

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

██████████,

Student,

Case No: 2015-0518

v.

Mary Schwartz, Impartial Hearing Officer

██████████ HSD ██████████,

School District.

FINAL DECISION AND ORDER

JURISDICTION

The undersigned hearing officer has jurisdiction over this matter pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 *et seq.*, the Illinois School Code, 105 ILCS 5/14-8.02a *et seq.*, and her appointment as hearing officer by the Illinois State Board of Education (ISBE) on June 29, 2016.

PROCEDURAL BACKGROUND

The parents filed their initial due process complaint on June 23, 2015. The ISBE assigned the case to a hearing officer who presided over this case from June 23, 2015 through June 29, 2016, when that hearing officer's term of appointment expired. The initial hearing officer denied the parents' request for a stay-put placement on March 20, 2016, finding that as of the date on which the due process complaint was filed, the student's then-current placement no longer existed, and the district was not obligated to propose an alternative interim placement.

The undersigned was appointed hearing officer on June 29, 2016. On that date, the parents and student were represented by Matthew Cohen of Matt Cohen & Associates, LLC. ██████████

██████████
██████████ On December 7, 2017, the parents obtained new legal counsel, Maureen Graves. The district is represented by John

RECEIVED 4/8/2018 - SPECIAL EDUCATION SERVICES

Relias, Dana Crumley and Mary Deweese of Franczek Radelet P.C. The parents have amended their complaint several times throughout these lengthy proceedings and, pursuant to parents' requests, the amended complaints were consolidated with the June 23rd complaint and the IDEA timelines restarted.

On October 24, 2016, the district informed the hearing officer that the parties were unable to agree on the scope of the student's triennial re-evaluation, which had been due on June 3, 2016, and requested the undersigned to order an independent educational evaluation (IEE). The parties briefed their respective positions on the district's request and, on December 8, 2016, the undersigned granted the district's request. The IEE was completed in September 2017, and the parties then held an IEP meeting to review the evaluation.

The district filed a due process complaint on May 30, 2017, stating that the parents' attitude toward the school district had created a hostile relationship and irreconcilable differences between the parties such that the student's placement must be changed to a private residential school or a therapeutic day school. The district's complaint was consolidated with the parents' complaints pending before this hearing officer. The district withdrew its complaint on January 12, 2018.

Numerous status conferences and prehearing conferences have been held over these lengthy proceedings and are memorialized in the record. Additionally, the parties' continuance requests and orders granting those requests are part of the record in this matter. The due process hearing was held on January 29-31 and February 1, 2, 4-6, 2018, at the district's high school. The district provided a court reporter throughout the hearing. The parties submitted post-hearing briefs and reply briefs, and the record in this matter was closed on March 28, 2018.

ISSUES AND REQUESTED REMEDIES

The parents' complaint, as amended and consolidated throughout these proceedings, raises the following issues for hearing:

1. Whether the school district impeded the parents' opportunity to participate in educational decision-making regarding the provision of a FAPE to the student in one or more of the following ways:
 - a. Failing to offer comparable services to those in the student's

RECEIVED 4/8/2018 - SPECIAL EDUCATION SERVICES

- March 2014 IEP, developed at Safe Haven, at the time of transfer to District 203 or until a draft or an agreed-upon IEP was completed and implemented;
- b. Failing to conduct timely annual and triennial reviews and thereby failing to have a completed IEP in place to address the student's unique needs prior to the start of each school year and corresponding ESY (ESY 2015, 2015-16 school year, ESY 2016, 2016-17 school year);
 - c. Failing to complete an IEP for the student prior to the beginning of the 2017-18 school year;
 - d. Predetermining the student's 2015-16 ESY placement and subsequent placements by changing the student's placement for the 2015-16 school year from a non-public therapeutic day school of about 22 students to a general education high school of over 3,500 students outside of the IEP process;
 - e. Failing to provide progress reports and report cards in accordance with the IDEA and district procedures;
 - f. Changing the student's IEP outside of IEP meetings and without the parents' knowledge and consent by changing: content, goals, related services, education minutes, accommodations, and placement;
 - g. Failing to provide written 10-day notices of IEP changes;
 - h. Immediately implementing IEP changes without parental waiver of the 10-day notice period;
 - i. Failing to send timely IEP notices to the parents, including all topics to be discussed and a list of meeting participants, and if so whether that failure impeded the parents' ability to prepare for and participate in the meetings;
 - j. Failing to have persons with knowledge about the student and his unique needs present at the IEP meetings, including parents' private providers and consultants and a general education teacher with knowledge of the student;
 - k. Failing to follow district procedures regarding the student's participation in school-wide and extra-curricular activities; academic courses, grading, testing, use of substitute teachers; homebound instruction in 2015-16;
 - l. Failing to provide the parents with consistent, relevant and accurate information about the student's instructional content, accommodations, and school day;
 - m. Improperly limiting observations and communications

- to/from staff;
 - n. Providing false and incomplete information to the parents;
 - o. Failing to hold IEP meetings requested by the parents in a timely manner; and,
 - p. Failing to consider the opinions of district's outside consultants regarding the student's program and placement
2. Whether the district violated the student's right to receive a FAPE by failing to:
- a. Provide the student with a timely, appropriate program and placement, including access to general education classes and curriculum, to address all of his educational needs;
 - b. Provide the student with a program and placement that provided him a FAPE as written and/or as implemented;
 - c. Appropriately address the student's transition needs in the September 1, 2015 IEP and subsequent IEPs;
 - d. Provide sufficiently qualified and trained staff for the student to implement the student's program;
 - e. Provide the student with equal educational opportunities to those of his non-disabled peers;
 - f. Meet the student's communication and assistive technology needs;
 - g. Provide a safe learning environment for the student, including supervision by certified staff and safe transportation to/from home, to other campus in school year 2015-16, and for extra-curricular activities;
 - h. Provide the necessary supports and services for the student to meaningfully access extra-curricular activities, including:
 - i. Timely registration information;
 - ii. Trained staff;
 - iii. Appropriate transportation; and
 - iv. Communication support during extra-curricular activities; and,
 - i. Ensure that the student arrived to school before the first bell and was dismissed at the end of the school day at the same time as other students and if so, whether these failures resulted in the student not receiving the same amount of educational minutes as non-disabled students receive in a school day.

As remedies for the above-alleged violations of the student's right to receive a FAPE, the parents request an Order directing the district to:¹

1. Complete a functional behavioral assessment within 45 days to consider the extent to which escape/avoidance, attention, desires for tangibles and activities, sensory, communication, processing, and motor issues might be affecting the student's performance;
2. Complete an evaluation for educationally related mental health services within 45 days by a qualified provider to determine whether depression and/or anxiety are adversely impacting the student's performance;
3. Convene a facilitated IEP meeting to develop an IEP that provides a full instructional, social, and to the extent chosen by the student, extracurricular day, holds the student to "rigorous academic standards and high expectations" and allows him to be involved in and make progress in the general education curriculum or in systematic, research-based remediation designed to prepare him to access the general education curriculum;
 - a. The IEP facilitator will be selected from a list of three names provided by the parents, who will be individuals without previous association with this case and with relevant expertise such as, but not limited to, individuals with training and experience in special education administration and/or dispute resolution;
 - b. The parents shall provide the three names to the district within 10 business days of the date of the Final Decision and Order;
 - c. The facilitated IEP meeting shall be held as soon as possible but no later than 45 days after the Final Decision and Order and will be calendared well in advance to include four four-hour meetings;
 - d. The completed evaluations, above, will be considered by the IEP team at the facilitated meeting;
 - e. The district shall invite [REDACTED], OTR/L, [REDACTED], and [REDACTED], Ph.D., SLP-CCC to participate in the meeting at district expense;
 - f. The IEP team shall develop measurable goals in the following areas:
 - i. Reading comprehension;
 - ii. Writing a paragraph;

¹ The parents' remedy request, as stated in this Final Decision and Order, is that provided by parents' counsel.

