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**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT¹,

Student,

Case No: 2015-0350

v.

Janet K. Maxwell-Wickett,
Impartial Hearing Officer


School District.

FINAL DETERMINATION AND ORDER

JURISDICTION

The undersigned has jurisdiction over this matter pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C §1400 *et seq.* and the Illinois School Code, 105 ILCS 5/14-8.02a *et seq.*

BACKGROUND

The Student is a 16-year-old, male who is a junior in high school. He qualifies for special education services under the disability categories of specific learning disability (SLD) and other health impairment (OHI), due to an Attention Deficit Hyperactivity Disorder (ADHD) diagnosis, pursuant to an eligibility and IEP meeting on June 2, 2015. The Student was found to have educational needs in the areas of: word decoding and reading fluency, math calculation, written expression, organization and work completion. The Student is enrolled in general education classes in English, Math, and U.S. History. These classes are general education

¹ Personal identification information is provided in Appendix A.

classes which are co-taught with special education teachers (i.e. there is a general education teacher and a special education teacher assigned to each classroom). Parent disagreed with three (3) of the IEP goals created for the Student, maintained that one of said goals was not being implemented by the District, and further maintained that the Student's present levels of performance were not considered when creating the Student's reading goal.

The Parent filed the Due Process Complaint Notice (DPCN) on June 2, 2015. (IHO Exhibit 1.) On June 9, 2015, the District filed a Motion for Sufficiency. (IHO Exhibit #3.) This Hearing Officer found Parent's DPCN to be insufficient and allowed Parent ten (10) calendar days, to June 19, 2015, to amend her DPCN. (IHO Exhibit #6.) Parent timely filed an Amended DPCN on June 19, 2015. (IHO Exhibit #7.) The parties participated in mediation on July 1, 2015 but were unable to resolve any of the outstanding issues. Based upon this, the 45-Day timeline for this Hearing Officer to render a decision began to run on June 19, 2015 and the initial 45-Day deadline was September 3, 2015. The Parties jointly requested a continuance of the 45-day deadline on August 25th in order to accommodate scheduling constraints of the Parties and to allow the Due Process Hearing to be scheduled for October 15th and 19th. This Hearing Officer granted the continuance request pursuant to Order entered on August 26th. (IHO Exhibit #12.) At the September 4, 2015 prehearing conference, the Parent raised new and additional issues for consideration by this Hearing Officer. Parent requested additional time to amend her DPCN. Parent was granted time to file an amended DPCN and did so on September 11, 2015. (IHO Exhibit #16.) The District filed a Response to the Amended DPCN. (IHO #17.) The amended DPCN was accepted as of the date of filing and the 45-day deadline was reset to November 25, 2015. The Parties participated in a resolution session, however, the timeline was

not reset to accommodate this, as both Parties agreed to maintain the previously scheduled hearing dates. (IHO Exhibit #18.)

The due process hearing was scheduled to convene on October 19th and November 11th, 2015. On October 14, 2015, the Parent requested a continuance of the due process hearing as she failed to provide the five (5) day disclosures as scheduled. As the Parent has several disabilities, is unrepresented and misunderstood this Hearing Officer's instructions regarding the five (5) day disclosures, the continuance was granted. However, the decision due date remained unchanged. (IHO Exhibit #22.) The due process hearing commenced on November 11, 2015 but the hearing was not completed. The parties jointly requested a continuance of the 45-Day timeline in order to complete the hearing. The continuance was granted on November 13, 2015. Due to scheduling constraints of the parties a second hearing date was unable to be scheduled before January 5, 2016. Therefore the deadline for this Hearing Officer to render a decision was extended to January 15, 2016. (IHO Exhibit #27.)

The Parent opted for a closed hearing. The Due Process Hearing was held on November 11, 2015 and January 5, 2015. [REDACTED] of [REDACTED] represented the District. Dr. [REDACTED] was the District Representative. The Parent was unrepresented by counsel. Advocate, [REDACTED] of the [REDACTED] assisted the Parent. The parties presented joint witnesses.² The parties presented the following Joint Exhibits: JE 1 – 6 and 8, which were admitted into evidence. The District presented the following Exhibits: District 5 & 6, which were admitted into evidence. The Parent presented the following Exhibits: PE 2 - 4, 12, 15, 17 – 18, and 19 (pages 65-66, 70-71, 75-76) which were admitted into evidence. The Hearing Officer's Exhibits were: IHO Exhibits # 1-30. Both parties submitted oral closing statements and any case law relied upon.

