only factor they felt necessary was communication needs (PD 018). In addition, program training in supports for school personnel were needed to assist the student to advance appropriately towards obtaining his annual goals. This training consisted of the IEP goals and strategies for academic and social interactions to be shared between the general education and special education staff (PD 019).

He was to receive 1410 min. per week in special education classes and/or services to include speech language therapy for 60 min. per week, 30 min. per week of occupational therapy services and 60 min. per week of social work services (PD 021). The team felt that a special education class 100% of the day would be too restrictive to meet the student's needs and that the instructional class was the appropriate placement to meet his needs (PD 022).

[redacted] Rosenblatt Report

On July 26, 2009, Dr. [redacted]met with the student and rendered the diagnosis of autism spectrum disorder, prematurity and low birth weight. The student was referred for further evaluation and management. At that point, he was five years and four months old. The doctor found that the student was somewhat self-directed but was able to engage in reciprocal play and communication. He was able to sustain the interaction with the examiner for several minutes. He used sentences of 3 to 4 words and spoke better English than Spanish. He was inconsistent in his response to questions.

The most recent developmental testing was performed when the student was 43 months chronologically. His language abilities were measured at 15 months. Visual motor problem solving skills were 17.5 months at that point.

When seen on this date, the doctor noted that he had made tremendous progress since last evaluation. His cognitive skills extended into the normal range with language skills falling in the mild to moderately impaired range. His main concerns are in the area of his cognitive skills and pragmatic language followed by self-regulation. The doctor did recommend a complete psychoeducational testing for the school district including assessment of his intellectual potential, his adaptive behavior and documentation of his scores on a formal autism assessment instrument.

With the doctor's opinion as the student was currently able to follow routines and participate in classroom activities and a mainstream kindergarten program in [redacted] (as related by his mother), he should be placed in a full-day regular kindergarten with individual aide. He should also receive speech language therapy, occupational therapy and social work services at school as well as supplemental private therapy should be continued. The doctor recommended floor time therapy and applied behavioral analysis to optimize his developmental outcome. (PD 145 - 146)

Behavioral Assessment – Trimester Reports

Third trimester: Per his third trimester behavioral assessment, his instructional teacher, Ms. [redacted] commented that the student has made tremendous progress in our instructional program this year. He continues to need teacher support at all times to complete activities. He does experience more difficulty is mainstream classes with participation activities with following directions in understanding task demands (PD 156/182).

On his trimester report of June 3, 2010, in his kindergarten follow-up, the student had learned many sight words and they were working on increasing his comprehension for reading a story or listening to a story being read to him (PD 152)

February 22, 2007 [redacted] University Medical Center - Developmental – Behavioral Pediatrics

(PD 226 - 238) The student was seen at two years 11 months for an early intervention medical diagnosis evaluation. Based upon their assessment and evaluation, the student was eligible for early intervention services due to the diagnosis of a qualified condition (autism) and 30% or more delay in one or more areas of development. Intervention was needed in the areas of cognitive development, physical development, including vision and hearing, language, speech and communication development, social – emotional development and adaptive, self-help skills development. It was felt that the student would benefit at that time from a full day program (five hours per day five days a week with one-on-one directed teaching in an ABA behavior program. They also suggest extensive use of visuals including the picture exchange communication system, sensory diet, social skills training, speech, and occupational therapy.

Literature

Change in Autism Core Symptoms with Intervention (2007). The literature and current study shows that very young children with autism improve significantly with early intervention (PD 475). However, all studies compared show the student ages between 18 months and 7 years (PD 466).

The Effects of Age and Treatment Intensity on Behavioral Intervention Outcomes for Children with Autism Spectrum Disorders (2009). The results of this study showed that the number of treatment hours and the child's age showed a linear relationship - an increase in treatment hours and a decrease in child age predicted an increase in the number of mastered behavioral objectives (PD 936). Treatment hours during the younger ages could potentially yield much greater efficiency in treatment gains. The efficiency of intervention decreases as the age of the child increases (PD397).

