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

**SPECIAL EDUCATION
SERVICES**

[REDACTED])	
Student,)	
)	
)	Case No. 2015-0383
)	
v.)	Sabrina Wilkins-Brown
)	Impartial Hearing Officer
)	
[REDACTED])	
)	
School District.)	
)	

FINAL DETERMINATION AND ORDER

JURISDICTION

The undersigned Hearing Officer was appointed to hear this matter on April 13, 2015 and 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 INFORMATION

On April 8, 2015, the District received the pro se Parents due process complaint dated April 6, 2015 requesting a due process hearing.

On April 13, 2015 the District filed a request for an impartial Due Process Hearing Officer with the Illinois State Board of Education ("ISBE").

The Due Process Complaint and District Response

The due process complaint is a dispute between the Parents and the District regarding the Student's appropriate educational placement/assignment. The Parents' due process complaint

states that at a March 17, 2015 IEP meeting, they were informed by the District that the Student's educational placement would be changed from [REDACTED] Academy located in [REDACTED] Illinois to [REDACTED] located in [REDACTED] Illinois. The Parents' complaint stated they were given no reason for the change and was not provided with a copy of the March 17, 2015 IEP. The Parents requested relief in the due process complaint was: 1) for the Student to remain at his current placement at [REDACTED] Academy for the 2014-2015 and 2015-2016 academic school year; 2) to receive a copy of the March 17, 2015 IEP and 3) for a Stay Put of the Student's educational placement pending conclusion of the due process hearing and rendering of a decision.

On April 17, 2015, the District filed a response to the Parents' due process complaint. The District's response to the issues raised by the Parents in the due process complaint was: 1) when the family moved into the District in February 2014, there was an informal agreement that the Student would only remain at [REDACTED] Academy for the remainder of the 2013-2014 academic year; 2) the request for a copy of the March 17, 2015 IEP was rendered moot as a updated draft copy was mailed to the Parents on March 27, 2015 and a finalized copy of the March 17, 2015 IEP had since been provided to the Parents; 3) that the proposed change is a change to the Student's facility (from one therapeutic day school to another therapeutic day school within the District) and not a change in the Student's educational placement.

Procedural Summary

On April 16, 2015, this Hearing Officer sent the Parties an initial status letter setting a date and time for an initial telephone status call.

On April 23, 2015, a telephone status conference was held with the parties. The Parties indicated they waived resolution and would participate in State sponsored mediation. The

Parties filed a joint request for a continuance of the prehearing conference. The joint motion was granted and the prehearing conference continued until May 8, 2015.

On May 1, 2015, this Hearing Officer sent a Notice of Prehearing Conference was sent to the Parties.

On May 5, 2015, the Parties participated in a mediation but no agreement was reached.

On May 8, 2015, a prehearing conference was held. Participating in the conference was the Parent, and District's counsel. Also in attendance but not participating was the District's Special Education Administrator and associate attorney in training. The Parties estimated two days of hearing and identified May 22, 2015 and June 10, 2015.

On May 14, 2015, this Hearing Officer issued a Pre-hearing Report and Order setting forth the matters discussed during the prehearing conference. A telephone status conference was scheduled for May 19, 2015.

On May 15, 2015, this Hearing Officer issued an Amended Prehearing Report and Order by deleting the issue 3B related to the Student's transportation services. The Parties agreed transportation was not an Issue.

On May 20, 2015, a telephone status conference was held with the parties at 7:00 p.m. due to scheduling conflicts. The purpose of the conference was to confirm the parties' exchange of mandatory disclosures, confirm the order for the presentment of witnesses and to address any other issues that may have arisen.

On May 22, 2015 the due process hearing commenced with the parties making opening statements and the Parent putting on her witnesses and evidence. The next hearing date was scheduled for June 10, 2015 and expected to conclude the same day.