² Joint Witnesses are listed in Exhibit A.

ISSUES

The issues raised by the Parent are as follows:

(a) Whether the academic reading goal on page 94 of the June 2, 2015 IEP which states that the Student “will improve his decoding of unknown words when reading grade level material” is adequate to assist the Student in making educational progress given his disability and to provide the Student with FAPE as required by 34 CFR §300.320(a)(2)(i)(A)&(B).

(b) Whether the academic reading goal on page 94 of the June 2, 2015 IEP referenced above has been implemented as stated in the IEP in order to provide the Student with FAPE as required by 34 CFR §300.320(a)(2)(i)(A)&(B).

(c) Whether the Student’s present levels of performance were taken into consideration when the academic reading goal on page 94 of the June 2, 2015 IEP was created in order to ensure adequate educational progress and to provide Student with FAPE as required by 34 CFR §300.320(a)(1).

(d) Whether the transition education/functional short term objective contained in the June 2, 2015 IEP goal statement #2 “when any one of [the Student’s] academic grades falls below 75% and given one teacher prompt, he will schedule a tutoring session with his teacher at least once per week during a mutually free period in 4 out of 5 trials” is appropriate and adequate to assist the Student in making educational progress given his disability and to provide the Student with FAPE as required by 34 CFR §300.320(a)(2)(i)(A)&(B).

(e) Whether the transition education/functional short term objective contained in the June 2, 2015 IEP goal statement #3 “when given an assignment by a classroom teacher that must be completed outside of the classroom, [Student] will complete the assignment independently or utilizing his study hall and turn it in by the given due date in 4 out of 5 trials” is appropriate and adequate to assist the Student in making educational progress given his disability and to provide the Student with FAPE as required by 34 CFR §300.320(a)(2)(i)(A)&(B).

The Parent requests that this Hearing Officer determine that the academic reading goal on page 94 of the June 2, 2015 IEP did not take into consideration the Student’s present levels of performance, is not adequate to assist the Student in making educational progress, and is not being implemented as required by the IEP and thus, the Student is not being provided with FAPE. The Parent further requests that this Hearing Officer determine that the transition education/functional short term objectives contained in the June 2, 2015 IEP goal statement #2 and goal statement #3 are not adequate to assist the Student in making educational progress and thus, the Student is not being provided with FAPE.

The District maintains that, at all times in question, the IEP goals considered the Student’s present levels of performance, are adequate, are designed to assist the Student in making educational progress, and are being implemented pursuant to the June 2, 2015 IEP and thus, the Student is receiving FAPE.

The Parent requests that this Hearing Officer award compensatory education in the form of tutoring in the area of reading with the [REDACTED] Center in [REDACTED], Illinois four (4) days per week, at two (2) hours per day for a period of four (4) to six (6) weeks. The Parent further requests that the Student be awarded tutoring and homework assistance with the Sylvan Learning Center in Gurnee, Illinois for four (4) days per week, for one (1) hour each day for a period of one (1) year.

FINDINGS OF FACT

This Hearing Officer did have the benefit of a transcript with respect to the testimony heard on November 11, 2015 but did not have a transcript for the January 5, 2016 testimony when writing this decision. Therefore, the following is based upon the November 11, 2015 transcript, this Hearing Officer's personal notes, recording of the hearing, and recollection. This Hearing Officer carefully considered the testimony of all witnesses presented and all documents introduced and admitted into evidence whether or not specifically referred to or cited when making her final determination. After considering all the evidence, as well as the arguments of both District counsel and the Parent, this Hearing Officer's Findings of Fact are as follows:

1. The Student is a 16-year old male who is currently a junior in high school. He qualifies for special education services under the disability categories of specific learning disability (SLD) and other health impairment (OHI), due to a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD), pursuant to an eligibility and IEP meeting held on June 2, 2015. (Testimony of Dr. A³; SJ⁴; JG⁵; BP⁶; TD⁷; JL⁸; Dr. C⁹; Tr. at 197-198, 162; Joint Exhibit 4.)