- iii. Speech/language;
 - iv. Self-ambulation across settings;
 - v. Power wheelchair trial and, if viable, a plan for functional use;
 - vi. Use of low/high technology to write to communicate thoughts and knowledge in academics, wants and needs, and for self-advocacy and to use a calculator;
 - vii. Directing activities/others, e.g., where to sit, eat, and who to eat with;
 - viii. Activities of daily living, e.g., self-feeding, assisting in dressing and toileting;
 - ix. Leisure, in and out of wheelchair;
 - x. Mastery of yes, no, I don't know for wants, needs, and academics;
 - xi. Saying "hi" and "bye" to peers and adults;
 - xii. Engaging in conversations with peers that include at least three circles; and,
 - xiii. Shifting from use of behavior to express wants and needs to appropriate ways of expressions;
- g. The district shall share its instructional content with [REDACTED] and fund:
- i. Two hours/month academic instructional sessions by her to work with the student and assess his mastery of academic instructional content provided using the method/s of communication she deems most reliable for communicating academic knowledge; and,
 - ii. Four hours/month for preparation of assessment and consultation with the district;
- h. Except for services specifically designed as consultative, push-in services, related service minutes shall include separate minutes for training and team/IEP minutes so that the student's service minutes are provided to him;
- i. A clear communication plan with uniformity across providers so that the student may make progress and his communication will be accurate and understood across settings and persons;
- i. The plan will be drafted with collaboration by parents, teachers, private and school related service providers, at district expense, not to exceed 15 prospective hours per participant. In the event of disagreement on the plan, Dr. [REDACTED]'s views shall be controlling;

- ii. The plan shall be completed within 45 days of the Final Decision and Order and shall include:
 - 1. A plan for practice of 2 switch step scanning to ger to mastery, access across settings, and a reduction in use of strapping for access;
 - 2. The use and mastery of multi-modal communication tools for the student across settings and communication partners;
 - 3. Provisions for removing communication tools that are not useful or are redundant.
- iii. Comprehensive, research-based training shall be provided by Dr. [REDACTED] across school settings to all staff who work with the student, at district expense. Dr. [REDACTED] or her designee shall conduct monthly 4-hour observational checks across classes and providers until such time as Dr. [REDACTED] feels that staff are fully trained and cross-trained.
 - 1. Dr. [REDACTED] shall train parents and any other private providers working with the student at district expense;
 - 2. Any new staff working with the student shall undergo similar comprehensive training, including modeling and coaching across settings;
 - 3. Implementation will be monitored by an outside case manager, and the case manager and Dr. [REDACTED] will be included in the weekly team meetings held with NSSED service providers;
- j. The district shall draft a transition plan that follows the guidelines set by the U.S. Department of Education in the Transition Guide to Post-Secondary Education and Employment for Students and Youth with Disabilities, published by the Office of Special Education and Rehabilitation Services. Using high expectations and a person-centered planning approach, the plan shall include:
 - i. An academically rigorous course schedule sufficient to obtain a graduation diploma, likely taking extra time to do so given output challenges, and provide the student with the skills and knowledge needed to proceed to post-secondary educational opportunities as was his stated mission when he entered the

- district's high school;
 - ii. A means to address the student's emotional needs and acquire social skills;
 - iii. A plan to explore vocational options, including observation and internships, so that the student can participate in making a knowledgeable choice about his post-secondary options; and,
 - iv. Goals in the activities of daily living so that the student can be an active participant in his life.
- k. The district shall retain and use [REDACTED] and/or other private inclusion and curriculum specialist to create and implement the student's school academic program, including but not limited to at least six hours of staff training on curriculum adaptation, inclusion for all teachers, paraprofessionals and related service providers involved with the student as recommended by the specialist;
- l. The district shall hire an outside case manager to monitor and coordinate implementation of the student's program and staff training. This person should insure that all school policies are followed regarding the student, information in the possession of the school team is shared with parents in a timely manner so that they can be equal participants in the student's school program, IEP implementation, and staff training. If disputes arise in programming or implementation, the outside case manager shall be responsible for working through the disputes with the parents and district in a transparent, data driven manner;
- i. This person shall be selected by the district from a list of three names provided by the parents;
 - ii. This person shall be an experienced special educator and administrator who can see issues and solve them;
 - iii. S/he will hold monthly progress meetings for three hours for six months, and two hours for the following 18 months, to share information, discuss progress, address any concerns from school and/or parents with the purpose of regaining trust between the parents and school, and to create a program for the student in which he can meet measurable and challenging goals across areas of need so he can participate in the community, choosing and largely directing needed supports, by his 22nd birthday;

- m. A qualified and trained 1:1 teacher to provide academic instruction to the student, and who has:
 - i. Minimum of five years teaching experience;
 - ii. Training as described above on the communication plan;
 - iii. Monthly training of at least two hours by teachers who have successfully worked with the student on academics, e.g. [REDACTED] and [REDACTED], and two hours/month of curriculum/inclusion support by [REDACTED], [REDACTED], or other similar provider;
- n. A qualified and trained personal care assistant to assist 1:1 teacher; and,
- o. ESY 2018, consisting of:
 - i. Two hours/day academic instruction from [REDACTED] or [REDACTED] for eight weeks;
 - ii. Minimum of two hours/day of other instruction during the district's ESY period that includes work on the student's IEP goal areas

4. Compensatory education and related expenses:

- a. Reimbursement for non-reimbursed tutoring expenses incurred during periods in which insufficient and/or no academic instruction was provided by the district (bills of [REDACTED], [REDACTED], and [REDACTED]);
- b. Reimbursement for non-reimbursed observations and meeting attendance by [REDACTED] and [REDACTED]. Their participation at district expense was included in the IEP the district delineated was the IEP in place, but their services were not used. Parents carried over participation of these providers to try to create coordination and collaboration in communication modes and tools for the student.
- c. Reimbursement for creation of small PODDs book for home use;
- d. Reimbursement for tour of HMS School in order to consider the district's request for residential placement of the student.
- e. Compensatory education, in the form of:
 - i. Educational instruction for 2.5 years past the student's 22nd birthday to access needed instruction and transition services;

- ii. A curriculum and plan to provide compensatory instruction in a streamlined and effective way as created by [REDACTED], [REDACTED], and/or [REDACTED], at district expense, not to exceed 100 planning hours, which may be distributed across the time as professionals deem fit. The provision of this program shall be funded by the district at a cost not to exceed \$160,000.00/year;
- iii. Compensatory time to regain lost motor skills, in particular the consistent yes/no/I don't know;
 - 1. An ABA program of 15-20 hours/week for one year focusing solely on communication, including but not limited to regaining mastery of lost skills (sounds, signs, and y/n/I don't know);
 - 2. Compensatory related services at the providers' hourly rates, which currently range between \$150 to \$200/hour, as follows:
 - a. OT: twice/week for a two-year period;
 - b. PT: once/week for a two-year period;
 - c. Speech/language therapy: twice/week for a two year period; and,
 - d. AAC/assistive technology: twice/week for a two year period.

The district requests an Order finding that the student's program and placement is as follows: a block schedule with a morning block (8:15 to 11:40), consisting of math instruction (40 min/day with 1:1 teacher), functional academics (small group instruction for functional academics in life skills class 40 min/day), preparation for living (independent life skills, social skills and weekly community based instruction), related services and breaks (restroom); lunch (with small group and 1:1 aide 40 min/day), PESO (adaptive physical education); and, an afternoon block schedule of reading/English instruction, supported vocational experiences, related services, and break. Related service minutes include the following: 480 min/mth speech; 300 min/mth assistive technology; 240 min/mth occupational therapy; 360 min/mth physical therapy; and, 90 min/mth vision services. Related service providers will provide services flexibly across the schedule and will log minutes to verify that service minutes were provided. Additionally, the student's 1:1 teacher will serve as case manager, the 1:1 para-educator will be fulltime and in

all settings, for the entire day, and an assistive technology consultant will provide bi-weekly consultation.

FINDINGS OF FACT

After considering all the testimonial and documentary evidence entered at hearing, as well as both parties' closing arguments, the undersigned makes the following factual determinations:

- 1.** The student, who is now 17 years old, has complex medical conditions that impact his academic and functional performance. He was diagnosed with atypical cerebral palsy when he was three months old and later with oral motor apraxia, a sleep disorder, and cortical vision impairment. TR., pp. 501-508. His movement disorder, which makes it hard for him to have smooth, predictable movements and to initiate and execute movements over time, is his "most debilitating issue." *Id.*, pp. 53, 54. Even after he learns a movement, he has difficulty adapting it to different tasks. *Id.*, p. 54. Because many of his movements are involuntary, he is "very dependent" on others to make his actions successful. *Id.*, p. 55. The skill of his partner "is crucial to his success" in all activities. *Id.* The odds of him making a successful movement are less than 50/50. *Id.*, p. 54. His motor control worsens when he is upset, and he shows that dysregulation by rocking, putting his hands in his mouth, grunting and growling, and making vigorous movement. *Id.*, pp. 57, 83. Although he can finger feed, the food must be first be prepared so that he can grasp it. *Id.*, p. 57. He cannot walk independently and, because of safety concerns, should not sit in a chair unsupervised. *Id.*, pp. 1155, 1156. He requires assistance for all activities of daily living: toileting, bathing, dressing, eating. *Id.*, pp. 98, 99.
- 2.** Cortical visual impairment (CVI) is a neurological impairment that impacts the visual part of the brain. TR, pp. 990, 991. Although the student's eyes are normal, his cortex does not process visual information in a normal way. *Id.*; P. Vol. 1, Ex. 54, p. 281. His ability to process visual information requires "constant narration of the visual presentation to facilitate understanding through his auditory learning pathway." *Id.*, Ex. 20, p. 107. Educational materials must be presented in certain sizes for both print and pictures and at a certain distance. *Id.*, Ex. 42, 43. His visual processing varies daily and is negatively impacted by internal sensory dysregulation and

fatigue. TR, pp. 991, 992; P. Vol. 1, Ex. 54, p. 281; *Id.*, Ex 44. Movement is the “best way” to help him regulate himself. *Id.*, Ex. 44, pp. 203, 204. Educational materials must be modified to “reduce visual complexity and visual clutter.” TR, p. 993. Although large fonts make reading easier for him, they can also negatively impact his comprehension because the amount of material on a page would be reduced to only one or two lines. *Id.*, pp. 995, 996. These competing interests must be balanced in presenting materials. *Id.*, p. 996. When reading is done on a computer screen, the screen must be tilted with the bottom towards him. *Id.*, pp. 997, 998.

