

Case Number: 2014-0385

Hearing Officer: Michael Risen

Illinois State Board of Education
Special Education Services
100 North First Street
Springfield, Illinois 62777

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Impartial Due Process Hearing Decision Cover Page

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District Name [REDACTED] Phone: 815-966-3000
Superintendent [REDACTED]
Address [REDACTED]
Represented by [REDACTED], Esq. and [REDACTED], Esq.

Parent Name [REDACTED] Phone: 815-398-8480
Address [REDACTED]
Represented by [REDACTED], Esq. and [REDACTED], Esq.

Date and Timelines

Date of Written Request: 04/11/2014
Date of Pre-hearing Conf: 5/12 and 6/3/2014

Date of Hearing: 07/09,10,11,14,16,18,21,2014
Date of Decision: 08/04/2014

Summary of Decision

Parent filed a complaint alleging eight distinct issues revolving around the District's failure to identify the Student with Autism and provide the appropriate placement, services, accommodations and modifications and to protect the Student from injury. The Parent requested several forms of remedy including ordering an eligibility of Autism for the Student and placement of the Student in a therapeutic day program specializing in ABA therapy. The preponderance of the evidence failed to support the Parent's allegation and the IHO ruled wholly for the District on all issues and denied all of the Parent's requested relief.

ILLINOIS STATE BOARD OF EDUCATION
SPECIAL EDUCATION DUE PROCESS HEARING

IN THE MATTER OF

[REDACTED]

v.

[REDACTED]

)
) ISBE CASE NO. 2014-0385
)
) Michael Risen
) Impartial Due Process
) Hearing Officer

FINAL DETERMINATION AND ORDER

BACKGROUND

The hearing involved a [REDACTED]. The Student's most recent IEP identified the Student's disabilities as: speech and language (S&L) and Other Health Impaired (OHI) for in utero drug exposure and Hirschsprung's Disease. In a letter dated April 12, 2014, the Parents (Parent) filed the due process complaint notice (DPCN) for the Student. The ISBE appointed this impartial hearing officer (IHO) on April 14, 2014. The appointed IHO has jurisdiction to hear and decide this matter under 105 ILCS 5/14-8.02a et seq., 23 Illinois Administrative Code §226.600 et seq., and the Individuals with Disabilities Education Act 20 USC 1400 (IDEA), and 34 CFR §300.507 et seq.

On April 21, 2014, the Parent filed an amended complaint¹ alleging the District failed to diagnose the Student as a student with autism, to provide appropriate special education services, to protect the Student resulting in injuries and trauma to the Student, provide an appropriate IEP that appropriately addressed the Student's disabilities and concomitant behavioral needs.

On May 2, 2014, the District filed the required response to the Parent's DPCN (IHO Exhibit 6).

On May 12, 2014, the IHO opened the PHC (PHC) and the parties completed the PHC on June 3, 2014 (IHO Exhibit 26).

¹ See IHO exhibit 4.

The parties waived resolution/mediation in favor of proceeding directly to the hearing and completed mediation over two dates, May 23 and June 2, 2014.

The IHO conducted the hearing on July 9, 10, 11, 14, 16, 18, and 21, 2014. The Parent requested a closed hearing. Danielle Costello Schrom, Esq., and Kathryn Vander Broek, Esq., represented the District (District) and Lam Ho, Esq., and Charlie Wysong, Esq., represented the Parents (Parent).

The following witnesses testified: the Mother, [REDACTED] Director of Special Education, [REDACTED], Assistant Principal of Special Education (APSE), [REDACTED] Special Education Teacher (SET), [REDACTED], Speech and Language Pathologist (S&L), [REDACTED], School Psychologist (SP), [REDACTED], Occupational Therapist (OT), [REDACTED], General Education Teacher (T), [REDACTED] Nurse (N), [REDACTED] Social Worker (SW), [REDACTED] (SET), [REDACTED] (T), [REDACTED] (N), [REDACTED], Principal (P), [REDACTED], (SP), [REDACTED], Teacher's Aide (TA), [REDACTED], (TA), [REDACTED], Parent's clinical psychologist, [REDACTED], Student's physician, [REDACTED], Student's physician, [REDACTED], Parent's private behavior therapist, [REDACTED] OT, [REDACTED] (P), [REDACTED] (SET), [REDACTED] (S&L), [REDACTED] (APSE). The IHO did not have a copy of the transcript when writing the decision.

The Parent submitted four bound sets of documents numbered "P1 thru 1432." The District submitted two sets of bound documents numbered "D1 thru D1148." The IHO also admitted during the hearing additional documents from the District related to the Parent's motion regarding records and these documents were numbered D1149 thru D1172. The IHO submitted exhibits 1-102 and numbered "JWP HO 1 thru JWP HO 491."

During the hearing the Parent presented [REDACTED] for testimony, a private behavioral therapist. The District objected to the witness and sought to have [REDACTED] stricken from testifying. The Parent explained the witness had been recently retained by the Parent to provide behavioral therapy for the Student. The Parent acknowledged that the witness began working with the Student after the Student left the school in May of 2014 and that the witness did not have any contact with the District, District personnel, observe the Student, or provide the District with any reports for the District to consider. The IHO explained that it the IHO wanted the Parent to believe the Parent had been heard during the hearing, but reserved a ruling on the objection until the completion of the testimony of [REDACTED]. The IHO also explained that allowing the witness to testify preserved the record for the Parent should the Parent determine at some point an appeal to the court was warranted. Once [REDACTED] concluded all testimony and left, the IHO ruled as follows:

While it is difficult to predict the remaining 2.5 days of testimony and documentary evidence, absent some compelling reason to consider this testimony, I will not consider this particular testimony in my deliberations and assessments for rendering a decision for the following reasons:

1. Therapy began after the child left school.
2. The witness did not have any contact with the school or conduct any school observations of the child.
3. No reports were submitted for the Student's IEP team to consider from the witness.
4. The District did not have any opportunity to interact or otherwise communicate with the witness, or analyze reports, or for IEP team members to use any reports and consider whether there were any recommendations for the IEP team to discuss and consider.
5. At the conclusion of the testimony of [REDACTED], the testimony seemed very one-sided and inherently unfair.

As a result, the IHO did not consider any of the testimony submitted by [REDACTED].

ISSUES

During the recorded PHC, the IHO and the parties discussed and clarified the following issues and proposed remedies: Did the District deny the Student a free appropriate public education (FAPE) by:

- i. Failing to conduct an appropriate evaluation from September 2012 to the present that included multiple assessments in all areas of need;
- ii. Failing to specifically identify the Student as a student with an Autism Spectrum Disorder;
- iii. Failing to provide an appropriate IEP from September 2012 to the present that provided:
 - a. A small, highly structured classroom with appropriate accommodations and modifications suitable for children with autism;
 - b. Goals appropriate for all of the Student's deficits;
 - c. Peer-reviewed, evidenced-based instructional methods appropriate for children with Autism.
 - d. Appropriate assistive technology.
- iv. Failing to provide an appropriate IEP from May 2013 to the present that included appropriate accommodations and modifications to address the Student's behavior needs (e.g.; sensory needs, environmental structuring, visual systems, social stories, dietary needs, and needs related to impaired understanding of time);
- v. Failing to provide an appropriate IEP from May 2013 to March 2014 that provided an appropriate FBA and BIP;
- vi. Failing to consider the Parent provided independent evaluations and physician reports;
- vii. Failing to keep the Student safe from physical harm; and,
- viii. Failing to properly investigate and inform the Student's guardians of injuries sustained by the Student.

On July 3, 2014, the Parent filed a Motion to shift the burden of proof to the District for failure to produce all student records as requested by the Parent. The District sought a continuance of the proceedings to have time to respond to the Motion. The Parent objected to the continuance request. The parties had met previously on two separate occasions in mediation and resolution and failed to resolve any of the previous issues. The Parent's motion was fact based and required a hearing to fairly consider the facts of the motion. If the District's request for a continuance had been granted, the hearing on the original issues would have been delayed at least 30 days. Since the first day of hearing was less than one week away at the time the Parent filed the motion, and in an

effort to provide both parties the opportunity to present documentary evidence and testimony on the allegations in the Parent's motion, the IHO ruled that the allegations contained in the motion would be addressed during the hearing proceedings as currently scheduled.² Thus, the IHO denied the Parent's Motion to shift the burden of proof to the District at the time the motion was filed and denied the District's request for a continuance of the proceedings in favor of giving the parties "their day in court" during the scheduled hearing.

PROPOSED REMEDIES

- ix. Should the Parent meet their burden of proof at the hearing, the Parent seeks the following as requested relief:
- a. Reimburse Parents for evaluations completed by [REDACTED] for Autism [Parent must provide the District and the IHO with receipts for all expenses related to this request as part of the five business day disclosure documents].
 - b. Order the IEP team to change the Student's primary eligibility to Autism/Autism Spectrum Disorder.
 - c. Order the IEP team to convene and incorporate all educational recommendations from the [REDACTED] evaluation team, specifically the April 2013 and June 2014 assessments [June 2014 subject to a ruling on any objection submitted by the District].
 - d. Order the District to complete a FBA and BIP for the Student completed by a board certified behavioral analyst as mutually agreed to by the parties.
 - e. Order the District to fund a private therapeutic day school placement for the Student that specializes in children with Autism and that utilizes ABA in the curriculum.
 - f. Order the District to provide any needed transportation as a related service.
 - g. Order the District to provide the Student with a dedicated professional trained in working with children with autism, ileostomy care, and student incontinent management.
 - h. Order the District to provide the Student with two hours per week for two years of ABA behavioral therapy with transportation to and from the location of the compensatory services. [Parent will provide a not too exceed hourly rate for the services based upon quoted rates from at least two area providers. The information must be provided no later than the 5 business day disclosure deadline for other documents].