Effects of Low-Intensity Behavioral Treatment for Children with Autism and Mental Retardation (2006). For the best possible outcome, behavioral treatment needs to be intensive., i.e., as much as 40 hours per week of one-to-one behavior treatment for a minimum of two years to produce optimal results. At the time of the study, there were no outcome studies on intervention that combine a relatively small amount of one-to-one behavioral treatment and placement with typical peers (PD377). This study showed the gains made by the behavioral group was small and of questionable clinical significance (PD387). Mainstreaming students in ordinary kindergarten with typical peers did not seem to have any major impact on either socialization or daily living skills (PD 388)

E. Burden of Proof

The Supreme Court in *Schaffer v Weast*, 546 U.S.49 (2005) has held that the party filing the request for due process bears the burden of persuasion. "The burden of proof in an administrative hearing challenging an IEP is properly placed upon the party seeking relief" *Id.* at 537. However, per *Schaffer*, the states may, if it wishes, put the burden on the school district.

In Illinois, "the IDEA framework ... provides that 'the school district shall present evidence that the special education needs of the child have been appropriately identified and that the special education program and related services proposed to meet the needs of the child are adequate, appropriate and available'. 105 ILCS 5/14 - 8.02 (h) states only that a district's obligation is to present evidence, it does not place a burden of proof on the district. See *Schaffer*, Id. at 533-534 (distinguishing burden of production from burden of persuasion). As such, section 8.02(h) does not contain the explicit burden of proof language necessary to override the default rule the plaintiff, as a party challenging the IEP, bore the burden of proof." *Kerry M & Kristine M v Manhattan Sch. Dist. # 114*, 106 LRP 58547, 46 IDELR 194 (7th Circuit, No. Dist. IL, 2006).

Putting it in different fashion, it is the parent's burden to present sufficient evidence to support their allegations that the school district failed in its obligation to provide the student with a free appropriate public education (FAPE) and such other relief as they are seeking.

F. Conclusions of Law

1. Whether he School District did not provide a Free and Appropriate Education (FAPE) in the least restrictive environment from October, 2009 through the present for the Student by failing to conduct adequate assessments in all areas to address his various disabilities.

The responsibility to conduct an assessment/evaluation is set forth in the IDEA at 34 C.F.R. Sections 300.301 (a) and 300.303 (a) and implemented in Illinois at 23 Illinois Administrative Code, Section 226.110 evaluation procedures. Under the IDEA, a school district is required to assess a student in all areas of suspected disability. The district "shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent that may assist in determining (i) whether the child is a child with a disability; and (ii) the content of the child's individualized education program...." 20 U.S.C. 1414 (b) (2) (A). Further, the local educational agency shall (B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child" 20 U.S.C. 1414 (b) (2) (B). To this end, a district must ensure that it completes a full and individualized evaluation. *Kevin T. v. Elmhurst Comm. Sch. Dist. No. 205*, 36 IDELR 153 (N.D. Il 2002). The failure to fully evaluate a student potentially leads to an incomplete and inadequate development of a program for the student. *Bd. of Ed. Of Oak Park & River Forest HSD No. 200 v. Kelly E.*, 21 F. Supp. 2d 862, at 862 (N. D., IL, 1998). In order to meet the second prong of the *Rowley* standard, an IEP must respond to all significant facets of the student's disability, both academic and behavioral.

In October, 2009, the student transitioned to the [redacted] School District. Previously, he had received his education and his special education services under an eligibility determination of autism from the [redacted] The [redacted] IEP dated May 12, 2009 included extensive evaluations by the school social worker, the school psychologist and speech/language pathologist. In addition, a functional analysis was also referenced. However it is unclear who prepared the functional analysis other than generically, the staff. As the student was new to the [redacted] School District, it was reasonable for the [redacted] School District to rely upon the evaluations conducted by [redacted] preparing the October, 2009 IEP. The prior evaluations fro[redacted] were current and topical.

34 CFR Section 300.323 (e) deals with intra-state transfers. "IEPs for children who transfer public agencies in the same state. If a child with a disability (who had IEP that was in effect in the previous public agency in the same state) transfers to a new public agency in the same state, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either – (1) adopts the child's IEP from the previous public agency; or (2) develops, adopts, implements a new IEP that meets the applicable requirements.... "

From the testimony of several teachers and staff personnel including Ms. [redacted] the school district adopted the prior IEP from the [redacted] The IEP

School that the student be enrolled in the mainstream classroom without much, if any, instruction in an instructional special education classroom.