On June 10, 2015, the Parent sent an e-mail advisement that she was experiencing a health issue to this Hearing Officer and the District's counsel at 2:29 a.m., and that she was being seen at the emergency room of Swedish American hospital and didn't know when she would be released. The parent therefore requested a continuance of the due process hearing. At 5:14 a.m., the Parent sent copies of her discharge form and a copy of a work release form explaining the diagnosis and treatment of her health issue to this Hearing Officer and the District's counsel. This Hearing Officer was en route to Rockford and did not become aware of the Parent's e-mail until her arrival for the due process hearing at 9:00 a.m. The due process hearing was continued at the Parent's request to June 30, 2015 over the District's objection.¹

Hearing Summary

The due process hearing was scheduled to be held over two days (May 22, 2015 and June 10, 2015)². The parties agreed to a closed hearing. The Parent was pro se and the District was represented by counsel from the law firm of Hinshaw & Culbertson, LLP.

The second day of the hearing re-convened on June 30, 2015. The Parties made oral closing statements and were instructed to submit any source documentation or case law relied upon in support of their respective position. The Parent advised she had no additional documentation and the District submitted four cases for consideration. The following list of exhibits were admitted as evidence in the hearing:

- All Joint Exhibits (JE-1-Due Process Request and Response, JE-2-IEP Annual March 17, 2015; JE-3- IEP Annual May 9, 2014 (less attachments); JE-4- 2013-2014 and 2014-2015

Report Cards

¹ Details of the June 10, 2015 hearing date is recorded in the Order of Continuance dated June 11, 2015.

² On June 10, 2015 an abbreviated hearing was held for the purpose of getting the parent's emergency request for a continuance of the due process hearing on the record.

- District Exhibits: DE-1, pgs 115, 117, 119, 122; DE-2, 3 and 4 all pgs; DE-6, pgs, 140-142, 147-149,176-177
- Parent's Exhibit: PE-6, pg. 185; DE-5, p. 135; PE- 228, 229, 230 and 231³

The District raised a standing objection to the Parent's use of any District exhibits that the District produced for the hearing but may elect not to use stating the Parent had the opportunity to review the District's proposed exhibit list and could have identified documents she wished to jointly submit at that time. This Hearing Officer reserved ruling on the District's standing objection reasoning that the pro se parent is not likely to know or understand the significance of all the exhibits proposed by the District. Even though it may be a District produced document, the Parent will not be automatically precluded from using it. Notwithstanding the objection, the District indicated they had no objection to the Parent's use of DE-5, pg. 135 in her case in chief as the District proposed to use that exhibit as well. The Parties identified the same witnesses. The handling of the joint witness' testimony was a consecutive and coordinated approach to conduct both direct and cross examination by the parties. The following person were identified as joint witnesses and testified at the due process hearing:

[REDACTED], Executive Director of Special Education – [REDACTED] SD

[REDACTED], Assistant Principal of Special Education – [REDACTED] SD

[REDACTED], Case Manager- [REDACTED] SD

[REDACTED], Executive Director- [REDACTED]

[REDACTED], Teacher/Case Manager- [REDACTED]

[REDACTED], Social Worker/Therapist- [REDACTED]

³ Parent exhibits 228, 229, 230 and 231 are the hospital discharge forms and work release form. These forms have been expunged from the record due to HIPPA concerns since the Parent's authorization was not obtained to include her medical information. Also this Hearing Officer has already ruled on the matter and issued an Order and said documents are not relevant to rendering a decision in this matter.

[REDACTED], Parent

At the conclusion of the hearing, the parties were advised that a written decision would be rendered within 10 days, on or before July 10, 2015. The District advised this Hearing Officer that a transcript of the hearing was not being ordered. Since no written transcript of the hearing was produced, references in this decision to witness' hearing testimony is based on the undersigned's tape recording of the hearing and written notes. In rendering this decision, this Hearing Officer has considered all testimony of the parties' witnesses, opening and closing arguments. Only documents referenced, identified and used in the hearing as indicated above, unless otherwise sustained in objection, have been considered as part of the hearing record and considered in this decision.

This decision is issued as required by Illinois law pursuant to 105 ILCS 5/14-8.02a (g-55)(5).