² The IHO determined that the timing of the scheduled hearing did not allow for a separate hearing on the facts of the Parent's motion and thus decided to conduct any hearing on the motion during the schedule due process hearing.

FINDINGS OF FACT

After considering the presented testimony and reviewed documents presented as the evidence at hearing, as well as the arguments of both parties, the IHO made these Findings of Fact:

- 1) On January 12, 2012, as a result of a referral from the Student's pediatrician, Dr. Philip Miner, pediatric neurologist saw the Student when the Student was 3 years 8 months old. The Student's subjective health history provided by the Parents indicated the Student displayed behaviors consistent with autism that included: "mostly solitary and parallel play, does not initiate interaction with adults and does not initiate interaction with peers, poor eye contact for communication, dysarthric speech, toe-walking, mild tempering, avoids eye contact, covers ears to sounds, deliberately smells objects, and limited foods and suffered from mood swings."³ The objective neurological exam indicated the student displayed normal eye contact, did not smell objects, had normal reactions to touch, had a normal gait and did not toe walk.⁴ [REDACTED] informed the District that the Student's diagnosis included Developmental Delay, Autism Spectrum Disorder, and Mild Retardation.⁵
- 2) On February 28, 2012, the Parents requested that the District evaluate the Student for "Autism." The IEP team reported that the Student did not walk on his tip toes at school though Parent reported the Student walks on his tip toes at home. The IEP team decided to complete a play based assessment of the Student in the areas of cognitive, readiness, social health, communication and OT.⁶

³ See p. P305 and testimony of [REDACTED] and [REDACTED]

⁴ See pp. P306-308 and testimony of [REDACTED] [REDACTED] acknowledged during testimony that there were discrepancies between what the Parent reported and what he observed during the objective part of the exam.

⁵ See p. P821 and testimony of [REDACTED]. This document and testimony raised concerns with the efficacy of the evaluation completed by [REDACTED]. All indications in the Student's record and testimony from various staff members and two district psychologists indicated high average verbal intelligence and overall intelligence within the average range. [REDACTED] could not effectively explain the diagnosis of mental retardation.

⁶ See p. P259.

3) On May 2, 2012, the District completed assessments for the Student's reevaluation.⁷

Included in the assessments were the Autism Spectrum Rating Scales (ASRS) and Conners rating scales completed by the Student's staff and Parents. The results differed between the ratings submitted by staff and the rating submitted by parents. The ratings submitted by the three staff members concluded that the Student "appropriately uses verbal and non-verbal communication for social contact, does not engage in unusual behaviors, relates well to adults, provides appropriate emotional responses to people in social situations, uses language appropriately, does not engage in stereotypical behaviors, tolerates changes in routine well, and does not have problems with attention and/or motor and impulse control."⁸ The ratings submitted by the Parents were completely opposite to the ratings submitted by staff and quoted herein.⁹ Staff and Parent ratings on the Conners rating scale produced a similar outcome of disparate results.¹⁰ Similarly, the Parent completed the GARS (Gilliam Autism Rating Scale) and reported results similar to the Parent's reported data on the ASRS.¹¹

4) On [REDACTED] the Student was [REDACTED]. The District completed an IEP for the purpose of reevaluation and to discuss the results of the Autism screening assessments recently completed by the District.¹² The District had previously identified the Student as a student with a speech and language disability.¹³ The IEP team documented that the Student had generally appropriate social skills,

⁷ *Id.*

⁸ See p. P260-261 and the testimony of [REDACTED], [REDACTED] and [REDACTED].

⁹ See p. P261 and the testimony of the Mother.

¹⁰ *Id.* The IHO did not find any documentary evidence submitted or testimony that sufficiently explained the disparity between the screening results produced by staff and those produced by the Parent. Since multiple staff members independently completed the evaluation screening tools, and there were discrepancies between what the Parents reported to the Student's pediatric neurologist and what the pediatric neurologist's objective exam revealed, the IHO accepted the results of the staff screening reports as factual.

¹¹ See p. P269 and testimony of the Mother.

¹² See p. P250.

¹³ *Id.*

communicated effectively with adults and peers but had some difficulty sharing toys and became frustrated when unable to communicate [redacted] needs. The IEP documented the Student's independent functioning met [redacted] needs within the educational setting and the Student's motor skills were not well developed. The IEP team noted that the Student had a history of sensory processing deficits related to tactile and auditory defensiveness but [redacted] classroom teacher did not observe any sensory processing issues that impacted [redacted] classroom performance.¹⁴ The IEP team also reviewed an Augmentative and Alternative Communication Report completed by one of the District's S&L pathologists. The report did not recommend any assistive technology at the time.¹⁵ The IEP team noted the Student's receptive language skills were age appropriate and [redacted] mildly delayed expressive language skills reflected "much improvement."¹⁶ Finally, after a review of the criteria for Autism, the IEP team concluded the Student did not meet any of the criteria but continued to be eligible for special education services under the category of S&L.¹⁷ The Parent disagreed with this determination.¹⁸ The IEP team reviewed the Student's present levels of performance and then developed goals accompanied by measurable short term objectives for the Student in expressive language, phonology, and oral motor to be implemented during the 2012-13 school year.¹⁹ The IEP team also designed special education and related services for the 2012-13 school year for the Student that included programming in a regular education kindergarten classroom with individual paraprofessional (para) support 100 minutes per week (mpw) and S&L 15 mpw.²⁰

¹⁴ See p. P282 and testimony of [redacted].

¹⁵ See pp. P617-619, p. D263, and testimony of [redacted].

¹⁶ *Id.*

¹⁷ See p. P271 and pp. P275-276.

¹⁸ See testimony of the Mother.

¹⁹ See pp. P287-288 and testimony of [redacted] (S&L).

²⁰ See p. P291 and testimony of [redacted], [redacted], and [redacted].

- 5) On June 20 and June 21, 2012 the Student's physicians wrote notes indicating the Student would benefit from summer school due to the Student's Autism.²¹
- 6) On January 9, 2013, the District created an Individual Health Care Plan for the Student and provided at least twice daily nursing services to provide for the Student's ongoing care of his ileostomy. The Plan was updated on 4/9 and 4/22/13.²² As a result of the Student's existing ileostomy, the District concluded that the Student was medically fragile.²³
- 7) On February 22, 2013, [REDACTED] clinical psychologist, completed an evaluation of the Student. The evaluation included background information gathered from the Parent, observations of the Student in the office during testing, and the ADI and ADOS assessments reported to be the "Gold Standard" in testing for Autism.²⁴ The evaluation indicated a co-diagnosis for the Student that included pervasive developmental disorder not otherwise specified (PDD NOS) Autism Spectrum Disorder, in utero drug exposure and a medical diagnosis of Hirschsprungs disease and obesity.²⁵ In utero drug exposure and Autism Spectrum Disorder can manifest in similar ways. While reviewing the completed evaluation, [REDACTED] testified regarding the importance of the IEP team's focus on the Student's needs and not get caught up in the labels.²⁶ [REDACTED] also recommended the Student required a small structured classroom, low student to teacher ratio, a behavior specialist in Autism spectrum disorder, and the use of visual structure systems including rule cards, social stories, and picture cards.²⁷

²¹ See pp. P58-59.

²² See pp. P565-568 and testimony of [REDACTED] and [REDACTED].

²³ Among other staff testimony, see testimony of [REDACTED] and [REDACTED].

²⁴ See o. P532 and the testimony of [REDACTED].

²⁵ *Id.* at p. P537 and testimony of [REDACTED].

²⁶ See testimony of [REDACTED].

²⁷ *Id.*

8) On May 16, 2013, the District completed the Student's annual review IEP.²⁸ The Parent and her attorney attended the meeting and the meeting notes reflected the Parent was given a copy of her Parental Rights and the Mother indicated she already had a copy and understood her rights.²⁹ Prior to the meeting, the Parent provided the District with an independent educational evaluation (IEE) completed by [REDACTED] [REDACTED] (LFR).³⁰ The S&L pathologist, and OT for the District noted their impressions from the LFR. S&L indicated the District was already implementing some of the recommendations of the LFR including visual strategies, grammatical structure, volume issues, visual and verbal prompts.³¹ As a result of the IEP team's consideration of the LFR and the IEP team's review of the Student's present levels of performance, the IEP team developed goals for the Student in expressive language, pragmatics, and phonology and recommended 45 minutes per week for S&L in the classroom and 30 minutes per month consultative.³² The IEP team developed OT goals for the Student in fine motor, and in response to a request from the Parent, goals for sensory concerns.³³ The IEP team noted that the S&L did not agree with parts of the report and the OT did not see many of the behaviors in school that the LFR reflected.³⁴ The Parent's attorney attended the IEP and questioned if the Student required a functional behavior assessment (FBA) or behavior management plan (BMP). The IEP team concluded the Student did not require either an FBA or BMP at that time as behaviors noted in February of 2013 had substantially improved. The IEP team expressed a willingness to consider

²⁸ See p. D636.

²⁹ See p. P598.

³⁰ See p. P537, testimony of [REDACTED] and Mother.