Since the student had only been at [redacted]chool for 3 ½ weeks, the IEP team utilized the evaluation information from the [redacted]May 8, 2009 IEP (PD 072) . In terms of the eligibility determination criteria, the IEP team listed the same criteria as that in the [redacted] The team did not feel that the student needed any assistive technology devices and services but were concerned about his communication needs (PD 087)

Shortly after the initial adoption of goal in the district IEP for the student, the IEP team reconvened approximately a month later to review and evaluate the student based upon the mother's request. Again, mother wanted the student to participate in the general education curriculum without inclusion in the instructional special education classroom (PD 071). This meeting was to discuss the Student's progress since he was enrolled at the school about 3 ½ weeks ago. His instructional teacher noted that he had made good progress in the time at school. He was speaking more, using 3 to 5 word sentences. He was playing more during recess time. He also made progress in following one step directions and answering yes and no questions as well as initiating conversations. The team determined that his educational services and placement was to be instructional classroom greater than 50% of the time and, five days a week at 282 min. per day. In addition, he was to receive speech and language therapy two times a week for 30 min. and occupational therapy one time a week for 30 min (PD090).

Shortly after that, on December 16, 2009, at the mothers request again, the IEP team again convened to discuss the mothers continued concern about the student's placement and the instructional special education classroom. The mother indicated that she really wanted the student in a regular education classroom with an assistant so he can learn more. She noted that he is very visual. The special education teacher noted that the student was doing well in her classroom. She had charts to show his behavior was very strong during the time that the student was in her classroom. However, when he is an art, gym, music and in the regular education classroom with the kindergarten teacher, he struggled even with a one-on-one aide by his side. However, the mother believed that he should be in a regular education classroom. She believed that the change back and forth between the special education classroom and the general education classroom was difficult for him. It was the team's goal to ultimately get the student in the regular education curriculum (PD 030 - 031).

At this time, he was to receive speech and language therapy twice a week for 30 min., instructional setting for 1410 min. per week and 30 min. per week of occupational therapy.

Given the school districts numerous IEP meetings for the student in 2009 as well as its IEP meeting in May 2010, and its consideration of the students disability coupled with the prior evaluations which were reflective of the students behavior at Longfellow school, the school district did not fail to provide appropriate IEP's for the student.

As such, this issue is found in favor of the school district.

3. **Whether the School District provided a Free and Appropriate Education (FAPE) in the least restrictive environment from October, 2009 through the present for the Student by failing to appropriately place the student.**

The Student's placement in the instructional special education classroom coupled with his inclusion in the kindergarten and first grade general education classroom for his special classes including art, gym, music, Spanish etc. is the appropriate placement for the student.

Even with a one-to-one aide in the general education classroom as well as the supports provided, the school districts observations and evaluations of this particular student in the general education classroom supports the school district's decision that his Least Restrictive Environment (LRE) is as set out in his IEP's.

Placement decisions must be made consistently with 34 CFR 300. 116. This includes that a group of people including the parents make the placement decision, the least restrictive environment is considered and that the child should be educated in the school he would attend if he were not disabled unless the IEP necessitates a different placement.

During the various IEP meetings, the IEP team and staff discussed a continuum of placement for the student and rejected a full-time 100% inclusion and instructional setting as being too restrictive for the student. They also rejected attendance full-time in the general education classroom as not having sufficient supports for the students. This is consistent also with the [redacted] IEP of May, 2009. As such, in the 2009 - 2010 school year, as well as his current placement in the 2010 - 2011 school year, based upon the evaluations done by the prior school district as well as by the anecdotal and observational notes of the school staff, the students placement as currently constituted is the most appropriate placement in the least restrictive environment to provide him with educational benefit.

At the initial IEP meeting for the student at [redacted] School, and based upon the [redacted] IEP, the [redacted] school IEP team determined that Ms. Murawski's instructional class would be the best place for that to be accomplished. The Student would attend all specials including art, gym, music and Spanish with the kindergarten class. The team noted that in the PAEC program, the student had limited exposure with his typically developing peers. At [redacted] they felt that it was important to have his needs met in a special education placement but also give him as much exposure with non-special-education peers as possible. To further this, he was to attend all special classes as well as lunch with the kindergarten class. In addition he was to go on field trips, parties and do some special projects in the kindergarten class. For his academics, he would be in the instructional class.