ISSUES

Following are the issues and remedies agreed to by the Parties during the prehearing conference and clarified during the hearing:

A. The parent disagrees with the Student's recommended change in placement as a result of the March 17, 2015 IEP stating concerns whether the proposed placement meets the Student's educational needs because:

- The parent did not understand why the transition was necessary and stated the reasons given to her by the District appeared to be minor.
- The parent stated the Student's current placement at [REDACTED] Academy provides vocational programming like culinary classes that the Student enjoys.
- The parent stated the proposed placement at [REDACTED] does not offer the same vocational classes that the Student currently enjoys at Innovations.

- The parent stated she participated in the IEP meeting and expressed concern that her son should continue at [REDACTED] but the District did not consider her concerns.
- B. The relief being requested by the parent is for the Student to remain in his current placement for the remainder of the 2014-2015 and 2015-2016 school years and that his related transportation service not change.⁴
- C. The District's response is that the March 17, 2015 IEP recommended a change in facility not a change in placement. The Student would be transitioned from one therapeutic day facility to another therapeutic day facility offering essentially the same programs and services. The District's response is that the proposed change in facility is able to implement the Student's March 17, 2015 IEP. The District further responded the parent has not articulated any reason for why the change in facility is objectionable other than the Student likes his current educational placement. The District states the parent is not alleging the proposed change in facility cannot meet the Student's needs.

The District's reasons for the March 17, 2015 IEP recommended change in facility are:

- 1) to shorten the Student's transportation time to bring it within State regulatory guidelines;
- 2) to enable the Student to form social relationships with peers who live in his community and who also attend the recommended placement/facility;
- 3) to comply the IDEA regulatory mandate that students be placed as close as possible to their home when FAPE is not available at their home school;

⁴ By the time the due process hearing concluded, the 2014-2015 academic school year had ended and the Student remained at this current placement at Innovations throughout, rendering this issue moot. Whether the recommended change in placement/facility is appropriate to meet the Student's needs for the 2015-2016 school year is the issue addressed in this decision.

4) to enable the District to supervise the implementation of the Student's educational program; and

5) to provide economical transportation services by transporting several students to the proposed placement instead of one student to the current placement.

BURDEN OF PROOF

In a special education administrative hearing, the party seeking relief has the burden of proof. *Schaffer ex rel. Schaeffer v. Weast*, 546 U.S. 49, 126 S. Ct. 528, 163 L.Ed.2d 387 (2005). The Parent filed this due process complaint and are seeking relief. Therefore, the Parent must carry the burden of proof in presenting credible evidence in the due process hearing.

FINDINGS OF FACT

After considering all the documentary evidence admitted into the record and the testimony of the witnesses, as well as the arguments of the parties, this Hearing Officer's Findings of Fact are as follows:

The Student is a 16 year old male, in his second year of high school and is in the tenth grade. The Student transferred to the District in the ninth grade on November 18, 2013. The Student had previously been enrolled in [REDACTED] Public School District [REDACTED] and attended a therapeutic day school, [REDACTED] Academy located in Streamwood Illinois. The Student has attended [REDACTED] Academy since he was in the sixth grade, which is where he is currently enrolled. The Student has been determined eligible for special education and receives special education services. The Student's disability category is Autism (AUT). The Student is enrolled in special education high school courses in a highly structured learning environment with access to therapeutic counseling and support. At the end of the first semester of the 2014-2015 school year, the Student had achieved 21 out of 48 credits required for high school graduation. The

Student receives 1770 minutes per week of special education instruction and related services of 30 hours per week of counseling. The Student also receives private transportation services to and from his residence in [REDACTED] Illinois to his current educational placement in [REDACTED] Illinois, which 1 ½ hours one way. The Student receives the following supplementary aids, accommodations and modifications: extended time (1.5 time), small group, calculator, breaks as needed, quiet space, visuals and interval assignments. The Student has passed all high school courses taken as of the date of the March 17, 2015 IEP with grades of Bs and Cs. The Student's then current semester of academics include Geometry, English, Physical Science, Culinary, Music Appreciation and Physical Education. The Student has an interest in pursuing post-secondary training, employment or education and is enrolled in a Culinary Arts Program. The Student is interested in cartooning, music and culinary pursuits.