³ Dr. A is an outside school psychologist. He is in private practice with the [REDACTED]. He has been a certified school psychologist since 1975 and has held a PhD in school psychology since 1988.

⁴ SJ is a special education teacher and case manager employed by District [REDACTED]. She has been so employed for thirteen (13) years. She is a special education teacher licensed by the Illinois State Board of Education. She also holds a type 75 license in administration. She holds a Bachelor of Science from [REDACTED] College in learning disabilities and social-emotional disorders with a minor in psychology. She holds a Master's Degree in Administration.

2. The Student is enrolled in general education classes in English, Math, and U.S. History. These classes are general education classes which are co-taught with special education teachers (i.e. there is a general education teacher and a special education teacher assigned to each classroom). He participates in Tech Campus in an Automotive vocational class and in physical education class with general education students. He also receives a daily supported study hall period and 30 minutes per week of social work services. (Testimony of SJ, BP, JG, KB, TD; Joint Exhibit 4.)

3. The Student has received special education services and supports throughout his educational career. (Joint Exhibit 4.)

4. As part of the Student's re-evaluation for special education services, he was evaluated by Dr. A in May 2015. (Testimony of Dr. A; Joint Exhibit 4.)

5. The Student consistently scored in the average or above average range of intelligence. He has no major cognitive deficits. Behaviorally, the Student has not had any major behavioral difficulties at school. (Testimony of Dr. A; Tr. at 143-144; Joint Exhibit 4.)

6. The Student's reading skills were evaluated utilizing the Woodcock-Johnson IV Tests of Achievement and the Wechsler Individual Achievement Test – Third Edition. The Student's reading comprehension skills are in the average range. (Testimony of Dr. A, BT, SJ, KB1, KB2; Tr. at 319; Joint Exhibit 4.) He has some difficulty with oral reading fluency and with word

⁵ JG is a special education teacher employed by District [REDACTED] and assigned to Integrated Math II, Biology, and English III. She is licensed by the Illinois State Board of Education. She holds a Bachelor of Arts Degree in Spanish from [REDACTED] University and a Master's Degree in special education from [REDACTED] University.

⁶ BP is a special education teacher employed by District [REDACTED] and assigned to teach U.S. History. He has been employed by the District for seventeen (17) years. He is licensed by the Illinois State Board of Education.

⁷ TD is a special education teacher and case manager licensed by the Illinois State Board of Education and employed by District [REDACTED]. She holds an undergraduate degree in special education and a Master's Degree in educational leadership.

⁸ JL is a licensed school social worker with fifteen (15) years of experience. He holds both a Bachelor's Degree and a Master's Degree in social work and educational leadership.

⁹ Dr. C is the Director of Special Education for District [REDACTED]. She holds a Bachelor's Degree in special education from [REDACTED] University, a Master's Degree in leadership, and a PhD in special education. She is a Learning Behavior Specialist and is licensed by the Illinois State Board of Education.

attack and identification skills as he scored in the below average range in the subtests focused on these areas. Based upon this, the Student was found eligible for special education services in the area of specific learning disability (SLD). (Testimony of Dr. A; Tr. at 197-198; Joint Exhibit 4.)

7. During the 2013-2014 and 2014-2015 school years, the Student was administered the STAR reading assessment. On the May 2014 and February 2015 STAR reading assessments, the Student scored in the average range. (Joint Exhibit 4, p. 61.)

8. An IEP meeting was held on June 2, 2015. Parent was present at the meeting and participated. Parent was provided with the Explanation of Procedural Safeguards. Parent allowed the Student to be present for the first twenty minutes of the meeting, of the teacher reports, then asked him to leave. The Student did not participate in formulating or give his input on his IEP goals. (Testimony of Parent, Student, Dr. A, SJ, KB1, TD, JL, Dr. C; Joint Exhibit 4.)