- 3.** The student’s speech intelligibility is “profoundly impaired” due to oral motor apraxia. Dist. Vol. 2, Ex. 6, p. 743. He uses “idiosyncratic gestures, verbal/vocal productions and intonation as well as body language/hand movements, and facial expressions to communicate with others.” *Id.*, p. 744. He requires proper posture and sensory regulation to produce word approximations and a trained communication partner who understands his verbalizations. Dist. Vol. 3, Ex. 12, pp. 53, 54. He also needs alternative/ augmentative communication (AAC) devices to communicate. *Id.*, Ex. 231, p. 4005. AAC devices used over the years include: pragmatically organized dynamic display (PODD) communication book; speech generating device (SGD); communication dictionary; “I have something to say” switch; and, an iPad. P. Vol. 1, Ex. 24.
- 4.** The student began kindergarten in a life skills program, which was the only placement offered by his elementary school district. TR., p. 517. The program included minimal academics, and the mother was dissatisfied with the related services, particularly for physical therapy and communication. *Id.*, pp. 518-520. The student was given an (AAC) device in second grade but was unable to use it successfully. *Id.*
- 5.** When the elementary district proposed the life skills program for the student’s third grade placement, the mother decided to educate him at home. TR., pp. 526, 1533. She designed a program that consisted of a modified applied behavior analysis (ABA) program with multisensory learning supports and hired staff to implement the program. *Id.*, pp. 527-531, 1533, 1534. The mother was, in essence, the “CEO and principal” of the student’s educational program for the next several years. *Id.*, p. 1533.

6. Ms. G. provided ABA services to the student in the home program during third grade, and a speech/language pathologist, an occupational therapist, and a developmental therapist also provided related services in the home program. TR, pp. 148, 149. The student was often “very unregulated” and had a “hard time really processing his environment.” *Id.* He “could not generalize or develop relationships” with new people. *Id.* Ms. G. used a “very modified” ABA program and took the motor and visual components out of the academic program to meet the student’s needs. *Id.*, pp. 150, 151. Because the student’s behaviors were significantly impacted by his internal dysregulation, what worked one day “did not work the next.” *Id.*, p. 152. When challenged, he would shut down. *Id.* Ms. G. worked on pre-academic skills and letters, numbers, and sounds through non-motoric formats, e.g., sound, touch, visual, because the student’s functioning varied on a daily basis. *Id.*, pp. 156-160. Later, she used yes/no symbols and a trifold board with “yes/no/I don’t know” as communication devices to help him express his wants and needs. *Id.*, pp. 160, 161. Partner assisted scanning was used to assess listening comprehension. *Id.*, p. 167. He was presented with a limited number of choices, which were told to him and then shown to him one by one, and he then touched or gestured to one to acknowledge his choice. *Id.*, p. 166. Because the student sometimes presented differently to the various providers, it was important to determine if he was having trouble generalizing or if the staff had different expectations of him. *Id.*, p. 165. Due to his inconsistent responses, providers required him to show a skill using a couple different communication methods to multiple people before determining that he had learned a skill. *Id.*, p. 168. His listening comprehension “was always far above his reading comprehension” due to his CVI. *Id.*, p. 65; see also, TR. 264
7. The mother and Ms. G. developed a floor keyboard for the student, based on research they had done on alternative communication methods. TR., pp. 169, 170. The keyboard was a large cloth with “visually appropriate sized letters” widely spaced apart and attached with velcro to a felt board. *Id.*, pp. 169-171. Because an adult supported the student as he walked on the keyboard to different letters, there were concerns about “inadvertent cuing or prompting” from the facilitator, and the keyboard a form of facilitated communication. *Id.*, p. 172; 241. To address those concerns,

precautions were used, including not taking a step until the student took a step, holding him so he was supported but without “inadvertent leaning” that might guide him, and using another communication method to “back up” what he had demonstrated on the floor keyboard. *Id.*, p. 173. The home-based staff also tried to have one person teach and a different person assess the skill via the floor keyboard. *Id.*

- 8.** The elementary school district funded a two part independent educational evaluation (IEE) in school year 2009-10 to determine the student’s present levels of performance (PLOP) and to make recommendations regarding educational placement. Dist. Vol. 2, Ex. 23, p. 865. Dr. K., a licensed clinical psychologist, evaluated the student in November 2009.² *Id.* She observed the student in different educational settings, reviewed records, and met with school staff and the student’s mother. *Id.*, p. 866. Based on her review of that information, she determined that the student’s developmental age was “roughly” between 18 and 36 months. *Id.*, pp. 865, 882. His chronological age was 9 years, 0 months. Due to his disabilities, he had not mastered the “foundational building blocks of development and learning.” *Id.*, p. 876. His emerging skills (those present but not consistently demonstrated) included identifying three letters of the alphabet and four primary colors, following simple one-step directions, maintaining focus for learning up to 40 minutes, and some motor skills. *Id.*, p. 872. His established skills included maintaining meaningful eye contact, expressing affection, approximating beginning sounds, expressing discomfort, finger feeding, and using some modified American Sign Language gestures. *Id.*, pp. 873, 874. To help “narrow the gaps in his developmental profile” and help him move toward “age-appropriate functional skills,” Dr. K. recommended that a team of experienced providers including an early childhood special education teacher with training in vision impairment, related service providers, and a highly qualified individual paraprofessional work as a team with the student. *Id.*, pp. 876, 881.
- 9.** The second part of the IEE proposed IEP goals based on the student’s levels of performance in different areas. Dist. Vol. 2, Ex. 21. A “significant hurdle” to the student’s learning was that he did not have a single communication strategy. *Id.*, p. 850. Visual scanning/eye

² Neither party called Dr. K. as a witness.

gaze was recommended as a preferred mode of response rather than responses that required motoric activities, e.g., hand over hand assist or finger pointing. *Id.*

10. The student continued in his full-time home program through fifth grade, and then in sixth grade his educational day was divided between the home program and the public elementary school. TR., p. 531. In seventh grade, the mother found a private therapeutic day school that agreed to house an individualized program for the student within its building, funded by the elementary school district. *Id.*, pp. 533-535. He received related services during the school day from the providers who had worked in home program, and the school hired a 1:1 special education teacher for him, Ms. K., and a personal care assistant. *Id.* He participated in non-academic activities, e.g., lunch, gym, school programs, and field trips, with the other students and liked being with his peers. *Id.*, p. 546. In eighth grade, he pushed into the regular science class with his 1:1 teacher, Ms. K. *Id.*, p. 547. Ms. K. used the floor keyboard to assess the student, both for teaching and formal assessments.³ The special education cooperative's vision itinerant was concerned about the use of the floor keyboard for both instruction and assessment in part because of a conversation she had with Ms. K., in which the teacher stated that "she felt that (the student) could read her mind.... If she knew the answer, (he) always got the answer correct. If she didn't know the answer, (he) would answer incorrectly." TR, p. 1004.

11. In fall 2014, the district's special education director, Ms. A., gave the mother a tour of the district's campuses to familiarize her with the buildings and environment.⁴ TR, p. 2100. The private school convened a meeting on January 6, 2015 to begin discussing plans for the student's ninth grade year. P. Vol.1, Ex. 53, p. 279. The mother was concerned that the public high school would "be sensory overwhelming" to the student and could not meet his needs. *Id.*, pp. 279, 280. She also wondered if a residential school would better meet his needs. *Id.*, p. 280.

12. The elementary district held a transition plan meeting on March 2, 2015. Dist. Vol.1, Ex. 16. Ms. A., who was the district's special

³ Neither party called Ms. K. as a witness.