On June 19, 2014, [REDACTED] explained in a detailed letter to the Parent, the District's reasons for the recommendation to transition the Student from [REDACTED] Academy. The letter explained in detail the several reasons including but not limited to the extensive travel time which needed to be brought into compliance with IDEA and the State regulatory guidelines. The letter cited to IDEA regulations found at 34 CFR 300.114(a)(1); 300.116(b)(3); and the Illinois Administrative Code; 23 Ill. Adm. Cde 226.750(b)(2). (JE-1, pgs 16-17)

On August 18, 2014, another IEP meeting was held at the Parent's request. [REDACTED] Executive Director of Special Education for the [REDACTED] School District, agreed to meet with the Parent regarding the Parent's concern about transferring the Student from Innovations to another therapeutic day school. The District recommended three potential schools they determined would be appropriate and able to meet the Student's special education needs and that were also closer in proximity to the District. The identified schools were [REDACTED] School,

██████████ Illinois, ██████████ School, ██████████ Illinois and ██████████ School, ██████████ Illinois. As a participant in that August 18, 2014 meeting, Ms. ██████████ referred to notes and credibly testified to her recollection that the District and Parent agreed that the Student would remain at Innovations Academy for the remainder of his 2013-2014 school year and for the first semester of 2014-2015 school year. Thereafter, a gradual transition of the Student would commence so that the transition would be complete by the second semester of 2014-2015 school year. It was intended that the Parent would use that time to visit the recommended schools and make a determination as to which of the three she preferred. In order to further address the Parent's concern about the Student's anxiety in transitioning to a new school, the District offered the possibility of having ██████████ staff accompany the Student to the new school on the first day to help feel safe and secure.(DE-5. Pgs 135-136) The August 18, 2014 meeting concluded with the understanding the Parent agreed to visit the two alternative therapeutic day schools and make a choice as to which one was preferable. The Parent signed releases for the District to have the Student's school records sent to ██████████ in ██████████, Illinois and ██████████ in ██████████, Illinois (DE-5, pgs 137-138).

On March 17, 2015, an IEP meeting was held. Participating in the March 17, 2015 IEP meeting was the Parent, ██████████, the Student via telephone together with ██████████ (Special Ed Teacher/Case Manager) and ██████████ (Innovations Therapist/Social Worker), ██████████ (Assistant Principal of Special Education), ██████████ (District's attorney) and ██████████ (Case Manager). The parent submitted a written list of her concerns and goals for her son to the IEP team for consideration. (JE-2, p.51) The Parent's concerns and goals are appropriately reflected in that IEP document (JE-2, p. 25) The Parent's concerns and goals were discussed and addressed on various occasions with the District. For example, the

parent's goals and concerns were addressed in an IEP meeting on May 9, 2014. The Parent, [REDACTED] and [REDACTED] participated in the May 9, 2014 IEP meeting (Same parties who also participated in the March 17, 2015 IEP). The Parent expressed concerns that change would upset her son, cause him to regress to such an extent it could require hospitalization. During that meeting the District made it clear that the Student would eventually have to move to a school closer to the District but addressed the Parent's concerns by agreeing to make the transition gradual in an effort to minimize any negative impact to the Student's emotional well-being. The Parent agreed that if a move were to occur, a gradual transition would be needed (such as 1-2 classes or a half day to start). (JE-3, pg. 98). The discussion on identifying a school to transfer the Student was tabled and the IEP team simply agreed that the transition would be to another therapeutic day school. (JE-3, pg.99)

There were several other therapeutic programs available but the District determined those programs were not appropriate because of the Student's high level of functioning. The District's recommended therapeutic day schools were determined to have the staff, experience and skill to implement the Student's March 17, 2015 IEP at his then current level of functioning. The District generally does not place eligible students from the District at Innovations Academy because it considers that facility placement to be too far from the District community. District factors considered in determining a Student's placement in a facility takes into consideration the level of services required, all other available options and what is the most fiscally responsible placement available to meet the Student's needs.