³¹ See testimony of [REDACTED]

³² *Id.*

³³ See p. D656, testimony of [REDACTED] and Mother.

³⁴ See pp. D655-654 and testimony of [REDACTED] and [REDACTED]

completing the FBA/BMP in the future if the behaviors again became problematic.³⁵

Parent indicated she believed the goals were appropriate and believed the Student had made progress during the 2012-13 school year.³⁶ The IEP team recommended the Student's placement as a regular education classroom with special education and related services of OT 30 mpw and S&L 45 mpw.³⁷ The IEP team also provided the Student with para assistance 100 mpw.³⁸

- 9) On May 29, 2013, the Parents reported to the School that the Student came home from school visibly upset. Upon examination, the Parent reported observing the Student's ileostomy bag torn and leaking and bruises on the Student's inner and outer thighs about the size of a hand.³⁹ The District reported that District Investigator [REDACTED] investigated the allegations and determined the incident unfounded.⁴⁰ The Mother reported that DCFS also investigated the incident.⁴¹ Testimony and documentary evidence did not demonstrate if DCFS made any determination whether the reported injuries were founded or unfounded.
- 10) On July 1, 2013, the Parents and their attorney agreed to an IEP amendment that reflected other health impairment (OHI) as a secondary eligibility for the Student.⁴²

³⁵ *Id.*, See also testimony of [REDACTED], [REDACTED], and the Mother.

³⁶ *Id.*, see also testimony of [REDACTED]. The IHO noted several instances of testimony from the Mother when the Mother insisted the IEP notes were incorrect whenever the notes reflected any disagreement from the Mother. The IHO was not able to make a determination whether the Mother's assertions had any basis in fact. The Mother did testify that at least one set of IEP notes was reviewed by the Mother's attorney prior to the District's memorialization of the notes. The Parent still insisted the notes were not entirely accurate. Other witnesses who attended the IEPs recalled the statements that the notes attributed to the Mother. Additionally, several district staff reported the Mother was not always a reliable reporter. For example, nurse [REDACTED] testified as follows when asked if the Mother was a reliable reporter: "No. Over my experience of a year and a half two years, I learned to be very cautious regarding what she thought [the Student] was capable of or could do or what happened vs. what the staff at school reported, or the management of his ostomy, I just learned I needed documentation ... what she wanted vs what was appropriate for a preschooler did not align." Also, see testimony of other staff including [REDACTED] and [REDACTED]. Thus, the IHO concluded the written notes submitted for each of the Student's IEPs were factual as presented.

³⁷ See pp. D651-52.

³⁸ *Id.*

³⁹ See p. D722 and testimony of [REDACTED] and the Mother.

⁴⁰ See testimony of [REDACTED] and the Mother. Testimony and evidence was insufficient to determine the cause or location of any damage to the Student's ileostomy bag or injuries to the Student allegedly associated with this incident.

⁴¹ See testimony of the Mother.

⁴² See p. P1086.

11) On September 16, 2013, the District conducted an IEP team meeting at the Parent's request.⁴³ Parents expressed concerns regarding the classroom size and the number of stimuli in the classroom (lights, posters, other kids). The Parent stated she believed these factors caused the Student's recent behaviors in the classroom.⁴⁴ During this time, the Student was in a regular division kindergarten class with about 28 students.⁴⁵ The Student presented with behaviors in the classroom that included not keeping [REDACTED] hands and feet to [REDACTED] yelling out and or in other's faces, and the Student did not like using stairs.⁴⁶ The Student did not present with behaviors like over stimulation.⁴⁷ As a result, the IEP team decided to add additional resource room minutes with the special education teacher for reading and math and increase the Student's para time to the full day except for the student's resource room class time. The Parent did not agree with this recommendation but authorized the District to implement the changes as proposed.⁴⁸ The IEP team reviewed the Student's present levels of performance and then included goals for knowledge of numbers to solve problems, concepts of geometry, patterns of numbers, bilateral coordination, visual motor integration, word knowledge, sensory modulation, independent word usage in sentences, correct grammar, socially appropriate language, and final consonant usage.⁴⁹

12) On October 2, 2013, [REDACTED], pediatric neurologist, prescribed guanfacine for the Student to address [REDACTED] hyperactivity and impulsivity.⁵⁰

⁴³ See p. P1058.

⁴⁴ See p. P1082, the testimony of [REDACTED] and the Mother.

⁴⁵ See testimony of [REDACTED]

⁴⁶ *Id.*

⁴⁷ See testimony of [REDACTED] and [REDACTED]

⁴⁸ See p. P1082 and the testimony of [REDACTED] and the Mother.

⁴⁹ See pp. P1064-1076.

⁵⁰ See p. P839 and D381-382 and testimony of [REDACTED] and [REDACTED]

13) On October 21, 2013, the District conducted an IEP team meeting to review the Student's progress since changes were made in September of 2013. The Student presented with improved behaviors including less physical aggression, increased listening and paying attention. The Student's behavior charts reflected 82.73% positive behaviors.⁵¹ The Parent indicated the Student chose coming to school over going to the Apple Orchard and the Parent surmised this choice reflected the Student was no longer stressed about coming to school.⁵² The IEP notes reflected the Student had surgery scheduled for the next day.⁵³ The IEP team discussed a letter from [REDACTED] pediatric neurologist that recommended the Student be placed in a self-contained classroom. The letter referenced diagnoses of developmental delay, autism spectrum disorder and mild retardation.⁵⁴ The Parent did not want a formal evaluation at the time of this IEP completion.⁵⁵ The IEP team reviewed the Student's present levels of performance and then included goals for knowledge of numbers to solve problems, geometry concepts, number patterns, bilateral coordination, visual motor integration, word knowledge, sensory modulation and fine motor skills, independent word usage, correct grammar, socially appropriate language, and improve speech intelligibility.⁵⁶

14) On January 29, 2014, the Mother sent an email to the Student's regular education kindergarten teacher and indicated: "I am so happy with [REDACTED] (sic) progress. [REDACTED] is catching up and [REDACTED] and I are in awe of your teaching."⁵⁷

15) On February 21, 2014, the Parent reported the Student came home with a rug burn on the elbow and a scratch or scratches on the face. The School investigation revealed

⁵¹ See p. P1088, the testimony of [REDACTED] and [REDACTED].

⁵² See p. P1088.

⁵³ *Id.*

⁵⁴ See p. P826 and testimony of [REDACTED] and [REDACTED].

⁵⁵ See p. P1088 and testimony of [REDACTED].

⁵⁶ See pp. P1064-1075 and 1084.

⁵⁷ See p. D235 and testimony of [REDACTED] and the Mother.

student fell while with para and received a rug burn but did not injure face at school.

The Student attended an after care program later that day. The testimony and documentary evidence failed to establish how the Student received the facial scratches.⁵⁸

16) On February 28, 2014, the Student stopped taking Guanfacine due to reported episodes of dizziness and sleepy.⁵⁹

17) On March 12, 2014, the Parent alleged the Mother witnessed the Student's para "manhandling" my [redacted] by the arm and [the Student] had to kick her to get loose. After reporting the incident to the Principal, the Parent took the Student home and requested a different para.⁶⁰ The para indicated the Mother did watch her interactions with the Student when the Student pushed the para twice while in the coat room after recess, the second push caused the para to fall back on the bench. The para indicated that the Mother refrained from saying anything to the Student even after she fell backward on the bench. The para denied ever "manhandling" the Student.⁶¹ The District and DCFS conducted an investigation of the incident.⁶² Neither party produced any documentary evidence of the incident. Only the Parent referenced the DCFS investigation but did not produce any evidence of same. The Mother's testimony suggested the DCFS reported the outcome of the investigation as unfounded. The District indicated the investigation completed by in-house District legal staff determined the allegations unfounded. The District replaced the Student's para with a new para for the remainder of the time the Student attended school.⁶³

⁵⁸ See p. D390, testimony of [redacted] and the Mother.

⁵⁹ See p. D393, testimony of [redacted] and the Mother.

⁶⁰ See p. P863 and testimony of the Mother, [redacted] and [redacted].

⁶¹ See pp. P864-866 and testimony of [redacted].

⁶² See testimony of [redacted], [redacted], the Mother, and [redacted].

⁶³ See testimony of [redacted].

18) On March 19, 2014, the Parent emailed staff seeking copies of Student records.

██████████ provided the requested documents.⁶⁴

19) On March 31, 2014, the District conducted an IEP team meeting for the purpose of completing the Student's reevaluation. The Parent did not understand the meeting was a reevaluation and wanted discussion limited to the Student's placement. The IEP agreed to the Parent's request and reserved the annual review for May of 2014. The Parents were provided a copy of their Procedural Rights. The IEP team discussed the Parent's decision to remove the Student one-half day each day of the week as of two weeks prior. The Parent asked the IEP Team to place the Student in a small self-contained classroom for Students with Autism. The Parent believed that a small self-contained classroom would maximize the Student's progress. The Parent acknowledged the Student had made progress to date. The Parent further indicated that the Parent did not think the IEP team should focus "on whether the [the Student] is making enough progress, but that the team should consider how he can make the most progress possible."⁶⁵ The IEP team reviewed the Student's recent escalation of behaviors and identified the Student's behaviors as attention seeking and avoidance behaviors. The Parent disagreed and indicated the Student was being punished for ██████████ Asberger's Syndrome and not understood.⁶⁶ The Parent requested the Student only attend a half-day of school but agreed with the IEP team that the Student would stay for lunch and recess to experience the social interaction recommended by the IEP team. At the Parent's request, the IEP team also agreed to direct the Student's para to bring the Student to lunch earlier to allow the Student more time to eat. The IEP team also agreed to the Parent's request to conduct an FBA/BMP targeting the Student's

⁶⁴ See p. D261 and testimony of ██████████.