⁴ In the high school district, freshmen students attend one campus and then transition to another nearby campus for the next three years. District Brief, March 26, 2018 at p. 15, footnote 5.

education director at that time, took notes at the meeting and provided the mother a draft of the minutes after the meeting. TR, pp. 2104, 2105. The mother's comments, which are underlined, were incorporated into the final notes. Dist. Vol.1, Ex. 14, pp. 400-403. The mother was pleased with the private program and asked if the student could remain there for academics and attend public high school for "social things." *Id.* However, the private school's high school program was on the second floor and not accessible because the building does not have an elevator. *Id.* At the March 2nd meeting, the parent agreed to extend the goals in the March 13, 2014 IEP until the May and June 2015 IEP meetings to "prepare for (the student's) transition to high school." P. Vol.1, Ex. 59, p. 316.

- 13.** On May 22, 2015, the IEP team met at the private school for the student's high school articulation meeting. Dist. Vol.1, Ex. 16, p. 590. Ms. A. attended the meeting on behalf of the district. *Id.* The student had not received direct speech therapy in his private school placement since November 2014. *Id.*, p. 594. The mother raised several concerns about high school: whether staff would be adequately trained to work with the student; whether there was adequate planning and staff training for ESY; and, how the student access coursework if it was too distracting for him and other students to be in class. *Id.*, p. 594. The draft IEP incorporates the goals drafted by the private school for the 2015-16 school year. *Id.*, pp. 594-623; TR., pp. 2104, 2105. Based on necessary accommodations and modifications to access the general education curriculum and the pace of the student's learning, the IEP team determined that placement would be in an instructional program. *Id.*, p. 617.
- 14.** The team developed a five week Extended School Year (ESY) 2015 program: 600 minutes/week of academic work with parent-secured tutors; 300 minutes/week of direct speech therapy and 120 minutes/week of consult; 300 minutes of physical therapy; and 120 minutes of physical therapy training to assistants on toileting and braces; 600 minutes of occupational therapy; 300 minutes of direct assistive technology from the special education cooperative's speech/language assistive technology (AT) specialist; and, four hours of training provided by private AT consultant to the staff. Dist. Vol.1, Ex. 16, p. 617.

- 15.** The change from the small, 1:1 educational program with providers who had known the student for several years to a large school with a new team of providers had a “big impact” on the student. TR., pp. 86, 87. He regressed in multiple areas: communication, toileting, sensory regulation and showed physical changes in his posture and agitation. *Id.*
- 16.** The student began ESY 2015 at the high school, and his private providers, Ms. G. and Ms. N., provided educational services to him for two hours/day five days/week to help facilitate his transfer to the public school. TR, pp. 181-183, 2133. Related service providers provided services for two hours in a 1:1 setting on a flexible schedule. *Id.*, p. 2134. High school staff who were assigned to begin with the student in the fall came in during ESY to become acquainted with the student and to observe how the tutors worked with him. *Id.*, p. 2133.
- 17.** The IEP team, including the mother, met several more times over the summer of 2015: June 3rd, July 13th, July 24th, and August 11th. Dist. Vol. 1, Exs.12-15. Counsel for each party attended the meetings on July 13th and July 24th. *Id.*, Ex. 13, p. 481; Ex.14, p. 526. The discussion of PLOPs continued at the June 3rd meeting. TR., pp. 2105- 2107. The mother raised concerns about the lack of a smart partner and the lack of floor keyboard. Dist. Vol.1, Ex. 13, p. 521. The district agreed to use the floor keyboard but required two adults to use it with him, for safety. *Id.*
- 18.** The parents filed their first due process complaint prior to the July 13th meeting. TR., p. 2108. At the July IEP meeting, the mother presented a comprehensive list of the student’s needs, ranging from personal needs such as communication, sensory regulation, and self-advocacy to academic needs and staff training and expectations. *Id.*, Ex. 14, pp. 529, 530; Trans., pp. 2111-2118. The district presented draft goals, and the IEP team, including one of the parent’s private providers who participated by telephone, discussed the parent’s concerns and level of classes for the student. *Id.*, Ex. 14, pp. 532-534. The floor keyboard was discussed at the meeting, and the mother’s attorney and Ms. N., one of the parents’ private providers, stated that it was the student’s most successful mode of communication. Dist. Vol. 1, Ex. 12, p. 473. TR., p. 2115. While the district did not object to using the floor keyboard, it was concerned

about safety and, due to the student's size, wanted two staff to support him when the keyboard was used. *Id.* The special education cooperative's physical therapist also supported using two people. TR., p. 2116. Draft goals were reviewed again at the July 24th meeting, with input from the parent and private providers. *Id.*, Ex. 13, pp. 505-523. The parties were close to finalizing goals, and the district thought the meeting was "very productive." TR., p. 2131.

- 19.** The next IEP meeting was held August 11th. Dist. Vol. 1, Ex. 12, p. 442. The mother participated by telephone. *Id.* In an attempt to stick with developing the student's program before determining placement, the team focused on developing academic and related service goals. TR., p. 2190. The team discussed and shared ideas about how the student would participate and interact with his peers during the school day, including during advisory and lunch. *Id.* The mother was concerned that she was given insufficient notice that student could not attend an advisory activity that was held before school started. Dist. Vol. 1, Ex. 11, p. 417. A time was set for the advisory teacher to meet with the student's private SLP to discuss how to use the PODD book. *Id.* The team met for approximately 2.5 hours. *Id.*, pp. 416, 419. The parties shared email comments about the proposed program via email in mid-August. Dist. Vol. 2, Ex. 54, pp. 937-945. On August 19th, the team met again to continue the goals discussion. *Id.*, Ex. 11. TR., p. 2135.
- 20.** On September 30th, the IEP team including the mother and her attorney, met to discuss the parents' concerns, which were identified in an email. Dist. Vol. 1, Ex. 10, p. 366. The student had a 1:1 special education teacher, Ms. W., for three periods a day for English, algebra, and world history. *Id.*; TR., p. 2136. Ms. W. was also the student's case manager. *Id.* Related service providers and other staff were assigned for the other time periods. *Id.* The district was concerned that total inclusion was not working, even with a 1:1 special education teacher, because of the fast pace of instruction and the differences between a regular high school and the "small separate special education school" that had been the student's prior placement. *Id.* The student's private providers noted that the student had been successful in an inclusion setting in the private school. *Id.* The mother was concerned that the history instructional level was too low. *Id.* She also stated that Ms. W. had not planned with her. *Id.* The many differences between the private/public school settings was

discussed. One of the private providers suggested that prepping the student “with answers to questions that teachers will ask,” as the private school had done, would motivate him to communicate. *Id.*, p. 367. Another noted that prior to high school, the student “has never had the opportunity to sit in a general ed classroom..... He is often not regulated and cannot sit through a 40 minutes lecture.” *Id.*, p. 369. The parties differed as to whether the student was functioning at grade level, and their frustration and extreme difficulty in talking with each other to address the student’s needs permeates the notes. *Id.*, pp. 366-370. The district proposed dropping algebra and remaining in world history with a resource period to support that class; the mother wanted him moved to a higher level history class. *Id.* The district also proposed dropping creative cuisine and replacing it with a life skills class in which non-disabled students serve as “supportive students.” *Id.* The mother agreed to observe the class. *Id.* The team discussed IEP goals and the structure of future IEP meetings. *Id.* pp. 369, 370. The mother wanted a 1:1 certified special education teacher to be with the student in every class period. TR., p. 2143. The district thought the student should have “an experience similar to other high school students.” TR., p. 2144. If the district did as the mother requested, contractual provisions would require it to hire two teachers for the student. *Id.* The student’s dysregulation was the “main barrier” to participating in academic classes all day. TR., p. 2144.

- 21.** Ms. W., the ninth grade teacher, had observed the student with his home therapist over the summer before ninth grade. TR., p. 697. She also collaborated with two of his private providers, Dr. S. and Dr. N., both of whom worked with her in the classroom once school started. *Id.* Dr. N. came in bi-weekly, and Dr. S. came in weekly. *Id.* They trained her on the student’s communication systems, including the floor keyboard, and also worked with him as she observed, and then they switched to observing her. *Id.*, p. 698. Ms. W. had difficulty supporting the student on the floor keyboard, and sometimes he dropped to the floor and threw his head back. *Id.*, p. 702. Dr. N. developed the methodology for implementing the regular education reading instruction. *Id.*, p. 705. However, Ms. W. was concerned that the assigned novel was too difficult for the student because it was at a significantly higher reading level. *Id.*, pp. 712, 713. Ms. W. was also with the student for advisory, which was an all boys group. *Id.*, p. 718. She showed the boys how to use the student’s PODDs book, and

the student did a presentation to the group. *Id.*, pp. 718, 719. He enjoyed the activities the group did. *Id.*, pp. 719, 720. Ms. W. had planned to go to the school dance with the student, but after a conflict with the mother over the school's requirement that two staff had to help the student dance without being in his wheelchair, the mother did not send him to the dance. *Id.*, 721.