9. At the June 2, 2015 IEP meeting, the Student's English teacher reported that the Student's English grade was a C- with four (4) missing classroom assignments and an overall average of 73.5%. The Student had difficulty completing work outside of class. However, he came to class regularly, on time, was attentive, awake and respectful. He utilized his accommodations to have extended time to complete assignments and to have information read aloud to him. He was scheduled to attending weekly tutoring sessions but attended only one session and refused to attend when escorted by staff on three other occasions. He was working with the Literacy Specialist, was sent passes to see her five times but did not show up to work with her. He was able to work with her on one occasion in his supported study hall. (Testimony of KB1, Tr. at 311, 318-322; Joint Exhibit 4.)

10. The Student is capable of reading grade level material. (Testimony of Dr. A, BT, SJ, KB1, KB2; Tr. at 173-174, 205.) He scored within the average range on reading assessments administered by ██████████ Center in April 2015. The Student scored in the 35th percentile which is within the average range. (Testimony of BT; Parent's Exhibit 2.)

11. However, the Student has difficulty decoding unknown words when reading compared to his non-disabled peers. (Testimony of Dr. A, BT, KB1; Tr. at 151-153; Joint Exhibit 4.)

12. Dr. A presented the results of his testing and evaluation of the Student to the IEP team at the June 2, 2015 IEP meeting. (Testimony of Dr. A, Tr. at 196; Joint Exhibit 4.)

13. To address the Student's weaknesses in the areas of oral reading fluency, work attack and identification skills, the IEP team, with the input of Dr. A, developed the following reading goal: The Student "will improve his decoding of unknown words when reading grade level material." Three short-term benchmarks were developed. The first is as follows: "When given a list of root words in English class by his classroom teacher, the Student will identify, write down and learn the meaning of root words with 80 percent accuracy" to be measured quarterly by classwork, observation log, class grade and student/teacher conference. The second is as follows: "When reading a text provided by his teacher in the classroom, the Student will correctly identify, write down and use root words to help him decode unknown words in 3 out of 5 trials" to be measured quarterly by classwork, observation log, class grade and student/teacher conference. The third benchmark is as follows: "When given an independent reading assignment by his teacher, the Student will correctly identify, mark and write down any unknown words so he can later review and learn them in 3 out of 5 trials" to be measured quarterly by classwork, observation log, class grade and student/teacher conference. (Testimony of Dr. A, KB1, TD, JL, Dr. C; Joint Exhibit 4.)

14. This reading goal is appropriate to address the Student's weaknesses in the area of oral fluency, word attack and word identification skills and is designed to ensure that the Student makes adequate educational progress. (Testimony of Dr. A, Tr. at 174; Testimony of BT, SJ, KB1, JG.)

15. With respect to the Student's reading goal in the June 2, 2015 IEP, the Student's present levels of performance were considered and utilized in formulating this goal. The Student's scores on the reading portion of the Woodcock-Johnson IV Tests of Achievement, STAR reading assessment scores, and classroom performance as reported by his current English teacher were considered and used in formulating the reading goal. (FF #6-11.) The Student's reading goal is further found to be appropriate and is designed to assist the Student in making adequate educational progress. (FF #13.)

16. The Student received Extended School Year (ESY) services during Summer 2015 and attended summer school. He read a grade level, general education curricular novel assigned by his English teachers. ~~The novel was not modified, it was standard general education curriculum~~ at the Student's current grade level. The Student had no trouble reading or comprehending what he was reading. He was able to discuss the novel with his teachers and had a good understanding of the characters and setting of the novel. He alternated between reading aloud and reading silently. He was able to identify words that he did not understand, circle them, use the root to try to find out what the word meant. He readily, with very few prompts, could identify the words once he looked at them carefully. He understood almost every word he was reading and demonstrated good comprehension of what he was reading. He completed the assigned novel during summer school and enjoyed it. (Testimony of SJ, Tr. at 245-248; Joint Exhibits 5 - 6.) During the summer school session, the Student was able to identify unknown words and identify

the word meaning using root words and context clues with 80% to 95% accuracy. (Joint Exhibits 5 - 6.) The Student was reading at grade level and maintained that through summer school. (Testimony of KB2, Tr. at 280-281.)