⁶⁵ See p. P1122 and the testimony of ██████████.

⁶⁶ *Id.*, and the testimony of the Mother.

recent increase in aggressive behaviors including: hitting, kicking, keeping hands to [REDACTED] and not writing on other student's papers.⁶⁷ The IEP team also requested that the Parent direct all future communications about the Student to the Student's resource teacher or the school principal.⁶⁸ The IEP team reviewed the Student's present levels of performance and the Student's goals remained the same as reflected in the previous IEP.⁶⁹

20) On April 3, 2014, the School Principal and resource teacher had a conference with the Student and the Parent regarding the Student's recent suspension for scratching the teacher. The Parent did not admonish the Student for screaming at the Principal during the meeting.⁷⁰

21) On May 14, 2014, the District completed an FBA and Social Emotional evaluation of the Student. The operational definition of the Student's behaviors included: engages in physical aggression [shove, hits, kicks, throws things, head butts], refuses to do what is asked of [REDACTED] [either verbally or continuing to do something other than what was asked of [REDACTED]].⁷¹ The identified antecedents of the targeted behaviors included: when asked to do a task the Student does not want to perform or the Student believes is difficult, when asked to stop doing something [REDACTED] is isn't supposed to do and is redirected, and when asked to stop a desired activity.⁷² The psychologist indicated the FBA confirmed the observations of the classroom teacher. The BMP reflected student strengths of "very social and seeks peer attention. He initiates conversations with adults."⁷³ The psychologist indicated the listed behaviors are not indicative of a

⁶⁷ See p. P1124

⁶⁸ See pp. D212-213, D812 and testimony of [REDACTED]

⁶⁹ See pp. P1104-1115.

⁷⁰ See p. D264 and testimony of [REDACTED]

⁷¹ See p. D904 and testimony of [REDACTED]

⁷² See p. D905 and testimony of [REDACTED]

⁷³ See p. D906.

student with autism.⁷⁴ The antecedent strategies included: “organized structured daily routine, check-in check-out with behavior sheet in AM/PM, forewarn of changes in schedule, social story for hands to self and compliance, model appropriate behavior/rules ahead of an activity.”⁷⁵

22) On May 15, 2014, the District completed an IEP team meeting for the purpose of completing the Student’s Annual Review.⁷⁶ The IEP team discussed the recently completed FBA and recommended BMP.⁷⁷ As a result of the FBA and BMP, the IEP team developed several new accommodations and modifications that included: “Manipulatives, Small quiet setting, Small Group Testing, Clarification of directions during testing, Extended testing time: 1.5 time, Reader for Tests, modified assignments/homework as needed, Preferential seating, close proximity to teacher, soft pillow on seat and floor for [REDACTED] own space at carpet, own desk and chair separate from tables.”⁷⁸ The last three accommodations and modifications were specifically recommended by the Parent.⁷⁹ The IEP team recommended a self-contained emotional disability classroom (ED) for the Student for the 2014-15 school year with approximately 4 – 6 students in the classroom and a teacher and two paras.⁸⁰ Currently the classroom has one teacher, two paras and four students scheduled for the fall of 2014. More one to one instruction that is very structured defines the pedagogical difference between the ED classroom and the Student’s general education classroom. The ED classroom identifies student behavior triggers using data collection and observation to develop appropriate individualized strategies to improve behavior. The ED classroom utilizes an hourly point sheet with the

⁷⁴ See testimony of [REDACTED].

⁷⁵ See p. D907 and testimony of [REDACTED].

⁷⁶ See p. D834 and testimony of [REDACTED].

⁷⁷ See pp. D842-845.

⁷⁸ See p. D859.

⁷⁹ See testimony of [REDACTED].

⁸⁰ See p. D862 and testimony of [REDACTED] and [REDACTED].

students, manipulatives, classroom library, computers, smart board, visual systems, picture schedule, calendar time and visual/tactile approaches with the students. The ED program also utilizes a social skills group weekly with the students focusing on role play and behavior triggers. The ED program also provides consistent routines in the schedule including brain gym breaks, computer breaks, water breaks and utilizes a picture schedule for communication.⁸¹ The IEP team reviewed the Student's present levels of performance and included goals for knowledge of numbers, collect data, visual motor integration, knowledge of words, effective classroom participation, following basic rules, using common social routines, participate in social play, speech intelligibility, socially appropriate language, and idea communication.⁸²

CONCLUSIONS OF LAW

22) Based upon the above Findings of Fact, the arguments of counsel, as well as this Hearing Officer's own legal research, this section includes the Conclusions of Law as it relates to the issues identified.

23) Issue (i.) "Failing to conduct an appropriate evaluation from September 2012 to the present that included multiple assessments in all areas of need.

A. The Parent alleges that the District failed to conduct an appropriate evaluation of the Student despite several evaluations from outside evaluators shared with the District by the Parent and the Parent's repeated pleas for an evaluation. Since the Parents arguments relate to after the Student was first identified as a student with a disability, then the allegation relates specifically to reevaluation. IDEA specifically defines reevaluation:

"A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311— (1) If the public agency determines that the educational or related services needs, including

⁸¹ See testimony of [REDACTED]

⁸² See pp. P864-869.

improved academic achievement and functional performance, of the child warrant a reevaluation; or

(2) If the child's parent or teacher requests a reevaluation. (b) Limitation. A reevaluation conducted under paragraph (a) of this section— (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and (2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.⁸³

B) Other jurisdictions have ruled if a district determines that a child is no longer a child with a disability,⁸⁴ or if a district believes that a student no longer requires special education or related services, it must reevaluate the student in all areas of suspected disability.⁸⁵ Finally, the district may determine the student no longer requires special education if, after a comprehensive evaluation, it determines that the student does not need IDEA services to obtain a meaningful educational benefit.⁸⁶

C) The Student was formally reevaluated and the results discussed during the IEP meeting in May of 2012.⁸⁷ The IEP team concluded that the Student continued to require special education services as a student with a speech and language disability and recommended placement in a regular education classroom with accommodations and modifications and required related services. The Parent disagreed with the conclusion.⁸⁸ In May of 2013, the District completed the Student's annual review IEP. During the meeting, attended by the Parent and her legal representative, the District considered the LFR. The only evaluation requested by the Parent during the 2013 annual review was whether the IEP team should conduct an FBA and develop a BMP. The IEP team considered the request and concluded it unnecessary at the time due to the Student's

⁸³ See 20 USC 1414(a)(2).

⁸⁴ *Corona-Norco Unified Sch. Dist.*, 22 IDELR 469 (SEA CA 1995); *Reserve Indep. Schs.*, 112 LRP 6241 (SEA NM 2012); and *Board of Educ. of City of White Plains*, 20 IDELR 1475 (SEA NY 1994).

⁸⁵ *Board of Educ. of City of White Plains*, 20 IDELR 1475 (SEA NY 1994); and *Brimmer v. Traverse City Area Pub. Sch.*, 22 IDELR 5 (W.D. Mich. 1994).

⁸⁶ See *South Pasadena Unified Sch. Dist.*, 58 IDELR 120 (SEA CA 2011); *Connecticut Technical High Sch. Sys.*, 112 LRP 49055 (SEA CT 2012); and *Victor Elementary Sch. Dist.*, 50 IDELR 204 (SEA CA 2008).

⁸⁷ See *Supra* Notes 7 and 12.

⁸⁸ See *Supra* Notes 15-18.

improving behaviors.⁸⁹ Two more IEP meetings were conducted in September and October of 2013. The first IEP discussed behavior issues the Student manifested during the first few weeks of school. In response, the IEP team added increased resource teacher time and para time for the Student. While the Parent expressed disagreement, the Parent authorized the recommended changes.⁹⁰ During January of 2014, the Parent expressed happiness over the Student's progress and marveled at the teacher's ability to work with [REDACTED].⁹¹ Then in March of 2014, after the Student's behavior issues increased markedly, the District conducted an IEP team meeting for the purpose of completing [REDACTED] reevaluation. The Parent wanted the meeting limited to the Student's placement and the District agreed. The Parent asked the District to place the Student in a self-contained classroom for children with Autism. As a result of the Student's escalating behaviors, the IEP team decided to conduct a reevaluation in the form of an FBA/BMP.⁹² Then in May of 2014, the IEP team conducted an IEP team meeting to discuss the results of the Student's FBA and social emotional evaluation. As a result of the FBA and social emotional evaluation, the IEP team recommended a change in placement to a self-contained ED classroom for the 2014-15 school year.⁹³ The facts support that the Parent specifically requested on two occasions an evaluation of the Student, during the 2013 annual review IEP team meeting and the March 2014 IEP team meeting.⁹⁴ Both requests were for the IEP team to conduct an FBA/BMP. Consistent with the statutes,⁹⁵ the District explained to the Parent during the 2013 annual review why the District did not believe the Student required a reevaluation for the purpose of completing the FBA/BMP and then completed the FBA/BMP after the Parent requested it during the March of 2014

⁸⁹ See *Supra* Notes, 30-32, and 35.