The district must consider the least restrictive environment when considering the appropriate placement for the student. This mandate is found in 34 CFR 300.114 (a) (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 removal of children with disabilities from the regular educational environment occurs only when the nature or

severity of the disability is such that education in regular classes with use of supplementary aids and services cannot be achieved satisfactorily."

In *Department of Educ*, State of Hawaii, 5 ECLPR 109 (SEA HI 2007), in dealing with the issue of restrictive placement, the hearing officer noted that the child's self-contained special-education classroom was a highly structured environment, had fewer students, had substantial adult supervision and offered specialized instruction tailored to meet the child's need. Here, likewise, the school district's determination that the student would benefit most from the cross categorical classroom with fewer students, substantial adult supervision in a highly structured environment would be the best place to meet the student's needs.

Similarly, even where a student makes some progress in his general education classes, this would not necessarily negate the district's decision to provide instruction in her resource room environment. In *Yates by Yates v. Washoe County Sch.* Dist., 51 IDELR 7 (D. Nev. 2008), the US District Court of Nevada held that the IDEA does not require maximization of a student's potential. If a more restrictive environment can provide greater educational benefit, the district must consider whether that placement is appropriate. That the student made only minimal progress and required a one-on-one instruction to receive benefit were factors to consider.

Likewise, in *Laura P v. Haverford Sch. Dist.*, 51 IDELR 183 (E.D. Pa, 2008), an 11-year-old girl with autism was placed in a learning support classroom for 56% of the school day. Although the IDEA's preference for mainstreaming must be considered, the district may consider placement in a more restrictive environment. In that case, the student could not make progress in the general education classroom and, as such, the district did not err in recommending a learning support placement.

And, in *Glendale Unified Sch. Dist.*, 54 IDELR 306 (SEA CA 2010), the student's parents wanted the student to attend a general education class on a full-time basis. However, the modifications she would require would isolate her from her peers and disrupt their learning. As such a special day class was appropriate.

Similarly here, although the parent believes that her student can make adequate educational progress in the general education or mainstream classroom, the experiences of the [redacted] School District do not support this. As noted from the testimony of Ms. [redacted] Ms. [redacted] and Ms. [redacted] the student made reasonable to excellent progress in a special education class where the class size was small – no more than eight students, where there were significant adult supervision including the teacher, two teaching assistants and 2 1-to-1 aides with a highly structured program by an experienced teacher who was dealt with students with autism before. All agreed that the student struggles in the general education environment. Although not an optimal test, the school district's experience with trying to wean the student from his dependence upon his 1-to-1 aide was an abject failure. Even if it could be construed that the student was making some minimal progress in his general education classroom, the district was not incorrect in placing him in the cross categorical classroom. Even the parent's autism consultant, Ms. [redacted] agreed that his current placement is meeting his educational needs.

As the [redacted] School District met the needs of the students in the public school, it has no obligation to consider the parents request for a different placement. *T.R. v Kingwood Township Bd. of Educ.*, 32 IDELR 30 (3rd Dist., 2000). Here, the student was provided the opportunity to interact with his same age peers in both the instructional special education environment as well as general education environment. As his specific disabilities could be better met in a smaller class with more structure etc., the proposed and current Oak Park placement was appropriate for this student in the least restrictive environment.

As such, this issue is found in favor of the school district.

4. **Whether the School District provided a Free and Appropriate Education (FAPE) in the least restrictive environment from October, 2009 through the present for the Student by failing to offer extended school year services.**

In 34 CFR section 300.106 Extended School Year Services is defined as "special education and related services that – (1) Are provided to a child with a disability – (i) Beyond the normal school year of the public agency; (ii) In accordance with the child's IEP; and (iii) At no cost to the parents of the child; and (2) meet the standards of the SEA".

Extended year school services are designed to assist a student maintain his level of functioning and/or performance by providing additional specialized services during the summer months so that the student does not regress. This is especially important in the case of a student diagnosed with autism in which the worked on behaviors in the school year can be readily forgotten over the summer months. In fact, as various teachers had testified, the student showed signs of regression even when coming back from a winter or spring break and often times when he would be a therapy the day before.