17. The Student made expected progress on his reading goal/decoding skills during June 2015 ESY. (Testimony of SJ, KB2, Tr. at 280-281; District Exhibit 6.)

18. The Student continues to work with his English teacher on his reading goal. He has a chart of ten (10) root words that he is currently working on that come from the play, *The Crucible*. He works with his teacher to provide examples of words that have the root word in them and to obtain the definition and meaning of each root. The Student is reading grade level material and is currently meeting the benchmark with 80% accuracy. He frequently volunteers to read aloud in class. His fluency, pacing, and reading comprehension are excellent. His current grade in English is a "B". (Testimony of JG, Tr. at 333-339; Student; Parent Exhibit 18; District Exhibit 5.)

19. Based upon the testimony and documentary evidence presented, this Hearing Officer finds that the reading goal at issue was implemented during ESY 2015 and continues to be implemented by the Student's current English teacher. The Student is reading grade level material, reads both aloud and silently, is able to identify words he does not understand, circle them, and use the root to try to find the meaning of the word. (FF #15-17.) It is further found that this reading goal is appropriate and is designed to enable the Student to make adequate educational progress. The Student is able to meet this goal with 80% accuracy and is receiving a passing grade of a "B" in his co-taught, general education, English class. (FF #17.)

20. The Student struggles with homework completion. (Testimony of LR, Tr. at 82; KB1, Tr. at 311; Dr. A, Tr. at 170-171; SJ, Tr. at 237-238; BP, Tr. at 305; TD, JL.)

21. A Behavior Intervention Plan was developed to target the Student's homework performance deficit. The Student and his teachers agree that he is capable of performing all of his academic expectations. He has the knowledge to complete his homework, has the opportunity to do his work, has support and assistance to complete his work, but often chooses not to complete homework or tasks assigned outside of school. (Testimony of Dr. A, Student, KB1, SJ, BP, TD; Joint Exhibit 4.)

22. To address the Student's homework completion deficit, a Transition Education/Functional goal was formulated: "[The Student] will organize and prepare for academic classes by completing given homework or classroom assignments to maintain overall grades above 75% to prepare for post-secondary education." The first short-term benchmark is "in all his credit bearing classes, [REDACTED] will maintain overall grades above 75% average." This benchmark is to be measured by observation log, student/teacher conference, weekly communication with Parent and quarterly progress reports. The second short-term benchmark is "when any one of [the Student's] academic grades fall below 75% and given one teacher prompt, he will schedule a tutoring session with his teacher at least once per week during a mutually free period before or after school, in 4 out of 5 trials. This benchmark is to be measured by observation log, classwork, grades, student/teacher conference, quarterly progress report, Parent contact if the Student does not show for a scheduled tutoring session. (Joint Exhibit 4, p. 106.)

23. To address the Student's homework completion deficit, a Transition Education/Functional goal was formulated: "[The Student] will seek experiences that will prepare him for his transitional educational experiences by meeting deadlines in the classroom to help him learn to function as an independent adult." The first short-term benchmark is "when given an assignment by the classroom teacher that must be completed outside of the classroom, the

Student will complete the assignment independently or utilizing his study hall and turn it in by the given due date in 4 out of 5 trials. This benchmark is to be measured by observation log, class work, grade, student/teacher conference, quarterly progress report, and weekly grade review with the Student. The second short-term benchmark is “with assistance from his case manager and/or study hall teacher, the Student will check his grades weekly on ██████████ Campus to determine any missing work and create a written plan for prioritizing and making up assignments. This benchmark is to be measured by observation log, student/teacher conference, quarterly progress report, staff member to work with the Student weekly to track his grades. (Joint Exhibit 4.)

24. A tutoring goal and a homework completion goal are both appropriate for the Student, as he struggles with work completion. (Testimony of LR, Tr. at 83-84; Dr. A, Tr. at 170-171; SJ, Tr. at 258-261; BT.)

25. The Student is making a choice not to complete his homework. He is able to complete the work, he just chooses not to do so. He is more of a hands-on learner. He does not like schoolwork and it is not a priority for him. He chooses to be “done” with everything at the end of the school day. (Testimony of Dr. A, Tr. at 145; BP, Tr. at 305-306; Student; BT.)