⁹⁰ See *Supra* Note 48.

⁹¹ See *Supra* Note 52 and 57 and testimony of [REDACTED].

⁹² See *Supra* Notes 72-77.

⁹³ See *Supra* Note 80.

⁹⁴ See *Supra* Notes 35 and 67.

⁹⁵ See 20 USC §1415(b)(3) and 34 CFR §300.503.

IEP team meeting. At one point, the District specifically asked the Parent if she was seeking another evaluation. The Parent said no.⁹⁶ Thus, the Parent failed to meet their burden of proof for Issue (i.).

24) Issue (ii.). Failing to specifically identify the Student as a student with an Autism Spectrum Disorder. It was evident throughout the conduct of the hearing that this issue was a central theme of the Parent's DPCN. From the Mother's testimony to the questioning of the witnesses from the Parent's attorney, the question of whether the Student qualified for eligibility under any of the Autism Spectrum disorders proved to be a constant throughout the hearing.

A) As defined in the IDEA, autism is a developmental disability that affects verbal communication and social interaction.⁹⁷ The IDEA outlines its own standard for autism eligibility, and a medical diagnosis of autism will not in itself qualify a student for special education and related services. The IDEA defines autism as "a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a child's educational performance."⁹⁸ Additionally, the IDEA offers the following guidance: "Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences."⁹⁹ Age 3 is not a cut-off point for IDEA eligibility. A child who manifests these characteristics after age 3 could be identified as having autism if he meets the other eligibility criteria. A student does not qualify as a child with autism if his educational performance is adversely affected primarily because

⁹⁶ See *Supra* Note 55 and testimony of [REDACTED]

⁹⁷ See 34 §CFR 300.8 (c)(1)(i)

⁹⁸ *Id.*

⁹⁹ *Id.*

the child has an emotional disturbance.¹⁰⁰ A medical diagnosis of autism will not, standing alone, entitle a student to receive special education and related services. In order to meet the IDEA's definition of autism, the diagnosed "developmental disability affecting verbal and nonverbal communication and social interaction" must have an adverse effect on the child's educational performance.¹⁰¹ In order to be IDEA eligible, the child must also require special education services as a result of the student's particular disability.¹⁰² Not every child who has difficulties with communication, social interaction, or change will be eligible for IDEA services as a child with autism. A number of hearing officers have upheld determinations that behaviors such as throwing tantrums, refusing to listen to instructions, and speaking frequently about a particular subject are a normal part of child development.¹⁰³ A student does not qualify as a child with autism for purposes of the IDEA simply because he exhibits some traits of autism outside of the educational setting.¹⁰⁴ As discussed earlier, a medical diagnosis of autism will not in itself entitle a student to receive special education and related services. As with other disabilities identified in the IDEA, a student with a medical diagnosis of autism must show that the disability has an adverse effect on his educational performance.¹⁰⁵

B) Parents secured outside evaluations from a pediatric neurologist and a clinical psychologist. When the Student was about three years eight months old, the Student's pediatric neurologist diagnosed the Student with Autism Spectrum Disorder,

¹⁰⁰ See 34 §CFR 300.8 (c)(1)(ii)

¹⁰¹ See 34 §CFR 300.8. See also *La Mesa-Spring Valley Sch. Dist.*, 109 LRP 54643 (SEA CA 08/20/09).

¹⁰² See *Victoria Indep. Sch. Dist.*, 112 LRP 16077 (SEA TX 01/13/12).

¹⁰³ See, e.g., *Newark Unified Sch. Dist.*, 48 IDELR 171 (SEA CA 2007) (finding that a 4-year-old [redacted] who had tantrums, spoke in a loud voice, and had some difficulties playing with other children was exhibiting behavior that was typical of children his age); *Los Altos Sch. Dist.*, 48 IDELR 25 (SEA CA 2007) (determining that a preschooler's behavior and social interaction were fairly typical for a child [redacted] age); and *In re: Student with a Disability*, 58 IDELR 85 (SEA WV 2011) (holding that although the student exhibited some behavioral problems in school, the hearing officer found that those behaviors were not markedly different from those of his peers).

¹⁰⁴ See e.g., *La Mesa-Spring Valley Sch. Dist.*, 109 LRP 54643 (SEA CA 08/20/09); and *Clear Creek Indep. Sch. Dist.*, 6 ECLPR 46 (SEA TX 2008).

¹⁰⁵ See 34 CFR 300.8 (c)(1)(i).

confirmed by the Parent via a spontaneous email to the Student's teacher.¹¹⁵ Further, the Parent's outside evaluators acknowledged that the pediatric neurological diagnosis of Autism Spectrum Disorder and the clinical diagnosis of PDD NOS were medical diagnoses that met the criteria under the DSM IV and V and that neither constituted a diagnosis of Autism Spectrum Disorder as defined under the IDEA.¹¹⁶ Finally, there were significant discrepancies in the record in terms of what the Parent reported to the Student's pediatric neurologist and what he saw during his objective examination of the Student and what the Parent reported on numerous occasions that failed to match up with what the District either observed or reported.¹¹⁷ Thus, the Parent failed to meet their burden of proof on Issue (ii).

25) Issue (iii.) Failing to provide an appropriate IEP from September 2012 to the present that provided:

1. A small, highly structured classroom with appropriate accommodations and modifications suitable for children with autism;
2. Goals appropriate for all of the Student's deficits;
3. Peer-reviewed, evidenced-based instructional methods appropriate for children with Autism.
4. Appropriate assistive technology.

A) The issues detailed in (iii.) (1.) and (3.) are directly linked to the Autism Spectrum Disorder portion of the Parent's complaint. As a result of the ruling in paragraphs (28)(A-B) above, the IHO rules that the Parent failed to meet their burden of proof on these two sub issues for the same reasons as noted in paragraphs (28)(A-B). Sub issues (2.) and (4.) will be addressed herein.

B) Each IEP developed for a child with a disability must include: A statement of measurable annual goals, including academic and functional goals designed to: Meet the

¹¹⁵ See *Supra* Note 57.

¹¹⁶ See testimony of [REDACTED] and [REDACTED].

¹¹⁷ See testimony of [REDACTED], [REDACTED], [REDACTED], and [REDACTED] among others.

child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum. Meet each of the child's other educational needs that result from the child's disability. Annual goals are statements that describe what a child with a disability can reasonably be expected to accomplish within a 12-month period in the child's special education program.¹¹⁸ The description of annual goals should be specific enough to allow the district to determine whether the student made progress and also make clear which specific skills will be required in order to achieve those goals.¹¹⁹ The IEP team must write IEP goals in a way that allows for an objective measurement of the child's progress toward achieving the annual goals.¹²⁰ An IEP that lacks meaningful educational goals is likely to be fatally defective.¹²¹ The IDEA does not establish a specific number of goals that must be included in an IEP, as that would contradict the premise that every IEP should be individualized. However, there should be at least one annual goal for each area of need.¹²² The IEP goals should also include a description of how the IEP team will measure the child's progress toward achieving the annual goals.¹²³ The standard for determining if a student has received FAPE is whether the IEP was reasonably calculated to provide educational benefit to the

¹¹⁸ See *Letter to Butler*, 213 IDELR 118 (OSERS 1988). See also *Encinitas Unified Sch. Dist.*, 56 IDELR 147 (SEA CA 2011).

¹¹⁹ See 64 Fed. Reg. 12,471 (1999). See *D.S. and A.S. v. Bayonne Bd. of Educ.*, 54 IDELR 141 (3d Cir. 2010).

¹²⁰ See 71 Fed. Reg. 46,662 (2006).

¹²¹ See, e.g., *Susquentia Sch. Dist. v. Raelee S.*, 25 IDELR 120 (M.D. Pa. 1996) (parents were entitled to two years' reimbursement at a private school because the student's IEP lacked meaningful educational goals and, as a result, also lacked adequate short-term objectives, criteria for measuring progress, and adequate programming or services to address the student's identified problem areas). See also *Conemaugh Twp. Sch. Dist.*, 23 IDELR 1233 (SEA PA 1996) (recognizing that no program can appropriately address a student's needs without first defining the goals it is expected to achieve).

¹²² See *Bellflower Unified Sch. Dist.*, 54 IDELR 66 (SEA CA 2010) (finding that a 5-year-old boy's IEP was deficient because it did not contain goals to address his lack of attention in the classroom, his lying down in class, or his inability to participate in classroom activities); and *Pennsbury Sch. Dist.*, 48 IDELR 262 (SEA PA 2007).

¹²³ See 71 Fed. Reg. 46,662 (2006).

student.¹²⁴ Whether an IEP is reasonably calculated to provide educational benefit is determined prospectively.¹²⁵

C) The IDEA defines "assistive technology" as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability." The term does not include a medical device that is surgically implanted or the replacement of such a device.¹²⁶ "Assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.¹²⁷ The IDEA requires each public agency to ensure that assistive technology devices and services are made available to each child with a disability if required as part of the child's special education, related services, or supplementary aids and services.¹²⁸ Further, the IEP team must "consider whether the child needs assistive technology devices and services in order to receive a FAPE."¹²⁹ A device qualifies as AT only if it is necessary for the child to receive an educational benefit.¹³⁰ Districts are generally not required to provide the specific assistive technology devices or services specified by parents or agree with each request.¹³¹

¹²⁴ See *Board of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 553 IDELR 656 (U.S. 1982).