- 22.** The elementary district had obtained an assistive technology evaluation just prior to the student's transition to high school. TR, p. 2146. The high school IEP team did not find its recommendations were sufficient for the student going forward. TR., p. 2146. The IEP team, including the mother, agreed to retain Ms. N. as the AT consultant. *Id.* Ms. N. had worked with the student before, and the mother agreed to the district's proposal. TR., pp. 2147-2149.
- 23.** The student's first quarter progress report for 2015-16 indicates "passing" in resource seminar and world history, A in adaptive physical education, and incomplete in creative cuisine. P. Vol. 2, Ex. 82, p. 786.
- 24.** The IEP team, including the mother and her attorney, met again on December 1, 2015. Dist. Vol. 1, Ex. 9, p. 257. A meeting had been scheduled for November 23rd but was cancelled by the parents' attorney. *Id.*, p. 312. Prior to the meeting, the mother sent comments on goal revisions and supplemental notes to the September 30th IEP. *Id.*, pp. 262, 263. She questioned how the goals were developed and whether they were based on accurate information. *Id.* The IEP discussion focused on the student's mobility needs and goals to support those needs. *Id.*, pp. 312, 313. The team also discussed the student's communication needs, particularly in regard to assistive technology. *Id.*, pp. 314, 315. A new switch system was being developed, which "could potentially" give the student mobility and independence throughout the day. *Id.*, p. 314. The student's multiple communication systems were reviewed, with concerns noted by each party about each system and with agreement reached on some goals. *Id.*, pp. 314, 315. The team discussed the student's calculator goal, with discussion focusing on use of a calculator or the floor keyboard. *Id.* p. 316. Ms. H., the special education cooperative's physical therapist, stated that the student was outgrowing his swing and recommended that he did not need it any more. TR., p. 1135. Ms. H. had worked with the student in his prior placement and has known

him since kindergarten. TR., pp. 1131, 1152. She also recommended that two people should be with the student on the floor keyboard for safety reasons and that he wear braces so he did not go up on his toes. *Id.*, pp. 1158, 1159. She opined that the student was “100%” safe in the proposed switch system with the power wheelchair; however, the mother asked that he not use it. *Id.*, p. 1172.

25. Both the mother and her attorney attended the next IEP meeting, held on January 28, 2016. Dist. Vol. 1, Ex. 8, p. 244. The discussion focused on the student’s communication plan. *Id.*, p. 245. The district speech language pathologist reported that the student was vocalizing more and using the PODDs book, yes/no trifold, and STS switch as AACs. *Id.* He was working on greetings (“hi” and “bye”), particularly in Advisory. *Id.* Because the student was developing relationships with peers and did not seem overwhelmed by the environment, the district proposed having him go into the cafeteria for part of lunch. *Id.* The mother agreed to the proposal. *Id.* Ms. N., an outside AT consultant, proposed that the student learn to use a power wheelchair so that he could become more independent and learn to navigate some of the high school environment. *Id.*, p. 246. She was concerned that “too much time” was devoted to physically moving the student and noted that the power wheelchair would “increase independence.” *Id.* The teacher reported that the student was using 2-switch step scanning for reading. *Id.* In response to the mother’s query about extra-curricular activities, the district agreed that he should be involved in Pep club and noted that he was participating in Mudslingers (a pottery activity) and Special Olympics. *Id.* The communication plan for extracurriculars included the student’s use of basic verbal communications and a set of communications developed by the district SLP. *Id.*, pp. 246, 247. The mother proposed dropping the cooking class, and the district agreed to look into her request. *Id.*, p. 247. The mother provided supplemental minutes after the meeting. *Id.*, pp. 248-252.

26. On February 23, 2016 the IEP team met again. Dist. Vol. 1, Ex. 7, p. 220. The parents’ attorney attended in person, and the mother participated by telephone. *Id.* The meeting focused on Ms. N.’s AT/ACC evaluation and proposals. *Id.*, pp. 220-226. The mother was concerned that most of the student’s day was not motivating and that he had “communicated to her that he did not want to participate in life skills and did not like (the high school). *Id.*, p. 222, 223. School

staff disagreed with those statements and presented a different picture of the student. *Id.*

- 27.** The vision itinerant for the special education cooperative, Ms. D., has worked with the student since 6th grade. TR., p. 890. She observes him once/weekly for a class period. *Id.*, p. 998. She collaborated with Ms. W. on how to present educational materials in a visibly accessible format. *Id.*, pp. 1115, 1118. Ms. D. has not seen a regression in the student; rather, she has seen a growth in his visual functioning. *Id.*, p. 1032. He is looking more directly at things and starting to incorporate tracking and shifting gaze. *Id.*
- 28.** The student was injured at school on February 22, 2016. TR., p.1674. After the February 23rd IEP meeting, the parties discussed the incident, with the mother participating by telephone. Dist. Vol 3., Ex. 37, p. 2110; TR., p. 2152. At the time of the incident, the student was in his power wheelchair and had been working on some switch games. Dist. Vol. 2, Ex. 30, p. 2102. He became increasingly dysregulated, moving his head back and forth, and did not respond to the aide's question of whether he had something to say. *Id.*, p. 2102. The aide moved the student out of the wheelchair and to the swing. And then turned to get the student's iPad. *Id.* When he turned back, he noticed blood on the student's head. *Id.* He placed a towel on the back of the student's head over the cut and took him to the nurse. *Id.* The mother was called and took the student to the emergency room, where a physician cleaned the wound and placed three staples in the student's head to close the cut. *Id.* The student was not "screaming and crying and being upset" when the mother arrived. TR., p. 1678. The hospital contacted the Department of Children and Family Services (DCFS), which interviewed the mother and district staff and inspected the student's classroom and power wheelchair. Dist. Vol. 2, Ex. 30; TR., p. 2155 .
- 29.** The district conducted an investigation of the incident, interviewing the assistant who was with the student at the time, the case manager, and the school nurse. TR., pp. 2153, 2154. Two administrators separately interviewed each of the foregoing staff. TR. p. 2154; Dist. Vol. 3, Ex. 30, 37. The district agreed that going forward, there would never be less than two adults with the student at all times. TR., p. 2155. There is no evidence that the arm bands were being used as restraints. *Id.* The parent did not send the

student back to school.

30. The parent requested homebound services on April 1st, and on April 7th, the district responded to the homebound request, stating that there was “no medical certification letter” supporting that request. *Id.*, Ex. 24, p. 963. On April 11th, the parent provided a letter from the student’s physician requesting homebound services. Vol. 2, p. 868. The letter does not indicate that the physician had seen the student since the February 22nd injury. The district looked for a homebound tutor but was unable to find one. TR., 2156. Ms. W., the student’s teacher, sent work home but never received completed work back. *Id.*, p. 724. Although the student did not return to school that school year, he did participate in a school field trip to the Field Museum and the zoo, an after-school activity, and Special Olympics. *Id.*, pp. 874, 1682, 1683; Dist. Vol. 2, Ex. 24, pp. 962, 963. He also attended school for one day in March, when staff from a therapeutic day school that the parents were considering had scheduled an observation of the student. TR., p. 1682.

31. The parties held an IEP meeting on April 11, 2016, and both the mother and her attorney attended the meeting. Dist. Vol. 1, Ex. 6, pp. 203, 204. The meeting began with a dispute over the length of time that the student’s advisor could attend the meeting, and the parent stated she would not waive his attendance. *Id.*, p. 205. The parties agreed to limit discussion to domains and re-evaluation, not IEP goal revisions. *Id.* The district reported that the student’s reading level had increased and proposed math and reading assessments. *Id.* The mother asked to have his 8th grade Key Math scores included in the IEP as existing information. *Id.* That assessment was conducted at the student’s prior placement and done using the floor keyboard and multiple choice answers. *Id.* The district vision itinerant had not been consulted about test accommodations. *Id.*, p. 206. Ms. S., one of the student’s private providers, agreed that visual limitations impact test results and thus standardized scores cannot be used. *Id.* The mother was concerned about administering an assessment without using the floor keyboard, which she stated was the student’s “only consistent” method of output. *Id.* The parent and district agreed that both listening and reading comprehension should be assessed. *Id.* The district suggested that no new information was needed on functional performance; however, the mother disagreed and requested such information. *Id.*, p. 207. Because the student’s

cognitive assessments from 2010 and 2013 are part of his educational record, the team agreed that no further information was required. *Id.* The team discussed whether anecdotal information should be included with results of standardized testing, with disagreement clearly focused on the use of the floor keyboard, which the district sees as facilitated communication. *Id.*, p. 208. The parties agreed to consult on modifications for language, reading, and math assessments. *Id.*, p. 209. The mother made specific requests for the motor domain, and the district agreed to her requests. *Id.*, pp. 209, 210. The mother requested assessment in the social/emotional domain, including a behavioral rating scale that would be given to parents and teachers. *Id.*, p. 210. The meeting concluded with an agreement that the district would revise the domains form and send it to the parent. *Id.*