26. The Student does not attend tutoring sessions with his teachers because he feels that they are being forced upon him. His Parent does not allow him to attend his IEP meetings although he would like to do so and would like to participate in the formulation of his IEP goals. He is able to complete assignments independently; is able to advocate for his needs with teachers and staff, and does so on a weekly basis; is able to schedule tutoring sessions with his teachers when he feels he needs to do so. He works on his reading goal with his English teacher; knows most root words; is able to write down words that he does not know and look up their meaning online

or in the dictionary; he is tested on root words in class regularly. The Student is tracking his grades regularly and is going to his teachers for assistance when his class grade falls below a C-. He is able to contact his teachers and schedule with them to stay afterschool for additional assistance independently. The Student does not like to do homework and has refused to do it in the past. At the end of the school day, he just wants to be finished with school work. His attitude has changed recently which he attributes to growing up and gaining maturity. He has goals for his future. He would like to finish high school and pursue a career as an auto mechanic. He realizes that to accomplish his goals, he needs to complete his homework and perform well in school. (Testimony of Student.)

27. Currently, the Student's work completion is outstanding (Testimony of JG, Tr. at 337; Testimony of SJ, Tr. at 238, 243-244.) He has not refused to do his homework during his guided study hall in the last two and one-half weeks. (SJ, Tr. at 270-272.) The Student is aware of his missing assignments and has not needed his teachers to prompt him regarding completion of those assignment. (Testimony of BP, Tr. at 300.)

28. TD is a certified special education teacher and case manager. She is the Student's case manager. She gathers weekly updates and information from the Student's teachers and meets with the Student individually on a weekly basis to check grades and assist him in formulating a plan for homework completion. To date, this school year, the Student has stayed on top of his assignments and is completing his work. He has been setting up appointments with his teachers to stay after school and complete assignments. TD communicates with Parent weekly, at a minimum. As of January 5, 2016, the Student is currently meeting all of his IEP goals and his progress report to that effect will be sent home on January 8, 2016. He is receiving passing grades in all academic subject areas. (Testimony of TD; District Exhibit 5-6.)

29. Both Transition Education/Functional goals at issue are appropriate and designed to ensure that the Student is making adequate educational progress. The Student's individual performance deficits regarding homework completion were identified and the goals were formulated to address the Student's needs while encouraging independence. The Student himself testified. The Student was open, honest, and mature. He displayed exceptional insight into his own abilities, weaknesses, and choices. His testimony was credible and compelling. The Student, by his own admission, is able to achieve all of the stated IEP goals in question, is currently working toward those goals, and, at present, is meeting and making expected progress toward those goals. Further evidence of the appropriateness of the Student's IEP goals is that he is receiving passing grades in all academic areas. (FF #19-27.)

30. Parent spent considerable time at hearing discussing and questioning witnesses regarding the Student's practice ACT score. (Testimony of Parent.)

31. This Hearing Officer finds that the Student's practice ACT score is not relevant to the stated IEP goals at issue.

32. The parties agreed, pursuant to a mediation agreement, to hold an IEP meeting after the conclusion of this Due Process Hearing and further agreed that the Student would attend and participate in that meeting. (Joint Exhibit 3.)

33. Despite the fact that it was discussed at the Prehearing Conference, no evidence was presented by Parent regarding compensatory education needs, services, or reimbursement costs. (Testimony of Parent.)

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the arguments of Parent and counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:

Free Appropriate Public Education (FAPE)

The Individuals with Disabilities Education Act ("IDEA") guarantees children with disabilities the right to a free, appropriate, public education ("FAPE"). 20 U.S.C. §1412(a)(1). In order to determine whether a school district has provided a FAPE requires the determination of whether the school district: (1) complied with the procedural requirement(s) of IDEA, and (2) developed an Individualized Education Program ("IEP") that is "reasonably calculated to enable the child to received educational benefits." *Board of Education of the Hendrick Hudson Central School District, Westchester County et. al. v. Rowley*, 458 U.S. 176, 206, 102 S.Ct. 3034 (1982).