However, upon review, the Parent's position that the estimated travel times from the Parent's Rockford Illinois home to [REDACTED] Academy in [REDACTED] Illinois (59.80 miles) as compared to the estimated travel time from Parent's [REDACTED] Illinois home to [REDACTED] in

[REDACTED] Illinois (42.44 or 38.87) are really not that significant using the District's MapQuest source. From Parent's home to [REDACTED] Illinois is 1.05 minutes as compared to either 53 minutes or 56 minutes from Parent's home to [REDACTED] Illinois. The difference in mileage is approximately 17-20 miles and the difference in travel time is approximately 9-12 minutes.

(DE-1, pgs. 117-122) Furthermore, I find that the District's June 19, 2014 letter advising the Parent that the [REDACTED] placement would be terminated at the end of the summer 2014 school year is inconsistent with the funding appropriation for the Student to attend [REDACTED] Academy. The Student was approved and funded to remain at [REDACTED] Academy from August 20, 2014 through June 5, 2015 for 176 days *plus* 39 days of the summer session beginning June 15, 2014 through August 7, 2015 for a total of 215 days at a cost of \$46, 261.55.

(DE-1, pg. 116) The Student was approved and funded for [REDACTED] from August 18, 2014 through May 27, 2015 for 176 days *plus* 30 days of the summer session beginning June 15, 2015 through August 4, 2015 for a total of 206 days at a cost of \$42, 337.12.(DE-1, pg. 115) The District would then realize a financial savings of \$3,924.43 as a result of the Student attending [REDACTED]

Ms. [REDACTED] participated in the March 17, 2015 IEP. The District maintains that [REDACTED] can meet the Student's needs and implement the March 17, 2015 IEP because it has the necessary programming and staffing to meet the needs of Students with a diagnosis of Autism. The District made no representation as to whether [REDACTED] was worse or better than [REDACTED] in terms of its programming or staffing. [REDACTED] was determined to have many of the vocational programs of interest that the Parent indicated the Student was interested in, such as Horticulture. The March 17, 2015 IEP did not specifically include a vocational program such as Culinary. There was further corroboration that the Parent's concerns were considered and

addressed by the District at the March 17, 2015 IEP meeting by first discussing the concerns and then revising the goals and objectives if needed. (JE-2. Pg. 47). The Student's self-identified interests did not include mention of culinary or horticulture. (JE-2, pgs. 61-72). The Parent expressed concern about the Student riding a bus to [REDACTED] with another student who the Parent stated bullied the Student in the neighborhood. The District addressed this concern by stating that it would look into the matter and address it with the new facility and the bus driver.

The Student's classroom teacher, [REDACTED], and therapist, [REDACTED] work closely with the Student at [REDACTED]. They participated in the March 17, 2015 IEP over the telephone with the Student and provided input on the Student's present levels of academic achievement and functional performance. It was noted that progress was made in the Student's emotional development in that he has grown to manage his emotions better, has fewer temper tantrums and requires less redirection. The Student has expressed interest in gaining employment and an interest in vocational program to assist him in becoming gainfully employed and productive in the community. It was noted as a concern by the staff, as well as the Parent, that the transition from Innovations to [REDACTED] would likely result in some regression of the Student's progress. There was also an acknowledgement that that given the protocols in place that in time, the Student would be able to favorably adjust with some time.

The [REDACTED] therapeutic day school provided comparable although not identical programming as Innovations Academy. [REDACTED] like [REDACTED] is a recognized and accepted facility to accommodate Students diagnosed with Autism. The Executive Director, [REDACTED], described the [REDACTED] programming and was familiar with the goals and objectives contained in the Student's March 17, 2015 IEP. Based on those goals she determined that [REDACTED] was capable of meeting those goals and objectives as it focus was on core academic

skills, including the Student's interest in attending a post-secondary education program. Ms. [REDACTED] described [REDACTED]'s curriculum as using a clinical model primarily but that they also offered vocational programming. Ms. [REDACTED] stated that if a Student had a particular interest in a vocation not offered at [REDACTED], the school would seek other avenues to meet the Student's interest and needs including looking at possibilities in the community to find a vocational opportunity for the Student. The District would also provide additional resources to meet the Student's needs as determined and required in IEP.