- 32.** The PARCC test is a state test that is given to students enrolled in English or Algebra I, and in this district, it is administered in freshman year. TR., p. 2179. Although the student was not attending school when the test was administered, the mother wanted him to take the test. *Id.*, p. 2180. Although none of the district IEP team members had recommended that he do so, the district was willing to work with the mother if she wanted the student to take the test. *Id.*, pp. 2181, 2267.
- 33.** The district hired a consultant in 2016 to facilitate communication between the student's regular and special education teachers and between the mother and district. TR., p.1083.
- 34.** The IEP team, including the mother and her attorney, met on June 8, 2016 to review a private AT evaluation and the domains from the prior meeting. Dist. Vol. 1, Ex. 5, pp. 190-193. The AT evaluator stressed the need for the student "to communicate independently" across all environments. *Id.*, p. 193. Despite the lengthy discussion of the student's technology needs, the parties did not agree on a clear path going forward. *Id.*, pp. 194-196. Ms. N. emphasized the importance of the student having a consistent way to communicate, which the system she was developing would provide. *Id.*, p. 194. In light of the lengthy AT/ACC discussion, the parties agreed to follow up by email on domains and ESY. *Id.*, p. 196. Because the student had been out of school since February, there were no progress reports to review. *Id.*, p. 193.

- 35.** On June 16, 2016, the district offered to provide the student with 600 minutes/week of tutoring provided by tutors selected by the parents for seven weeks and switch practice and related services at the high school “to an amount commensurate with supports last year for OT, PT and AT,” and 420 minutes/week of speech/language therapy. P. Vol. 3, Ex. 118, p. 1770; TR., pp. 2159, 2160. The student attended the AT training at the high school in summer 2016. TR, p. 2160. Ms. G., who has worked with the student since third grade, provided ESY services in summer 2016. TR., p. 236. She reported that he had “declined” and that his lack of attendance at school could be one of the reasons for the decline. *Id.*, p. 237.
- 36.** The district continued to look for a therapeutic day school placement for fall 2016. TR. p. 2161. The school that had observed the student in the spring did not accept him. *Id.* It was the district’s position that (the student’s) stay put placement was a therapeutic day and that the parent was “very interested” in pursuing that. TR., p. 2190. Additionally, the therapeutic day school that had observed the student in March was still a possibility, depending in part on its ability to review school records as a first step. The district urged the mother to comply with the records request. *Id.* One week before the start of the fall semester, the parents informed the district that the student would be returning to school in fall 2016. *Id.*
- 37.** The IEP team did not convene prior to the start of the student’s 10th grade year. TR., p. 2190. On August 25, 2016, the district provided an “interim schedule” for school year 2016-17. P. Vol. 3, Ex. 120, pp. 1815, 1816; TR., pp. 878, 2166. The proposed schedule includes advisory, AT working on switch practice, adaptive PE, lunch, physical science, two periods of English, and two periods of math essentials. *Id.* The district was interviewing a teacher through a contractual agency. *Id.*, p. 1815.
- 38.** The contractual teacher did not start at the beginning of the 2016-17 school year; therefore, the district placed the student with Ms. C. in a life skills classroom. TR., p. 2169. The student was with Ms. C. for two to three weeks, and also had a 1:1 aide, Mr. K., who knew the student from working with him in 9th grade. *Id.*; TR., p. 1045. Mr. K. has an ISBE paraprofessional certificate and worked with the student from August 2016 through February 2017. TR., p. 1044. He worked

with the student on his AT skills in the life skills classroom and also in co-taught science and High Five Choir. TR 1049, 1051, 1052. Mr. K. had been trained over the summer on AT by Ms. H. TR., p. 1049. He used the PODDs book to communicate with the student, as he had been trained to do by the student's private provider in 9th grade. *Id.*, p. 1054. He tried to "integrate the other students" into the communications. *Id.*, p. 1055. He also had been trained in how to move with and stabilize the student. *Id.*, p. 1056. He worked with the student on power wheelchair training, and one day the student "drove all over the school." *Id.*, p. 1074. He also was with the student for lunch in the cafeteria. *Id.*, p. 1076. He taught the student how to do "low fives" with his peers and encouraged him to related to the other students. *Id.*, pp. 1077, 1078.

39. Ms. MC., a certified special education teacher, was then hired as the student's 1:1 teacher. TR., p. 2171. She worked with the student until the end of October, when she was asked to leave because "she was not a very good fit for the student." TR., p. 2172. The district then hired Ms. H. as the student's special education teacher, and she started in January 2017 and remained with the student throughout 10th grade. *Id.*, pp. 2172-2174. Mr. K. worked with the student in the interim between Ms. MC. and Ms. H. *Id.*, p. 2175. Although the district's understanding at that time was that Mr. K. was a certified teacher, they later found out that he was not. *Id.* However, he did have "an established relationship" and "a rapport" with the student and was trained on the student's communication system. *Id.* The student's class schedule included a special education science class, kinetic wellness (i.e., PE), choir, and advisory. *Id.*, p. 2176. The school informed the mother of the classes the student was taking through daily communications. *Id.*, p. 2178.

40. On September 14, 2016, the parents submitted a letter to the district's superintendent, informing the district that they were unilaterally placing the student in a once/week reading/reading comprehension program beginning on September 28, 2016. P. Vol. 2, Ex. 94. The reading program would be in addition to his attendance at the high school. *Id.* The letter requested that the district fund the program. *Id.*

41. The independent educational evaluation of the student ordered by the hearing officer was conducted by Dr. L. in February and March

2017.⁵ Dist. Vol 2., Ex 1, p. 687. Dr. L., is a licensed clinical psychologist with a background in school psychology combined with special education. TR., p. 295. She is a professor at a medical school in Chicago and runs a clinic at Yale University for people with developmental disabilities who have legal problems. *Id.*, p. 296. Dr. L. did not use standard assessments in her evaluation because of the student's multiple disabilities – nonverbal, visual impairments, and limited mobility – and inconsistent presentations. *Id.*, p. 299; Dist. Vol. 2, Ex. 1, p. 687. Instead, she reviewed standardized assessments and developed a series of questions to see if she could get “reliable communication responses” from the student. TR., p. 334. All the items she presented to him were at an early elementary school level. *Id.*, p. 336. Dr. L. also interviewed the student's mother, school staff, private educators and clinicians, and observed the student in the school, home, and therapy settings. Dist. Vol. 2, Ex. 1, pp 688-701. Her evaluation took place over several months, with interviews conducted in February and March 2017, observations occurring in April, May, July and August 2017, and assessments in August 2017. Dist. Vol. 2, Ex. 1.

- 42.** Private clinicians expressed concern about the multiple modes of communication used with the student and varying expectations between providers. Dist. Vol. 2, Ex. 1., p. 691. Several people were concerned about the floor keyboard as a communication system and the PODD book. *Id.*, 692, 693. The student's task engagement was inconsistent and varied in accordance with his level of dysregulation. *Id.* 694. School staff were concerned that his communication was inconsistent and that some behaviors might not be intentional communication. *Id.*, 697-699. They also were concerned about the floor keyboard in terms of safety, inefficiency of expression, and motor concerns. *Id.* School staff reported that the student wanted to interact with his peers and that they supported his doing so. *Id.*, 700.
- 43.** Dr. L.'s determined that the student's “most important” need is to develop the ability to communicate effectively in some form, including through assistive technology; without that, he has “no means of expressing himself...of expressing knowledge, opinions, desires, anything like that, and that's crucial.” TR, p. 301. The floor keyboard

⁵ The undersigned ordered the IEE pursuant to the district's motion, which was fully briefed by the parties, because the parties were unable to agree on the scope of the triennial evaluation, which was past due, and the parents' position that the district had sufficient information to prepare an IEP for the student. IHO Order, December 8, 2016.

is problematic because it requires facilitation, is not practical, and has safety concerns. Dist. Vol. 2, p. 713. The student needs consistent responses to his behaviors and communication attempts, and the variability in communication “is impeding his progress.” *Id.*, pp. 714-716. Staff must have consistent strategies for addressing his interfering behaviors. *Id.*, 716, 717. As to level of academic instruction, Dr. L. did not “determine his ultimate potential but found that he accurately displayed knowledge of grade school level knowledge questions and math computation.” *Id.*, 717. Her educational recommendations include: consistency across settings through using a behavioral analyst to develop a system to collect data on the student’s communication and behaviors; establish reliability among team members on his communication devices; a consistent prompting hierarchy; consistent strategies for interfering behaviors; consistent response to hands in mouth; level of instruction - assess for learning to help insure that work is not too hard/too easy; if attentive but performing below chance, drop the level of instruction; general approach – structure, clear expectations, minimal distractions. *Id.*, pp. 714-718. Dr. L. found that the student was not able to engage in a general education classroom for 40 minutes. TR., p. 341. The most critical things for him to learn are effective communication and how to move from point A to B. *Id.*, p. 345.