In the instant matter, the due process complaint filed by the Parent does not allege procedural violations of the Student's IEP, only that three of the Student's IEP goals are not adequate to assist the Student in making adequate educational progress, the Student's reading goal is not being implemented, and the Student's present levels of performance were not considered when formulating the Student's reading goal.

Under IDEA, an IEP must include "(1) a statement of the child's present levels of academic and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum" and "(2)(i) [a] statement of measurable annual goals, including academic and functional goals designed to (A) Meet the 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." 34 C.F.R. 300.320(a). Further, "[b]eginning not

later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include – (1) Appropriate measureable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) The transition services needed to assist the child in reaching those goals.” 34 C.F.R. §300.320(b). “[T]he IEP should be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.” *Id.* at 3036. “[A]n IEP is reasonably calculated to confer educational benefit when it is ‘likely to produce progress, not regression or trivial educational advancement.’” *Alex R. ex rel. Beth R. v. Forrestville Valley Cmty. Unit Sch. Dist. No. 221*, 375 F.3d 603, 615 (7th Cir. 2004.) “Objective factors, such as regular advancement from grade to grade, and achievement of passing grades, usually show satisfactory progress. *Id.*

“The primary responsibility for formulating the education to be accorded a handicapped child, and for choosing the educational method most suitable to the child’s needs, was left by the IDEA to state and local educational agencies in cooperation with the parents or guardians of the child.” *Rowley* at 207. Educators “have the power to provide handicapped children with an education they consider more appropriate than that proposed by the parents.” *Lachman v. Illinois State Bd. Of Educ.*, 852 F.2d 290, 297 (7th Cir. 1988); *Williams v. Milwaukee Public Schools* (E.D. Wis. 2012).

The Parent alleges in her Due Process Complaint notice and Amended Due Process Complaint notices that the Student’s reading goal relating to decoding of unknown words was not adequate to enable the Student to make educational progress, was not implemented, and the Student’s present levels of performance were not considered when the goal was formulated.

(IHO Exhibit #1, 7, 16.) The testimony and documentary evidence presented at hearing illustrate the following.

In May 2015, The Student's reading skills were evaluated by Dr. A utilizing the Woodcock-Johnson IV Tests of Achievement and the Wechsler Individual Achievement Test – Third Edition. The Student's reading comprehension skills are in the average range and he is able to read and comprehend grade level material. However, he was found to have some difficulty with oral reading fluency and with word attack and identification skills as he scored in the below average range in the subtests focused on these areas. (FF #6, 10-11.) At the June 2, 2015, the Student's English teacher provided a report regarding the Student's STAR reading assessment results and current performance in English class. (FF #8-9.) To address the Student's weaknesses in reading, an individualized IEP goal was developed to assist the Student with word decoding skills and weaknesses in the areas of oral reading fluency, word attack and identification skills. (FF# 12-14.) This goal was implemented with the Student during ESY in summer 2015. (FF#16-17.) The Student's current English teacher continues to work on this reading goal with the Student. (FF#18.) The Student is currently receiving a "B" grade in English and is making expected progress toward his reading goal. (FF #18.) This Hearing Officer finds that the Student's present levels of performance were evaluated and considered when formulating the reading goal. (FF #15.) The reading goal at issue is being implemented and has been since in the June 2, 2015 IEP was developed both during ESY in Summer 2015 and during the current school year. (FF #19.) It is further found that the Student's reading goal is appropriate and is designed to assist the Student to make adequate educational progress, as evidenced by his current English class grade, the fact that he is making expected progress toward his reading goal, and the Student's own testimony that he is able to meet this goal. (FF#19, 26.)

While Parent argues that the Student is not able to meet his reading goal and that the goal is unrealistic, the evidence at hearing overwhelmingly demonstrates otherwise. As stated above, “[t]he primary responsibility for formulating the education to be accorded a handicapped child, and for choosing the educational method most suitable to the child’s needs, was left by the IDEA to state and local educational agencies in cooperation with the parents or guardians of the child.” *Rowley* at 207. Educators “have the power to provide handicapped children with an education they consider more appropriate than that proposed by the parents.” *Lachman* at 297. Based upon the testimony and documentary evidence presented at hearing, this Hearing Officer finds that the District educators have provided the Student with an appropriate reading goal, which considered the Student’s present levels of performance, addresses the Student’s unique weaknesses and needs in reading, and is designed to enable the Student to make adequate educational progress. Further, this reading goal is currently being implemented and has been since the June 2, 2015 IEP was developed.