To address this, the May 2010 IEP team recommended extended school year services for the student. Unfortunately, the mother did not take advantage of this. Her excuse was that the information provided by the school district did not provide the location, the teacher or the address for where this program would take place. However, the mother was no stranger to this school, having had frequent communications with the school staff as well as three IEP meetings in less than a one year of his enrollment at the school. The mother instead opted to enroll the student at the Language Stars program. Although this placement may have provided some benefit for the student, it was not the program proposed by the school district nor were we given any information that it met the standards of the school district. Therefore, to say that the school district failed to offer an extended school year program for the student is erroneous. In its May 2010 IEP, the plan specifically called for extended school year services for the student.

As such, this issue is found in favor of the school district.

5. **Whether he School District provided a Free and Appropriate Education (FAPE) in the least restrictive environment from October, 2009 through the present for the Student by failing to provide related services such as assistive technology.**

34 C.F.R. 300.34 Section 300.105 notes that "each public agency must ensure that assistive technology devices or assistive technology services, or both ... are made available to a child with a disability if required as part of a child's (1) Special Education under Section 300. 36 or related services under Section 200.34 "[Related Services]. As noted in *Kevin T v. Elmhurst Community School Dist. No. 205*, 36 IDELR 153, "'AT services' include 'evaluation of the AT needs of the child, obtaining, designing, and selecting appropriate AT devices, training personnel to provide AT services" 34 C.F. R. Section 300.5 and 300.6.

As assistive technology was the only related service requested in their relief by the parent, that is the only related service will be considered here. The [redacted]EP's for this particular student specifically declined to provide assistive technology services for the student. However, that does not mean that no assistive technology services were provided. Mr. [redacted]estified that she provided "low tech" including scheduling, models and computer in reading and math. Computer programs were available in all classrooms.

[redacted]stified that many kids on an autism spectrum can benefit from assistive technology to communicate their needs and desires. His testimony on this topic was that the student would benefit from assistive technology evaluation and that there may be technology that may assist the student. Dr. [redacted]lso felt that the Student would benefit from an assistive technology evaluation although he further testified that he would need more information concerning the student vis-à-vis an assistive technology evaluation in order to render an opinion if it would be necessary or would benefit the student.

As the school district is not considered an assistive technology evaluation or assistive technology services for the student even though the [redacted]EP recommended this and given the students issues, particularly in the general education classroom, an assistive technology evaluation, as Mr. [redacted]estified, may well assist this particular student in dealing with his disability and his interaction within the general education classroom as well as a special education classroom. As such, the school district is to provide an assistive technology evaluation of the student and incorporate the findings of this evaluation in the students next IEP.

This issue is found in favor of the parent/student.

6. Whether the School District provided a Free and Appropriate Education (FAPE) in the least restrictive environment from October, 2009 through the present for the Student by failing to assess and develop an appropriate Functional Behavior Analysis and functional Behavior Intervention Plan.

Based upon the School District's failure to conduct a Functional Behavior Analysis (ABA), the parent suggests that ABA therapy is necessary for the Student and has requested the School district to provide ABA therapy for 10 hours per week after regular school hours for at least one year by a therapist supervised by a board certified behavior analyst. In support of this request, the Parent provided the testimony of [redacted]of the Center for Autism and Related Disorders (CARD) who testified that Applied Behavior Analysis is the application of principles of behavior and is most widely used with kids with Autism. It is an effective treatment for Autism and the only one that has been found effective.

She has met the Student on 3 occasions. The first was on November 8, 2010 at her office for about 1 ½ hours with the parent and the Student. This was to discuss concerns and current functioning. She spent time with Student as to age level, skills and abilities. Her second visit was on January 3, 2011 for a school observation. The last time was on January 11, 2011 when the parent dropped off materials. During her observations, she did not observe any problematic behaviors in the special education class that would impact his general education class.

She did agree that the daily communication log/behavior checklist for parents to know how his day was and for how the student was doing was a normal type of log (PD302). This type of check list is very similar and used across various districts. She did feel that although the targets identified can be objectively measure but it is subjective dependent upon who is doing measuring. She did believe that it is appropriate as a communication tool but it would not qualify as a valid means of assessing progress due to subjectivity.