- 44.** Ms. G., one of the student’s private providers, provided ESY 2017 services to him in his home. TR, p. 208. It was “very challenging” to get him to respond, and his ability to use his ACC devices had declined. *Id.*, 209. However, by fall 2017, his school work had improved. TR, pp. 228-231. She recommended a functional analysis of his behaviors, to determine what is communication based, task avoidance, and attention seeking and then developing a multisensory approach to address each behavior. TR., p. 211. Co-teaching, e.g. teacher and therapist together, was her recommended method. *Id.*
- 45.** An IEP meeting was held on March 1, 2017. The mother attended the meeting as did district’s counsel. Dist. Vol. 1, Ex.3., p. 169. The district agreed to pay the speech clinic directly “as compensatory service for speech/language therapy not provided for the first semester of the 2016-17 school year.” *Id.* The district also agreed to change the student’s eligibility to Other Health Impairment since the parent was pursuing therapeutic day school placement. *Id.* The team

discussed several issues related to private placement and then moved on to discuss related services and the ongoing AT evaluation with Ms. N., which includes the power wheelchair and switch system. *Id.*, pp. 170-172. The mother raised concerns that the hug straps were on too long and were being used as restraints. *Id.*, Ex. 2, p. 80. The system was used two periods/day. *Id.* The special education teacher was working with the student on a reading series at the 7th grade level. *Id.*, p. 81. The mother did not agree to finalize the IEP because all the components had not been discussed at the meeting. *Id.* The mother provided a list of her concerns after the meeting. *Id.*, pp. 173-174.

- 46.** The next IEP meeting was held on May 22, 2017. Dist. Vol. 1, Ex. 2, p. 46. This is the first IEP that has the Waiver of Ten Calendar Day Notice form, and the mother signed the form on the day of the meeting. *Id.*, p. 48. Dr. S., the parents' private AT consultant, requested and was given the student's updated communication plan. *Id.*, p. 81. The team reviewed technology that was being used with the student. The student's most consistent communication systems are PODD and partner assisted scanning. *Id.*, p. 82. He does not have one mastered form of communication because his ability is dependent on his regulation. *Id.* The use of the floor keyboard was still a contested issue between the mother and district. *Id.* A discussion on goals started but did not get far, ending with a request that the mother provide her proposed revisions. *Id.*, p. 83.
- 47.** For ESY 2017, the district funded services for the parents' private providers. TR., pp. 208, 1592, 2089. The mother requested that for fall 2017, the student be enrolled in English, science, and algebra, and the district agreed to her request. TR., p. 2080.
- 48.** An IEP meeting was held on October 2, 2017 to review the Dr. L.'s IEE. Dist. Vol. 1, Ex.. The district offered to complete a FBA, but the mother did not consent. A draft IEP was developed, and the mother provided comments to be addressed at a later meeting. *Id.*, pp. 2156-2164.
- 49.** Mr. C., who is the student's current 1:1 teacher and also his case manager, was assigned as teacher in July 2017. TR., pp. 910, 916, 923. He has a personal connection with people with disabilities as his older sister is non-verbal and has cerebral palsy. *Id.*, 911. He also is a neighbor of the family and first met the student through a sports program several years ago. *Id.* Mr. C. is with the student eight

periods of a nine period day. *Id.*, p. 916. He implemented the December 2015 IEP, which was the stay-put IEP. *Id.*, 945. The student's classes are algebra (level one, functional), biology, English, and adaptive physical education. *Id.*, pp. 921, 922. In math, the student has not demonstrated the math skills reported in the 8th grade KeyMath assessment. TR., p. 924. In English, the student uses audio books for the assigned books and independent reading. TR, pp. 946, 947. He shows "signs of happiness" about 50% of the day and is disengaged the rest of the time. *Id.*, p. 915. Other students in the classes say hello to him and ask how he is; however, they do not use the PODDs book because it is so complicated. *Id.*, 936. The student enjoys participating in experiments and labs in science class. *Id.*, p. 963. The class is taught at an instructional level, using handouts that are in enlarged print. *Id.* The student does not eat in the cafeteria because of the distractions - there are "hundreds of kids at one time" - and the mess he makes. *Id.*, pp. 960, 971. He is learning to eat with a fork. *Id.*, 975. Staff have reached out for a lunch volunteer to eat with the student but have not found one. *Id.*, p. 976. However, there are peer volunteers one period/day in choir, gym, and life skills. *Id.*, p. 973. Mr. C. emails the mother on a daily basis to update her on the student's day. *Id.*, 980, 984.

- 50.** Ms. B., a special education teacher, is the student's math teacher this year and also was last year. TR., p. 1443. She works on his IEP goals, and his work is aligned to state standards. *Id.*, 1449. He requires extensive accommodations and additional time. *Id.*, 1464.
- 51.** The district provided regular progress reports to the parents. P. Vol. 2, Ex. 81-90.
- 52.** The parents' private OT, Ms. O., conducted a re-evaluation of the student in May and December 2017. P. Vol. 5, Ex. 231, p.4005. The student needs consistency, and collaboration between home, private providers, and school providers is necessary to help him develop his functional skills. *Id.*, p. 4018. Her recommendations include teaching pre-academic skills, life skills, and a specific toileting plan. *Id.*, p. 4019. Directions must be clear, and he needs time to process and initiate movement. *Id.* It takes him a long time to learn a motor response, and he can become frustrated. His behaviors need to be seen as a form of communication. *Id.* Like many others, she stressed the importance of understanding the "cause and purpose" of his

behaviors. *Id.*

CONCLUSIONS OF LAW

A district must comply with both the IDEA's procedural and substantive requirements in order to provide a free appropriate public education (FAPE) to a student. *Board of Educ. of the Hendrick Hudson Cent. Sch. Dist., Westchester Cnty. v. Rowley*, 458 U.S. 176 (1982) ("Rowley"). The educational program set out in the IEP must be "individually designed" to meet the individual child's unique needs. *Id.* A district meets its substantive obligation when it offers "an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Andrew F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 999, 197 L.Ed.2d 335 (Mar. 22, 2017). The adequacy of a student's IEP "turns on the unique circumstances of the child for whom it was created." *Id.* at 1001.

Based on the above factual findings, the parties' arguments, and the undersigned's own legal research, the hearing officer's legal conclusions are as follows:

1. Whether the school district impeded the parents' opportunity to participate in educational decision-making regarding the provision of a FAPE to the student in one or more of the following ways:
 - a. Failing to offer comparable services to those in the student's March 2014 IEP, developed at Safe Haven, at the time of transfer to District 203 or until a draft or an agreed-upon IEP was completed and implemented;
 - b. Failing to conduct timely annual and triennial reviews and thereby failing to have a completed IEP in place to address the student's unique needs prior to the start of each school year and corresponding ESY (ESY 2015, 2015-16 school year, ESY 2016, 2016-17 school year);
 - c. Failing to complete an IEP for the student prior to the beginning of the 2017-18 school year;
 - d. Predetermining the student's 2015-16 ESY placement and subsequent placements by changing the student's placement for the 2015-16 school year from a non-public therapeutic day school of about 22 students to a general education high school of over 3,500 students outside of the IEP process;

RECEIVED 4/8/2018 - SPECIAL EDUCATION SERVICES

- e. Failing to provide progress reports and report cards in accordance with the IDEA and district procedures;
- f. Changing the student's IEP outside of IEP meetings and without the parents' knowledge and consent by changing: content, goals, related services, education minutes, accommodations, and placement;
- g. Failing to provide written 10-day notices of IEP changes;
- h. Immediately implementing IEP changes without parental waiver of the 10-day notice period;
- i. Failing to send timely IEP notices to the parents, including all topics to be discussed and a list of meeting participants, and if so whether that failure impeded the parents' ability to prepare for and participate in the meetings;
- j. Failing to have persons with knowledge about the student and his unique needs present at the IEP meetings, including parents' private providers and consultants and a general education teacher with knowledge of the student;
- k. Failing to follow district procedures regarding the student's participation in school-wide and extra-curricular activities; academic courses, grading, testing, use of substitute teachers; homebound instruction in 2015-16;
- l. Failing to provide the parents with consistent, relevant and accurate information about the student's instructional content, accommodations, and school day;
- m. Improperly limiting observations and communications to/from staff;
- n. Providing false and incomplete information to the parents;
- o. Failing to hold IEP meetings requested by the parents in a timely manner; and,
- p. Failing to consider the opinions of district's outside consultants regarding the student's program and placement.