The Parent alleges in her Due Process Complaint notice and Amended Due Process Complaint notices that the Student’s Transition Education/Functional goals in the area of homework completion are not appropriate and were not designed to enable the Student to make adequate educational progress. The testimony and documentary evidence presented at hearing illustrate the following.

The Student struggles with homework completion. (FF #20.) To address the Student’s unique need, and Behavior Intervention Plan (BIP) and two Transition Education/Functional goals were formulated at the June 2, 2015 IEP meeting. (FF 21-23.) The Student is capable of meeting these goals, however, in the past, he has chosen not to do so. (FF # 25-26.) Recently, the Student has realized that he needs to complete his homework in order to succeed in high

school, graduate, and pursue a career as an auto mechanic. (FF #26.) As of January 5, 2016, the Student's homework completion was outstanding, he had completed missing assignments, and was scheduling appointments with his teachers as needed. (FF#27-29.) The Student is receiving passing grades in all subjects and is making expected progress toward these two goals. (FF #29.) This Hearing Officer finds that the two Transition Education/Functional goals at issue are appropriate and designed to enable the Student to make adequate educational progress, as evidenced by the Student making expected progress toward these goals and receiving passing grades in all subjects. (FF #29.)

Therefore, it is the determination of this Hearing Officer that, at all times in question, the District has provided the Student with a FAPE.

As stated above, this Hearing Officer found the Student to be open, honest, and mature. He displayed exceptional insight into his own abilities, weaknesses, and choices. This Hearing Officer strongly encourages the Parent to allow the Student to fully and meaningfully participate in his next, and all future, IEP meetings particularly given that these meetings involve transition goals and services which affect the Student's future and his life after completion of high school.

This Hearing Officer determines that:

At all times in question, the District provided the Student with a FAPE.

The Parent's requests to the contrary are hereby denied.

ORDER

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

Parent's requested relief is denied and the complaint and amended complaints are dismissed with prejudice.

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.

Dated: January 15, 2016

[Redacted Signature]

Janet K. Maxwell-Wickett
Janet K. Maxwell-Wickett,
Impartial Hearing Officer

[Redacted Address]

Phone: [Redacted]

Fax: [Redacted]

Email: [Redacted]

APPENDIX A

██████████ v. ██████████

Case No: 2015-0495

Child	██████████
Attending School	██████████ High School ██████████
Child's Parent(s) (Mother)/Petitioner	██████████ (Mother)
Witnesses:	
██████████ Center - Tutor	██████████ (LR)
██████████ Center - Director	██████████ (BT)
Special Education Teacher – ██████████	██████████ (SJ)
██████████	
Special Education Teacher – English	██████████ (JG)
Special Education Teacher – ESY	██████████ (KB2)
Special Education Teacher – U.S. History	██████████ (BP)
General Education English Teacher	██████████ (KB1)
Case Manager	██████████ (TD)
Social Worker	██████████ (JL)
District ██████████ Director of Special Education	██████████ (Dr. C)
Independent Evaluator	██████████ (Dr. A)

ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING

[REDACTED]

Student,

Case No: 2015-0350

v.

Janet K. Maxwell-Wickett,
Impartial Hearing Officer

[REDACTED]

School District.

CERTIFICATE OF SERVICE

I, Janet Maxwell-Wickett, certify that on January 15, 2016, copies of the *Final Determination & Order* were served upon the following persons in the manner indicated:

Sent via Certified U.S. Mail & Electronically via Email

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Sent Electronically via Email Only

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

ILLINOIS STATE BOARD OF EDUCATION

Sent Electronically via Email Only

Andrew Eulass
aeulass@isbe.net

Dated: January 15, 2016

[REDACTED]
[REDACTED]
[REDACTED]

/s/ Janet K. Maxwell-Wickett
Janet K. Maxwell-Wickett, Hearing Officer

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