CONCLUSIONS OF LAW

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

The IDEA ensures that children with disabilities are provide with a free appropriate public education and related services that meet their unique needs and prepare them for further education, employment, and independent living. 20 U.S.C. Sec. 1400(d)(1)(A). To qualify for special education and related services, a child must have one or more of the statute's enumerated disabilities and because of that disability need special education and related service. 20 U.S.C. Sec. 1401(3)(A).

Autism is one of the enumerated disabilities. 20 U.S.C. Sec. 1401(3)(A)(i). For special education purposes, autism is defined as a developmental disability that significantly affects a child's verbal and non-verbal communication and social interaction. A child with autism may also show other characteristics, such as engaging in repetitive activities and stereotyped movements, resisting environmental change or change in daily routines, and showing unusual response to sensory experiences. 34 C.F.R. Sec. 300.8(c)(1)(i).

The District makes a plausible argument regarding its reasoning for transitioning the Student, i.e. closer proximity to the community in which the Student resides, etc., the Parent's position that the District' decision is primarily financial has some merit as well. As stated above, the District would save \$3,924.43 by changing the Student's facility placement from [REDACTED]

to [REDACTED] and there is nothing wrong with doing so as long as the Student is not denied a free and appropriate public education (FAPE). This is important to note because if the Parent had provided objective evidence to support a position that [REDACTED] could not meet the Student's needs or implement the goals and objectives of the IEP, the Parent's financial motive argument would have carried weight and been relevant. Although the Parent's financial argument is not relevant, I note it in the decision only to document the fact that I acknowledged and considered it, but ultimately determined it is not dispositive on the issue raised by the Parent's due process complaint.

Whether the proposed change in placement meets the Student's educational needs because:

- ***The parent did not understand why the transition was necessary and stated the reasons given to her by the District appeared to be minor.***

If the proposed change substantially or materially affects the composition of the educational program and services provided to the child, then a change in placement occurs triggering the notice requirement. *Letter to Flores*, 21 IDELR 233 (OSEP 1980); *Letter to Fisher*, 21 IDELR 992 (OSEP 1994); and *Veazey v. Ascension Parish Sch. Bd.*, 42 IDELR 140 (5th Cir. 2005, unpublished), cert. denied, 112 LRP 58755, 546 U.S. 824 (2005).

- ***The parent stated the Student's current placement at [REDACTED] Academy provides vocational programming like culinary classes that the Student enjoys.***

A change in location is not always a change in placement. A placement is a point along the child's continuum of placement options, while a location is the physical location where the child receives related services, such as a classroom. However, a change in location can give rise to a change in placement ***if the change in location substantially alters the student's educational***

program. [Emphasis Added] 71 Fed. Reg. 46,588 (2006). See *Letter to Fisher*, 21 IDELR 992 (OSEP 1994).

- *The parent stated the proposed placement at [REDACTED] does not offer the same vocational classes that the Student currently enjoys at [REDACTED]*

There is no substantive standard set forth in the IDEA regarding the level of education to be provided, nor does the statute require that local educators must maximize the potential of disabled children or provide a guaranty of any particular outcome for the child. *King v. Board of Educ. of Allegany County*, 999 F.Supp. 750, 764 (D.Md. 1998)).

- The parent stated she participated in the IEP meeting and expressed concern that her son should continue at Innovations but the District did not consider her concerns.

The overwhelming evidence in the record shows that the Parent's concerns about the District's recommendation to change the Student's facility placement was taken into consideration and addressed on several occasions. Evidence in the record shows that the District offered to provide a gradual transition to the recommended facility placement in order to address the Student's probable resulting anxiety and regression due to the change. The evidence shows that the understanding and agreement when the Student's transferred into the District was that his placement at [REDACTED] would be temporary and that gradually he would be transitioned to another therapeutic day school closer to his residence in the District.

Here, the Parent simply could not provide any objective evidence to support her position that [REDACTED] *could not* meet the Student's needs, goals and objectives as set forth in the March 17, 2015 IEP. The District readily admitted that financial considerations was a factor in determining an appropriate educational placement but that it was not the paramount factor. The controlling factor for consideration is whether the proposed placement can meet the Student's

educational needs. The Parent's preference was for the Student to remain at his current placement and without more, which is not a sufficient basis to support a denial of FAPE.