¹²⁵ See *Fuhrmann v. East Hanover Bd. of Educ.*, 19 IDELR 1065 (3d Cir. 1993); and *Adams v. State of Oregon*, 31 IDELR 130 (9th Cir. 1999).

¹²⁶ See 34 CFR §300.5.

¹²⁷ See 34 CFR §300.6.

¹²⁸ See 34 CFR §300.105 (a).

¹²⁹ See 34 CFR §300.324 (a)(2)(v). See also *Letter to Anonymous*, 24 IDELR 854 (OSEP 1996); *Letter to Fisher*, 23 IDELR 565 (OSEP 1995); *Letter to Naon*, 22 IDELR 888 (OSEP 1995); *Letter to Seiler*, 20 IDELR 1216 (OSEP 1993); *Letter to Anonymous*, 18 IDELR 627 (OSEP 1991).

¹³⁰ See *J.C. v. New Fairfield Bd. of Educ.*, 56 IDELR 207 (D. Conn. 2011).

¹³¹ See *A.S. and W.S. v. Trumbull Bd. of Educ.*, 45 IDELR 40 (D. Conn. 2006); *Eric H. v. Methacton Sch. Dist.*, 38 IDELR 182 (E.D. Pa. 2003) (court rejected parents' contention that video teleconferencing was necessary to permit the student to fully realize his extensive social and behavioral objectives); *Los Angeles Unified Sch. Dist.*, 46 IDELR 232 (SEA CA 2006) (finding that a district did not have to purchase a motorized wheelchair with a built-in stander for a ninth-grader with cerebral palsy, as the district's use of a stand-alone stander complied with the student's IEP); and *Collier County Sch. Bd.*, 44 IDELR 80 (SEA FL 2005).

D) During the two year period that the Parent's complaint spanned, the District conducted six IEP team meetings. Each IEP included measurable goals accompanied by measurable short term objectives that were based upon the IEP team's review of the Student's present levels of performance and any new assessments presented.¹³² Nothing in the record or testimony demonstrated a sufficient challenge of the efficacy of the goals, short term objectives, or the basis for determining those goals. As a result, the Parent failed to meet their burden of proof on Issue (iii.)(2).

E) With regards to assistive technology, this issue was not clearly defined or addressed during the hearing. Evidence supported the District reviewed whether the Student required assistive technology on at least one occasion.¹³³ Beyond that, the Parent failed to meet their burden of proof on Issue (iii.)(4).

26) Issue (iv.) - Failing to provide an appropriate IEP from May 2013 to the present that included appropriate accommodations and modifications to address the Student's behavior needs (e.g.; sensory needs, environmental structuring, visual systems, social stories, dietary needs, and needs related to impaired understanding of time).

A) The purpose of the IDEA is to provide a "cooperative process" between parents and schools, and a central component of this collaboration is the IEP process. A student's IEP constitutes the written document memorializing the collaborative effort between parents and district personnel to develop an educational plan for a student with a disability. The IEP describes the child's individual needs and proscribes the proper placement and services designed to meet those unique needs.¹³⁴ The IEP is the cornerstone of the IDEA

¹³² See *Supra* Notes 19, 32, 49,56, 69, and 82.

¹³³ See *Supra* Note 15.

¹³⁴ See *Schaffer v. Weast*, 44 IDELR 150 (U.S. 2005).

that sets forth the FAPE that is offered to a child with a disability eligible to receive special education and related services under the IDEA.¹³⁵ The failure of an IEP to address a child's educational needs will likely result in a denial of FAPE.¹³⁶ As described by the U.S. Supreme Court, the IEP is a comprehensive statement of the educational needs of a child with a disability and the specially designed instruction and related services a district will employ to meet those needs.¹³⁷

B) The IDEA defines an IEP as "a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with 34 CFR §300.320 through 34 CFR §300.324."¹³⁸ Among other requirements, an IEP must include a statement of the child's current educational performance, articulate measurable educational goals, and specify the nature of the special services that the district will provide.¹³⁹ A district's obligation to provide FAPE to a student with a disability is satisfied when the district provides the student with the personalized educational program necessary to allow the child to derive an educational benefit from that instruction. In other words, the FAPE requirement of the IDEA demands *access* to educational opportunity only, not the specific *achievement* of educational results.¹⁴⁰ The IEP does not operate as a contract offering guarantees that a student will achieve a certain amount of academic proficiency.¹⁴¹ Parent's questioning of witnesses suggested these last two points were the primary crux of the differences between the Parent and District both on this issue and the entire DPCN. Documentary evidence and testimony supports the notion

¹³⁵ See 34 CFR 300.17.

¹³⁶ See *Forest Grove Sch. Dist. v. T. A.*, 52 IDELR 151 (U.S. 2009).

¹³⁷ See *Burlington Sch. Comm. v. Massachusetts Dept. of Educ.*, 556 IDELR 389 (U.S. 1985).

¹³⁸ See 34 CFR §300.22.

¹³⁹ See 34 CFR 300.22 ; and 34 CFR 300.320 (a).

¹⁴⁰ See *Supra* Note No. 124.

¹⁴¹ See *Coale v. State Dept. of Educ.*, 35 IDELR 149 (D. Del. 2001). See also *Schaffer v. Weast*, 51 IDELR 177 (4th Cir. 2009) (holding that the parents could not use the student's 10th-grade IEP to show that his eighth-grade IEP was inappropriate, as the eighth-grade IEP was reasonably calculated to provide FAPE at the time it was developed).

that the Parent sought to "maximize" the Student's education.¹⁴² The IHO cannot fault this Parent, or any parent, for seeking such an education that would maximize the opportunities that a school provides. The IHO wants to acknowledge that the Parent made it genuinely clear that the parents care deeply for the Student and only wanted what the Parent believed the District was obligated to provide the Student. The IHO does not have the authority to grant to this Student, or any student, a program that maximizes educational opportunity. The Court in *Rowley* made it clear that the IDEA requires that schools provide a "basic floor of opportunity" to students with disabilities by providing them access to public education, as opposed to addressing the quality of education received once in school. This has been determined by many courts since 1982 that the IDEA does not require schools to provide students with the best or optimal education, nor to ensure that students receive services to enable them to maximize their potential. Instead, and as determined in *Rowley*, schools are obligated only to offer services that provide students with "educational benefit."

D) The testimony of all of the District's staff members and the review of the all of the Student's IEPs supports the District's position that the District provided the Student with a FAPE through all six IEPs that the Parent contested in this DPCN. The IEPs the District developed for the Student provided a review of present levels of performance, district and outside evaluations, the development of goals and measurable short term objectives, and the related services necessary for the Student to receive a FAPE in the least restrictive environment (LRE).¹⁴³ Thus the IEPs provided the Student with a statement of the child's current educational performance, articulates measurable educational goals, and specified the nature of the special services that the district would

¹⁴² See *Supra* Note 65.

¹⁴³ See *Supra* Note 132.

provide. Evidence and testimony substantiated that the District utilized social stories, visual systems, and attention to the Student's sensory needs.¹⁴⁴ The Parent failed to establish that the Student required accommodations or modifications relating to environmental structuring, dietary needs or impaired understanding of time. While the evidence strongly supported the Parent's wish to have the Student identified as a student with an Autism Spectrum Disorder, and therefore the typical accompanying accommodations for a student identified on the spectrum (e.g., sensory needs, environmental structuring, visual systems, social stories, dietary needs, needs related to impaired understanding of time), the Parent failed to meet their burden of proof that the Student met the IDEA definition of a student with Autism. As a result, the evidence and testimony presented failed to establish that the identified services requested by the Parent are not warranted and therefore, the Parent failed to meet their burden of proof on Issue (iv.).

27) Issue (v.) Failing to provide an appropriate IEP from May 2013 to March 2014 that provided an appropriate FBA and BIP. The Parent's allegations are specific to the one year period between the Student's two annual review IEPs when four of the six IEPs reviewed in the DPCN occurred.

A) When it comes to discipline, districts must follow certain procedures. One such procedure is the functional behavioral assessment (FBA). An (FBA) is a process that searches for an explanation of the purpose behind a problem behavior. The IDEA does not define the term "functional behavior assessment." "IEP teams need to be able to

¹⁴⁴ See testimony of District OT, [REDACTED] and [REDACTED] among others.

address the various situational, environmental and behavioral circumstances raised in individual cases."¹⁴⁵

B) The purpose of an FBA is to isolate a target behavior and to develop a hypothesis regarding the function of the target behavior. A target behavior is one that interferes with a student's ability to progress in the curriculum and to achieve the student's IEP goals. Once the target behavior is identified and the hypothesis developed, a positive behavior intervention plan can be prepared to address the target behavior with strategies and interventions, if necessary, or the target behavior can be addressed using a more informal approach.¹⁴⁶ With regard to conducting behavioral assessments, the ED notes that 34 CFR §300.304 (c)(4) "requires the public agency to ensure that the child is assessed in all areas related to the suspected disability. This could include, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. This is not an exhaustive list of areas that must be assessed. Decisions regarding the areas to be assessed are determined by the suspected needs of the child. If a child's behavior or physical status is of concern, evaluations addressing these areas must be conducted."¹⁴⁷

C) Whether parental consent is required to conduct an FBA depends largely on what is meant by an FBA. OSEP explained in *Letter to Christiansen*,¹⁴⁸ that a district that intends to conduct an FBA should ask itself one question: Will the FBA focus on the educational and behavioral needs of a specific child? If so, the FBA qualifies as an evaluation or reevaluation under Part B and triggers all of the accompanying procedural safeguards, including the need to seek parental consent. OSERS stated that as with other

¹⁴⁵ See 64 Fed. Reg. 12,620 (1999).