Based upon her visits and observation, she formulated the following opinions as to the Student:

1) His current placement is meeting his educational needs but a component is missing - an explanation of what is needed to move him forward.
2) The Student is capable of learning in general education classroom. He followed instruction in his special education classroom which would allow him to be successful in the general education setting.
3) From the information she had and her observation, the Student should send more time in main stream environment with additional supports;
4) ABA therapy is necessary. This would be after school as she would not want to pull him out of class during the day. However, he does need assistance and support in what he is learning in the classroom

Services and Supports she recommends to assist the Student include:

1/ A formalized Functional Behavioral Analysis so that the Student can move forward based upon problematic behaviors (toileting, etc.);
2/ IEP goals need to be written specifically between his special and general education needs to allow him to be successful in the general education population;
3/ ABA therapy for 15 - 20 hours per week of ABA therapy 1 on 1 with therapist and 6 hours of supervision (oversight of program - curriculum that the is working on); and
4/ Parent's training as the parent would benefit from additional training. She would encourage but not require additional training. This therapy does require the parent to be aware of what's going on around them and to be trained in how to implement the plan at home

The Student's teachers also found that the Student's behavior varies and fluctuates - particularly as to the general education class. To address these concerns, the teachers used a behavior log/checklist. In Ms[redacted] opinion, this did assist the Student as to his behaviors. She has not referred the Student for a Functional Behavioral Analysis as they had a behavior management plan in place that she believed was working. The behavior management plan

included point sheets with re-enforcers and consequences attached to point sheet. Consequences might include a time out (dependent upon when and where an incident happens). It might also include a time out (either standing against the wall or walking during that time), loss of computer time, and privileges in classroom. Classroom re-enforcers could include Stickers; prize day on Friday, cooking or a special treat.

Given the continuing behaviors in the general education classroom as noted this year and Ms. [redacted] first grade class and his apparent lack of learning in that class, it is not unreasonable to suggest that the school district should conduct a functional behavioral analysis. Although Ms. [redacted] noted that the student exhibits little behavioral problems in her classroom, the same cannot be said for his time spent in the general education classroom. Unfortunately, as noted in the testimony of Ms. [redacted] and Ms. [redacted] the student did not make much, if any, gains in the general education classroom. (Particularly see the testimony of Ms [redacted] above.) Even under Ms. [redacted] standard, as the behavior plan was not working for the Student in the general education environment, a Functional Behavioral Assessment would be warranted at this time.

A Functional Behavioral Assessment is "an assessment process for gathering information regarding the target behavior, its antecedents and consequences, controlling variables, the student strengths, and the communicative and functional intent of the behavior, for use in developing behavioral interventions" 23 Ill. Admin Code 226.75. "In the development of an individualized education program for a student who has a disability on the autism spectrum ... The IEP team shall consider all of the following factors ... (7) the need for any positive behavioral interventions, strategies, and support to address any behavioral difficulties resulting from autism spectrum disorder. 105 ILCS 5/14-8.02 (b). "The IEP of the student who requires a behavioral intervention plan shall: 1) summarize the findings of the functional behavioral assessment; 2) summarize prior interventions implemented; 3) describe any behavioral interventions to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors; 4) identify the measurable behavioral changes expected and methods of evaluation; 5) identify a schedule for a review of the interventions' effectiveness: and 6) identify provisions for communicating with the parents about their child's behavior in coordinating school-based and home-based interventions." 23 Ill. Admin Code 230 (b)

Given the observed behaviors and lack of the Student's progress in the general education classroom, a functional behavioral analysis is appropriate for the school district to conduct and a behavioral intervention plan be formulated to assist the Student, particularly in his general education environment.

Further, though the parent seeks a particularized therapy – Applied Behavioral Analysis therapy to be given to the student as well as parent training etc. However, the literature provided by the Parent does not necessarily show the value for ABA therapy for this particular Student. The Student will shortly be 7 years of age. Based upon the articles submitted by the Parent, there were no studies which show or do not show any substantial value for a Student over the age of 7 (See Literature, above).