A transfer of a student from one school to another school, which has a comparable educational program, is generally considered a change in location only. *See Concerned Parents & Citizens for the Continuing Educ. at Malcolm X (P.S. 79) v. New York City Bd. of Educ.*, 552 IDELR 147 (2d Cir. 1980), *cert. denied*, 110 LRP 34494, 449 U.S. 1078 (1981).

A simple change in the location of a building or facility is not, generally, viewed to be a change in placement where there are no significant changes in the educational program. *Letter to Flores*, 211 IDELR 233 (OSEP 1980). *See also AW v. Fairfax County Sch. Bd.*, 41 IDELR 119 (4th Cir. 2004).

Recognizing that children with autism typically have difficulty with transitions and changes in routine, at least one court has found that the change in the physical location of services for children with autism results in a change in placement. Therefore, the district must follow the IDEA's placement procedures before transferring students with autism to new schools. *P.V. v. School Dist. of Philadelphia*, 113 LRP 7167 (E.D. Pa. 02/19/13). This case turned on the nature of the students' disabilities. Noting that children with autism typically have difficulty with transitions and changes in routine, the Pennsylvania court observed that a change in the physical location of services would likely be far more traumatic for students with autism than it would for students with other disabilities. "Accordingly, we must conclude that under the particular facts of our case, [transferring] students with autism to a separate school building in the school district constitutes a change in their 'educational placement' under the IDEA," U.S. District Judge Legrome D. Davis wrote. Because the court concluded that the transfers qualified as changes in the students' educational placements, it explained that the district had to follow the

IDEA's placement procedures, including parent participation and appropriate notice, before transferring students with autism to new schools.

This case could have been the catalyst for a different outcome in the Parent's favor but for the fact the District did involve the Parent in the development of the IEP and the Parent admitted during her testimony that she participated and agreed with the goals and objectives as stated in the March 17, 2015 IEP. The Parent's only issue in this case is that she felt the District failed to consider her concerns and objections about transferring her Autistic son to a different therapeutic day school. Under the procedural safeguards of the IDEA, the School District must provide for meaningful parental participation and prior written notice whenever it initiates or proposes to change the "educational placement" of a child. Here the District did both. Not only was notice given to the Parent when the Student transferred into the District in November 2013, that the Student's placement was temporary. In its June 19, 2014 letter and at the August 18, 2014 meeting requested by the Parent, the District on both occasions advised the Parent of the transfer or change to another therapeutic day school and the reasons for it. Thus, the District met its obligations under IDEA by providing the parent notice and meaningful participation prior to making a change in placement. Of course, the District argues that it is not a change in placement because the level of service did not change. In this factual circumstance I would agree for all the foregoing reasons, that this was a change in facility and not a change in placement, but as the Pennsylvania court held, if the procedural safeguards had not been met, there could have been a different outcome.

ORDER

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

Within five days of this Order, the Parent shall authorize and sign all releases and other relevant documentation required by the District and [REDACTED] to effectuate the Student's transfer from [REDACTED] to [REDACTED] for the beginning of the 2015-2016 school year. The Student will maintain his current placement at [REDACTED] for the extended school year services through August 7, 2015, which time shall be used to gradually transition the Student from Innovations Academy to [REDACTED]. The duration of the Student's transition shall be collaboratively determined by the Parent, District and [REDACTED], but in no event shall end earlier than three months into the 2015-2016 school year or end of December 2015.

Illinois State Board of Education
Program Compliance Division
100 North First Street
Springfield, IL 62777-0001

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: July 10, 2015

/s/: Sabrina Wilkins-Brown
Impartial Hearing Officer

[REDACTED]
[REDACTED]
[REDACTED] p.
[REDACTED] f.
[REDACTED]

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this Final Decision and Order was sent before 1:00 p.m. on July 11, 2015 by certified mail with return receipt to the following persons:

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

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

Mr. Andrew Eulass
Due Process Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-001

/s/ Sabrina Wilkins-Brown
Impartial Due Process Hearing Officer

[REDACTED]
[REDACTED]
[REDACTED] p.
[REDACTED] f.
[REDACTED]