¹⁴⁶ See *Broward County Sch. Bd.*, 110 LRP 38160 (SEA FL 05/07/10). See also *Independent Sch. Dist. No. 2310*, 29 IDELR 330 (SEA MN 1998).

¹⁴⁷ See 71 Fed. Reg. 46,643 (2006).

¹⁴⁸ See 48 IDELR 161 (OSEP 2007).

individualized evaluation procedures, parental consent is required for an FBA to be conducted as part of the initial evaluation or a reevaluation.¹⁴⁹ It is important to note that the IDEA does state that FBAs and behavior intervention plans are required components of the IEP.¹⁵⁰ In developing an IEP, the IDEA requires that IEP teams address behavior management whenever a student's behavior is interfering with the child's ability to benefit from his educational programming. Specifically, the IDEA states that the IEP team must consider the child's need for the use of "positive behavioral interventions and supports" in the case of a student with a disability whose "behavior impedes learning or that of others."¹⁵¹ In this DPCN it is important to also note that while an FBA may help the IEP team address behavioral issues, the IDEA does not require the IEP team to conduct an FBA in order to meet this requirement.¹⁵²

D) The District conducted the September 2013 IEP team meeting at the request of the Parent. At that time, the Student presented with some behavior issues.¹⁵³ After a review of the Parent's concerns and the Student's current behaviors the IEP team decided to add additional time with the special education teacher and increased the Student's para time to a full day (except for the periods the Student's needs were addressed by the resource teacher).¹⁵⁴ The District then followed up on the Student's progress at an IEP team meeting in October 2013 and the team discussed the Student's behavior data and

¹⁴⁹ See *Questions and Answers on Discipline Procedures*, 52 IDELR 231 (OSERS 2009)

¹⁵⁰ See 71 Fed. Reg. 46,629 (2006).

¹⁵¹ See 34 CFR 300.324 (a)(2)(i).

¹⁵² See 71 Fed. Reg. 46,683 (2006). See also *W.S. and K.M. v. Nyack Union Free Sch. Dist.*, 56 IDELR 210 (S.D.N.Y. 2011) (observing that the lack of an FBA doesn't render an IEP procedurally inadequate; the IDEA requires only that the IEP team consider behavior interventions and strategies); and *L.G. v. Wissahickon Sch. Dist.*, 55 IDELR 280 (E.D. Pa. 2011) (holding that the district argued that its IEPs provided FAPE and that it was unnecessary to conduct an FBA because the student's behaviors, which included loud vocalizations and tugging on his ears, did not impede his or other students' learning). The IDEA does not expressly require that an FBA be in writing. *Board of Educ. of the Akron Cent. Sch. Dist.*, 28 IDELR 909 (SEA NY 1998); and *Issaquah Sch. Dist.*, 107 LRP 63423 (SEA WA 06/22/07) (noting that there is no requirement in the IDEA for an FBA to be in writing).

¹⁵³ See *Supra* Note 46.

¹⁵⁴ See *Supra* Note 48.

concluded the Student now presented with improved behaviors.¹⁵⁵ Later in the 2013/14 school year, the Student presented with increased behaviors and the District agreed with the Parent's request that an FBA and BMP were appropriate to address the recent change in behaviors.¹⁵⁶ The District psychologist completed an FBA and BMP in May of 2014 and the IEP team reviewed them and incorporated both into the Student's annual review IEP.¹⁵⁷ The psychologist's completed FBA/BMP included an hypothesis of the targeted behaviors and identified the antecedents of the targeted behaviors. The BMP was then developed based upon the hypothesis and antecedents.¹⁵⁸ Thus, when the Student first presented with behaviors that might interfere with his learning, the District acted and conducted an IEP team meeting and increased the Student's services and a reduction in behaviors occurred. When the behaviors escalated a few months later, the District again acted and this time authorized an FBA/BMP which the IEP team reviewed and implemented. The evidence and testimony presented supported that the District complied with all aspects of the IDEA related to addressing the Student's behavior needs. Thus, the Parent failed to meet their burden of proof regarding issue (v.).

28) Issue (vi.) - Failing to consider the Parent provided independent evaluations and physician reports. This issue alleges the District failed to consider the Parent's independent evaluator reports.

A) If a parent obtains an IEE at public expense or shares an evaluation obtained at private expense, the IDEA requires that school districts must consider the results of that evaluation when making decisions involving the provision of FAPE to the child

¹⁵⁵ See *Supra* Note 51.

¹⁵⁶ See *Supra* Note 67.

¹⁵⁷ See *Supra* Notes 72 and 78.

¹⁵⁸ See *Supra* Notes 71-78.

(provided that the IEE meets district criteria).¹⁵⁹ While a district must consider the results of an IEE, it has no obligation to adopt the evaluator's recommendations or conclusions.¹⁶⁰ Finally, a district has no obligation to substitute a privately obtained IEE for an evaluation of its own.¹⁶¹

B) The Parent submitted two formal assessments of the Student. The Parent submitted a neurological evaluation of the Student completed by [REDACTED] and the LFR completed by [REDACTED]. In both instances, the IEP documented careful review and discussion of the reports submitted.¹⁶² For example, testimony revealed that some of the LFR recommendations were implemented into the Student's IEP.¹⁶³

Merriam Webster online dictionary defines the term "consider" as: "to think about (something or someone) carefully especially in order to make a choice or decision; to think about (something that is important in understanding ...)" The evidence and testimony revealed the District IEP team reviewed the letter from [REDACTED] and the [REDACTED] completed by [REDACTED] and not only "thought about them carefully in order to make a decision," but also implemented some of the recommendations.¹⁶⁴ While the evidence also supports the District did not agree with some parts of the reports, there is no doubt the District "considered" the reports as required under the IDEA. Thus, the Parent failed to meet their burden of proof for Issue (vi).

29) Issue (vii). "Failing to keep the Student safe from physical harm and Issue (viii).

Failing to properly investigate and inform the Student's guardians of injuries sustained by

¹⁵⁹ See 34 CFR §300.502 (c)(1).

¹⁶⁰ See, e.g., *T.S. v. Board of Educ. of the Town of Ridgefield*, 20 IDELR 889 (2d Cir. 1993); *G.D. v. Westmoreland Sch. Dist.*, 17 IDELR 751 (1st Cir. 1991); and *Garvey Sch. Dist.*, 110 LRP 44204 (SEA CA 07/19/10).

¹⁶¹ See *Quitman Sch. Dist.*, 111 LRP 18235 (SEA MS 01/24/11).

¹⁶² See *Supra* Notes 30-35 and 54.

¹⁶³ See *Supra* Note 31.

¹⁶⁴ See *Supra* Notes 162 and 163.

the Student.” Issues (vii.) and (viii.) are inextricably linked. The Parent alleged the Student received multiple injuries at school, some that resulted in the Student’s hospitalization and that the injuries were a direct result of the District’s failure to protect the Student in light of the Student’s medical fragility. Further the Parent alleged that the District failed to properly investigate the injuries and provide the Parent with the resulting investigative information.

A) When selecting a student's placement, IEP teams must consider any potential harmful effect on the child or on the quality of services that he or she needs. That rule is especially relevant with respect to students with diseases or complex medical issues. Generally, if a proposed placement is safe for the student and has been designed to address all of the child's needs related to his medical issues, then a more restrictive placement is not required.¹⁶⁵ "Medically fragile" generally means a student requiring intensive and prolonged health care as a result of a catastrophic medical event or congenital condition. The term, when used in connection with special education, can refer to one having extreme medical needs that require specific procedures to be provided or available during the day in order for the student to attend school, thus complicating provision of a program designed to meet educational needs; sometimes also referred to as "technologically dependent."¹⁶⁶ A child who is medically fragile and needs school health services or school nurse services in order to receive FAPE must be provided such services, as indicated in the child's IEP.¹⁶⁷ When a student suffers from a disability that makes him medically fragile, the Court has required

¹⁶⁵ See 34 CFR 300.116 (d).

¹⁶⁶ See *Special Ed Connections*: “SmartStart: Placement -- Students with Medical Issues.”