Although the parent did not request a Functional Behavioral Analysis or Behavior Intervention Plan in their relief, this is an issue in their due process complaint and subject to relief. Given the behaviors observed, particularly by the general education teachers that continue, the School District, at this point in time, needs to conduct a Functional Behavior Analysis and develop a Behavior Intervention Plan for the Student.

As to ABA therapy, given the Student's age and the conflicting testimony on the Student's behaviors as well as literature provided by the Parent's attorney, there is no need for the School District to implement any ABA therapy for the Student.

This issue is found in part in favor of the Parent as to the Functional Behavior Analysis and in favor of the School District as to the issue of ABA therapy.

7. **Whether the School District did not provide a Free and Appropriate Education (FAPE) in the least restrictive environment from October, 2009 through the present for the Student procedurally, by failing to provide appropriate written communication with the parent.**

Rowley, supra at 206, indicates that any substantial denial of procedural safeguards that resulted or impact on the parents participation or the student's education which results in a loss of educational opportunity may be construed as a denial of FAPE. "Procedural violations can be held to deny a student a FAPE only if they '(I) impede the child's right to a free appropriate public education; (II) significantly impede plaintiff's opportunity to participate in the decision making process regarding the provision of a free appropriate public education to plaintiff's child; or (III) cause a deprivation of educational benefits'" *James and Lee Ann D v Board of Education of Aptakisic-Tripp Community Consolidated SD # 102*, 52 IDELR 281, 109 LRP 45050 and 20 U.S.C. 1415 (f)(3)(E)(ii). However not all procedural violations amount to a deprivation of FAPE. In the case of *Lesesne v. District of Columbia and Elfreda Massie, D.C. Public Schools*, 447 F.3d 828, (D.C. Dist. Ct, 2006) [45 IDELR 208], the District Court stated that:

"Even assuming that DCPS violated its procedural obligations, an IDEA claim is viable only if those procedural violations affected the student's substantive rights. See, e.g., *Kruvant v. District of Columbia*, 99 Fed. App. 232, 233 (D.C. Cir. 2004) (denying relief under IDEA because "although DCPS admits that it failed to satisfy its responsibility to assess [the student] for IDEA eligibility within 120 days of her parents' request, the [parents] have not shown that any harm resulted from that error"); *C.M. v. Bd. of Educ.*, 128 Fed. Appx. 876, 881 (3d Cir. 2005) (per curiam) ("[O]nly those procedural violations of the IDEA which result in loss of educational opportunity or seriously deprive parents of their participation rights are actionable."); *M.M. ex rel. D.M. v. Sch. Dist.*, 303 F.3d 523, 533-34 (4th Cir. 2002) ("If a disabled child received (or was offered) a FAPE in spite of a technical violation of the IDEA, the school district has fulfilled its statutory obligations."); *Roland M. v. Concord Sch. Comm.*, 910 F.2d 983, 994 (1st Cir. 1990) (en banc) ("[P]rocedural flaws do not automatically render an IEP legally defective. Before an IEP is set aside, there must be some rational basis to believe that procedural inadequacies compromised the pupil's right to an appropriate education, seriously hampered the parents' opportunity to participate in the formulation process, or caused a deprivation of education

benefits." (citations omitted)); *W.G. v. Bd. of Trustees*, 960 F.2d 1479, 1484 (9th Cir. 1992) (rejecting the proposition that procedural flaws "automatically require a finding of a denial of a FAPE"); *Thomas v. Cincinnati Bd. of Educ.*, 918 F.2d 618, 625 (6th Cir. 1990) (rejecting an IDEA claim for technical noncompliance with procedural requirements where the alleged violations did not result in a "substantive deprivation" of the student's rights); *Burke County Bd. of Educ. v. Denton*, 95 F.2d 973, 982 (4th Cir. 1990) (refusing to award compensatory education where procedural faults committed by Board did not cause the child to lose any educational opportunity).

There can be no doubt from the testimony of both the parent as well as the teachers that the parent was not provided with communications in Spanish. According to the mother, she received only one IEP translated into Spanish. In addition, the behavior checklists relative to the students which were sent home on a daily basis were more frequently sent home in English as opposed to Spanish. However, the Student's mother testified that her husband, when he would be in attendance at the IEP meetings, would translate for her. She would also contact him to translate information that was brought home from the school. In addition, other friends as well as her son, [redacted] also were available to translate.

As such, although the district did commit a procedural violation by failing to appropriately have translated into Spanish the students IEP and other significant correspondence, it does not appear that the mother and/or the parents were not advised as to their Student. The Student's mother was a strong advocate for her son relative to his inclusion in the general education classroom. Her communications relative to this are prominently noted in the various IEP's that have been crafted for the Student. The school district had translators available at the IEP meetings. In communications between the school district teachers and staff including the Director of Special Education, the parent was able to come to an understanding as to what was being communicated.

In order for the procedural violations to impact the Student's education, the parent must show that the child's right to a free appropriate public education was impeded, that the parent's opportunity to participate in the decision making process regarding the provision of a free appropriate public education to plaintiff's child was impeded or a deprivation of educational benefits' was involved. Here, there was no loss of educational opportunity for the student as the parent actively participated in all IEPs, and the daily behavioral logs were sent home to her and she was able. with difficulty, to communicate with the school staff.

As such, this issue is found in favor of the school district.

G. ORDER

1. The Parent's Request to Order the School District to place the Student in a general education classroom with appropriate supports including a full time 1-to-1 teaching assistant is denied;
2. The Parent's Request to Order an Independent Educational Evaluation - Assistive Technology is granted. The School District shall conduct an Assistive Technology evaluation within 30 days of this order;

3. (a) The Parent's Request to Order compensatory education services in a) ABA therapy for 10 hours per week after regular school hours for at least one year by a therapist supervised by a board certified behavior analyst; b) 20 hours of parent training by a board certified behavior analyst; and c) 6 weeks of Extended School Year Services for summer 2011 in a summer program chosen by the parent is denied;
(b) The School District is ordered to conduct a Functional Behavioral Analysis and to develop a Behavior Intervention Plan within 60 days of this order;
4. The School District shall convene an IEP meeting to consider and implement the results of the assistive technology evaluation and the functional behavioral analysis and behavior intervention plan within 90 days of this order.
5. Any procedural violation for failing to provide appropriate written communication with the parent is considered *de minimis* and the School District need take no further action as to this.
6. The School District shall provide proof of compliance with this Order to the Illinois State Board of Education, Compliance Division, no later than April 25, 2011.

W. DAVID UTLEY
Impartial Hearing Officer
Dated this 24th day of January, 2011

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

FINALITY OF DECISION

This Decision and Order shall be binding upon all parties.

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. THE REQUEST SHALL OPERATE TO STAY IMPLEMENTATION OF THOSE PORTIONS OF THE DECISION FOR WHICH CLARIFICATION IS SOUGHT, PENDING ACTION ON THE REQUEST BY THE HEARING OFFICER, UNLESS THE PARTIES OTHERWISE AGREE. (105 ILCS 5/14-8.02)

W. DAVID UTLEY
Impartial Hearing Officer

Dated this 24th day of January, 2011

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 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 [redacted], IL on January 24, 2011.

[redacted]

Via First Class Mail – Certified Only

[redacted]

Via First Class Mail – Certified Only

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

W. DAVID UTLEY
Impartial Hearing Officer

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

PD

1	✓	31		61		91		121	
2		32		62		92	✓	122	
3		33		63		93	✓	123	
4		34		64		94		124	
5	✓	35		65		95	✓	125	
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28	✓	58		88		118		148	✓
29	✓	59		89		119		149	✓
30	✓	60		90		120	✓	150	✓

Hearing Officer Exhibit # 1

PD

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164		194	✓	224		254		284	
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30		60	✓	90	✓	120		150	

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314		344		374		404		434	
315		345		375		405		435	
316		346		376		406		436	✓
317		347		377		407		437	
318		348		378		408		438	✓
319		349		379		409	✓	439	
320		350		380		410		440	
321		351		381		411		441	
322		352		382		412		442	
323		353		383		413		443	
324		354		384		414		444	
325		355		385		415		445	
326		356		386		416		446	
327		357		387		417		447	✓
328		358		388		418		448	
329		359		389		419		449	
330		360		390		420		450	