¹⁶⁷ See 71 Fed. Reg. 46,574 (2006). See *East Maine Sch. Dist.* 33, 9 ECLPR 55 (SEA IL 2011) (Because under state regulations the services a student required to address his medical needs were ones only a nurse could render, the district should have provided nursing services on a full-time basis, rather than using an aide for part of the day). In order to meet these needs, districts may seek an independent medical reevaluation of the student to resolve conflicting and incomplete information about the student's condition. See *Shelby S. v. Conroe Indep. Sch. Dist.*, 45 IDELR 269 (5th Cir. 2006), *cert. denied*, 549 U.S. 1111, 109 LRP 47876 (2007).

districts not only to accommodate [REDACTED] in the classroom, but also during transportation to and from school.¹⁶⁸ Just because a student is medically fragile does not mean a district must agree to the parent's desire for a more restrictive placement.¹⁶⁹

B) In this DPCN, the District concluded the Student was medically fragile and put into place a number of accommodations to meet his needs for safety. First the District provided the Student with daily nursing services to address the care of the Student's ileostomy.¹⁷⁰ When planning for the Student's placement from a self-contained classroom with low pupil teacher ratio and para support, the District first provided the Student with individual para support to escort the Student to the nurse's office, the cafeteria/recess, and the gym.¹⁷¹ Later when the Student presented with increased behavior issues, the IEP team increased the Student's para support to more than 70% of the Student's school day to insure his success in the classroom and address safety concerns.¹⁷² The IEP team also instituted a behavior plan utilizing behavior charting to address the Student's behaviors. In a follow-up IEP team meeting, the IEP team documented the improved behaviors of the Student as a result of the changes.¹⁷³ The record documents instances of injury to the Student while at school. The record also documents subsequent investigations by the District of some of the documented injuries [including independent investigations by the Illinois Department of Children's Services (DCFS)] that the injuries were minor in nature and consistent

¹⁶⁸ See *Cedar Rapids Community School District v. Garret F.*, 29 IDELR 966 (1999). The administrative decision in *Cedar Rapids Community School District*, 22 IDELR 278 (SEA IA 1994), concerned a 12-year-old student who was paralyzed from the neck down and depended on use of a ventilator for life support. For the student to attend school during the day, he needed catheterization, suctioning of his tracheotomy tube, monitoring of his ventilator, Ambu bagging, and assistance with eating, drinking and positioning.

¹⁶⁹ See *In San Ramon Valley Unified School District*, 56 IDELR 26 (SEA CA 2010), despite the parent's safety concerns, the district demonstrated that it could safely educate the student with vision and orthopedic impairments in a district SDC, that it would remove clutter and unnecessary furniture from the classroom, that the student's health would not be jeopardized by using the bathroom in the nurse's office, and that staff could get the student to the restroom in just two minutes

¹⁷⁰ See *Supra* Note 22.

¹⁷¹ See *Supra* Note 38.

¹⁷² See *Supra* Note 48.

¹⁷³ See *Supra* Note 51.

with the type of injury young children might incur during normal activities at school [e.g., rug burn, facial scratch, bruising, etc.].¹⁷⁴ The record also reflected conflicting evidence between the Mother's reporting of injuries to the Student and what District staff members witnessed.¹⁷⁵ Finally, when the Student again presented with increased behavior issues, the IEP team recommended and subsequently completed an FBA/BMP for the Student and based upon those assessments recommended a change in placement to a smaller, self-contained special education classroom with four students and three staff members [teacher and two paras].¹⁷⁶ Thus, the District recognized the Student as medically fragile and provided appropriate accommodations and support to meet the Student's medically fragile needs. Whenever the Student presented with behaviors that might be harmful to the Student or others, the District conducted an IEP team meeting and each time created a new plan and/or provided increased modifications and supports to address the Student's concerning behaviors. When the Parent alleged improper behavior by a staff member, the District and DCFS conducted investigations of the allegation. Investigations of staff members are personnel matters and by law confidential. As a result, the Parent was not entitled to any of the investigative records nor the outcome of the investigation.¹⁷⁷ The Parent was informed that the DCFS investigation resulted in a determination of "unfounded."¹⁷⁸ Thus, the Parent failed to meet the Parent's burden of proof on Issues (vii.) and (viii).

30) Finally, the IHO received from the Parent via electronic mail a motion to shift the

¹⁷⁴ See *Supra* Notes 58, 62-63 and the testimony of [redacted], Amy Blinn, Carol Jackson, [redacted], the Mother and other staff who testified. Also see testimony of [redacted] DCFS indicating the investigation of [redacted] constituted a personnel matter and thus Parent was not entitled to the record related to that investigation, nor the outcome.

¹⁷⁵ *Id.*

¹⁷⁶ See *Supra* Notes 67, 72-82 and the testimony of [redacted], [redacted], and [redacted] among others.

¹⁷⁷ See testimony of [redacted]

¹⁷⁸ See testimony of Carol Jackson, Colleen Gunn, and the Mother.

burden of proof from the Parent to the District. The Parent sought this motion as a result of the Parent's allegation that the District withheld Student records from the Parent. The motion was received by the District and the IHO one day before the close of the 5 business day deadline and the night before an upcoming holiday weekend. As a result, the District sought to continue the hearing to have sufficient time to respond to the allegation contained in the Parent's motion. The IHO denied the District's motion for a continuance over the concern of maintaining the spirit of the 45 day deadline for a decision. The Parent's DPCN was first filed in early April 2014. Further, both parties were ready to proceed to hearing on the other eight issues identified in the Parent's complaint. The IHO noted in the ruling denying the District's continuance motion that it was important to address the Parent's allegations and important for the District to have a fair opportunity to defend itself against those allegations. The IHO also noted that to be fair, both parties should have a chance to present both documentary evidence and witness testimony. The IHO noted that the current 45 day timeline did not allow for a separate hearing on the motion and therefore ruled that the parties should be prepared to present documentary evidence and testimony on the allegations contained in the Parent's motion as part of the scheduled hearing. The District maintained this then amended the Parent's complaint and violated federal statutes prohibiting the addition of any new issues after the 5 disclosure deadline. Further, the District maintained that the federal and State statutes required that timelines recommence whenever a complaint is amended. The IHO acknowledged that both of these statements of law were accurate, but the intent was not to add a new issue to the complaint, but rather provide a hearing within the hearing on the Parent's motion to shift the burden of proof to the District, or in the alternative assign negative inferences to the District on the findings of fact for failing to provide all records. Since the IHO's approach to addressing the Parent's motion was to conduct a hearing on

the allegations within the scheduled hearing context, the IHO did not include discussion of the motion's allegations in the Findings of Fact section of this decision. Rather, the IHO addressed the allegations in this section. A cursory review of the documentary evidence submitted by the Parent reveals over 1400 pages of documents, the vast majority of these are Student records provided to the Parent by the District. Further, upon being served with the motion just days before the hearing and receiving a ruling that the motion would be addressed during the scheduled hearing, the District undertook an additional search to uncover any outstanding records.¹⁷⁹ The Parent failed to present any evidence or elicit any testimony that the District knowingly or accidentally withheld student record information as alleged in the Parent's motion to shift the burden of proof. While the District acknowledged that records related to the Parent's allegations against para [REDACTED] were withheld, the District properly identified those records as personnel records and not student records and thus, the Parent was not entitled to copies of those investigative records. Other than the personnel records just mentioned, the Parent failed to present any evidence of missing records or elicit testimony of the existence of any records that were not turned over to the Parent. As a result, the Parent's motion to shift the burden of proof to the District, or in the alternative assign negative inferences as to the findings of fact is denied.

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby ordered:

The IHO rules that the preponderance of the evidence did not support a ruling in favor of the Parent. Thus the IHO rules wholly for the District. The Parent's request for the following relief:

1. Reimburse Parents for evaluations completed by [REDACTED] for

¹⁷⁹ See testimony of various staff and in particular testimony of Colleen Cyrus.

Autism [Parent must provide the District and the IHO with receipts for all expenses related to this request as part of the five business day disclosure documents].

2. Order the IEP team to change the Student's primary eligibility to Autism/Autism Spectrum Disorder.
3. Order the IEP team to convene and incorporate all educational recommendations from the [REDACTED] evaluation team, specifically the April 2013 and June 2014 assessments [June 2014 subject to a ruling on any objection submitted by the District].
4. Order the District to complete a FBA and BIP for the Student completed by a board certified behavioral analyst as mutually agreed to by the parties.
5. Order the District to fund a private therapeutic day school placement for the Student that specializes in children with Autism and that utilizes ABA in the curriculum.
6. Order the District to provide any needed transportation as a related service.
7. Order the District to provide the Student with a dedicated professional trained in working with children with autism, ileostomy care, and student incontinent management.
8. Order the District to provide the Student with two hours per week for two years of ABA behavioral therapy with transportation to and from the location of the compensatory services. [Parent will provide a not too exceed hourly rate for the services based upon quoted rates from at least two area providers. The information must be provided no later than the 5 business day disclosure deadline for other documents].

are all denied.

NOTICE OF RIGHT TO REQUEST CLARIFICATION

Pursuant to 105 ILSC 5/14-8.02a(h) either party may request clarification of this decision by submitting a written request to the Hearing Officer within five (5) days of receipt of the decision. The request for clarification shall specify the portions of the decision for which clarification is sought. A copy of the request shall be mailed to all other parties and the Illinois State Board of Education, Program Compliance Division, 100 North First Street, Springfield, IL 62777. The right to request 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.

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Pursuant to 105 ILCS 5/14-8.02a(i), any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within one hundred and twenty (120) days from the date the decision is mailed to the party.

IT IS SO ORDERED:

Dated: August 4, 2014

A large, thick black horizontal bar redacting the signature of the Impartial Hearing Officer.

Impartial Hearing Officer
222 E Surrey Lane, East Peoria, IL 61611
mikerisen@msn.com
309-694-4864 phone
309-694-2295 fax

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Final Determination and Order was sent via electronic mail as an attached PDF file, and 1st class USPS, certified mail, return receipt, and directed to:

[REDACTED], Esq.

And

[REDACTED], Esq.

[REDACTED]
[REDACTED]

[REDACTED]

@: [REDACTED]

@: [REDACTED]

And

[REDACTED], Esq.

And

[REDACTED], Esq.

[REDACTED]
[REDACTED]

[REDACTED]

@: [REDACTED]

@: [REDACTED]

And

Mr. Andrew Eulass, Esq., Due Process Coordinator

@: aeulass@isbe.net

On August 4, 2014

[REDACTED]

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