A hearing officer may find that a procedural violation denied a student a free appropriate public education (FAPE) only when the violation impeded the student's right to a FAPE, significantly impeded the parent's opportunity to participate in educational decision-making, or cause a deprivation of educational benefit. 34 C.F.R. §300.513(a)(2)(i)-(iii). In *M.B. v. Hamilton Southeastern Schools and Hamilton-Boone-Madison Special Services*, 688 F.3d 851 (7th Cir. 2011) the court found there was not procedural violation because the parents were well aware

RECEIVED 4/8/2018 - SPECIAL EDUCATION SERVICES

of the district's refusal to provide the parents' requested program, as evidenced by their filing a due process complaint. *M.B.*, had requested. Only errors that result in "a loss of educational opportunity" deny a student a FAPE. *Hjorntness v. Neenah Joint Sch. Dist.*, 507 F.3d 1060 (7th Cir. 2007).

The evidence shows that the district began preparing for the student's transition in fall 2014, when the mother toured the campus with the district's special education director. ¶11. A meeting was held on January 6, 2015 to discuss plans for the student's first year in the high school, and a transition meeting was held on March 2, 2015, during which the mother agreed to extend the IEP goals. ¶12. The IEP team met again on May 22nd, and the mother again expressed concerns about the high school transition. ¶13. An ESY program was developed, which provided related services and academic instruction for five weeks. ¶14. Based on the foregoing, the undersigned finds that district offered comparable services, and there was no violation of the parent's right to participate in educational decision-making.

A district must review an IEP periodically, and at least annually. 20 U.S.C. §1414(d)(4)(A)(i). The evidence shows that IEP meetings were held before the parents' initial complaint on June 3, 2015 and many more since that date. In addition to the meetings noted above, four meetings were held over summer 2015. ¶17. In the student's ninth grade year, the IEP team on August 11, September 30, and December 1, 2015. ¶¶ 19, 24. Numerous meetings were held in the subsequent years, and the parent participated in each of them, usually with her attorney.⁶ ¶¶25, 26, 30, 34, 45-48. The meetings were lengthy and attended by numerous people familiar with the student. Based on this evidence, the undersigned finds there was no procedural violation.

As to the allegation that the district failed to complete an IEP before the beginning of the 2017-18 school year, the evidence shows that that an IEP meeting was held on October 2, 2017 to review the IEE ordered by the hearing officer. The IEE was lengthy, occurring over a period of several months from February to August 2017. ¶43. The IEP meeting to review the evaluation could not be held until the evaluation was completed, which was after the start of the school year. However,

⁶ It is noted for the record that the mother is an attorney and specializes in special education law.

based on the foregoing facts, the undersigned finds that there is no procedural violation.

There is no dispute that the student's placement was changed from an individualized program within a non-public day school to a general education high school. However, the evidence clearly shows that the parent was involved in the IEP process throughout by attending meetings and providing significant input, including expressing concerns about how the student would do in the larger public school. ¶¶12-16. Thus, there is no procedural violation.

The evidence shows that progress reports were provided to the parents throughout the relevant timeframe; therefore there is no procedural violation. ¶¶23, 51. The parent attended all the IEP meetings, usually in person and by telephone when that was not possible. ¶¶ 12-14, 17-20, 24-27, 31-34, 37, 45, 46, 48. Her attorney was also at most of the IEP meetings. *Id.* The lengthy minutes reflect active participation by both the parent and her attorney. The record clearly shows not only was she aware of the district's proposals and decisions but also actively participated in the meetings. *Id.*

As to the allegation that the district failed to provide the required 10-day notice, the record shows that the waiver form was first included with the May 22, 2017 IEP. ¶46. However, the parent must show that lack of notice caused substantive harm. Here, where the parent was usually accompanied by an attorney and is an experienced practitioner herself, the undersigned finds that there was no substantive harm and thus no violation.

The evidence clearly shows that the parent was informed of what would be discussed at IEP meetings and that necessary participants attended; thus, there was no procedural violation. ¶¶12-14, 17-20, 24-27, 31-34, 37, 45, 46, 48. As to the student participating in school-wide activities and extra-curriculars, the evidence shows that staff worked to include him and that at least on one occasion, the student did not attend an all-school activity because of a disagreement between the parties regarding the number of staff necessary to help the student participate as the mother wanted. ¶19, 21.

There is no evidence showing that district failed to provide information about the student's program and school day. The IEPs and

RECEIVED 4/8/2018 - SPECIAL EDUCATION SERVICES

accompanying notes provide detailed information and also reflect the district's efforts to address the parent's questions and concern. Thus, because the parents' opportunity to participate in the decision-making process was not significantly impeded, there is no procedural violation.

The parent produced no evidence that the district limited observations and communications from/to staff, provided false information to the parents, failed to hold requested IEP meetings in a timely manner, or failed to consider the opinions of outside consultants. Thus, there is showing of procedural violations on those issues.

2. Whether the district violated the student's right to receive a FAPE by failing to:
 - a. Provide the student with a timely, appropriate program and placement, including access to general education classes and curriculum, to address all of his educational needs;
 - b. Provide the student with a program and placement that provided him a FAPE as written and/or as implemented;
 - c. Appropriately address the student's transition needs in the September 1, 2015 IEP and subsequent IEPs;
 - d. Provide sufficiently qualified and trained staff for the student to implement the student's program;
 - e. Provide the student with equal educational opportunities to those of his non-disabled peers;
 - f. Meet the student's communication and assistive technology needs;
 - g. Provide a safe learning environment for the student, including supervision by certified staff and safe transportation to/from home, to other campus in school year 2015-16, and for extra-curricular activities;
 - h. Provide the necessary supports and services for the student to meaningfully access extra-curricular activities, including:
 - i. Timely registration information;
 - ii. Trained staff;
 - iii. Appropriate transportation; and
 - iv. Communication support during extra-curricular activities; and,
 - i. Ensure that the student arrived to school before the first bell and was dismissed at the end of the school day at the same time as other students and if so, whether these failures resulted in the student not receiving the same amount of

educational minutes as non-disabled students receive in a school day.

The parents' substantive issues are analyzed under the standard set out in *Andrew F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 999, 197 L.Ed.2d 335 (Mar. 22, 2017): whether the district has offered "an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." The adequacy of a student's IEP "turns on the unique circumstances of the child for whom it was created." *Id.* at 1001.

The issue of whether the district provided a timely, appropriate program and placement, including access to general education, is at the heart of this very lengthy case. As the record clearly shows, the parties disagree on how this student's "unique circumstances" - cerebral palsy, oral motor apraxia, cortical visual impairment - impact him educationally and what program would enable him to make appropriate progress. The student's speech is "profoundly impaired" and consists of word approximations. ¶3. He has various AAC devices to help him communicate with others. *Id.* He cannot walk independently and requires assistance in all activities of daily living. ¶1. Because his cortex does not process visual information in the normal way, he needs all educational materials presented in certain sizes and at certain distances. ¶2. His visual processing varies daily and is negatively impacted by internal sensory dysregulation. *Id.* Prior to entering the district, the student had primarily been educated in a home program designed by his mother or in his own classroom in a small non-public therapeutic school. ¶¶5-7.

Based on the student's unique needs, the IEP team determined that he needed an instructional program and significant related services. ¶¶13. The move to the public high school was difficult, and the student showed some regression in multiple areas. ¶15. There is no evidence, however, that the regression was permanent. Staff were trained on how to work with the student by his private providers, and he participated in some classes with general education students. ¶¶21, 49, 50. He made progress in his program. ¶23. After he began to acclimate to the public school and make relationships with some of his peers, the district proposed that he spend some time in the cafeteria at lunch. ¶25. He also was involved in some extra-curricular activities. *Id.* The vision itinerant opined that he made "growth in his visual functioning." ¶27.

RECEIVED 4/8/2018 - SPECIAL EDUCATION SERVICES

Unfortunately, the injury the student sustained at school on February 22nd disrupted his progress and education. ¶28. His mother did not want him to return to school, and he was out for the rest of that academic year. ¶30. When he returned to school, he participated in both the special and regular education programs. ¶¶39, 49, 50.

Based on the foregoing, the undersigned finds that the district's program has allowed the student to make progress in light of his unique needs and thus provided him a free appropriate public education. He also has been provided with opportunities to participate in extracurricular activities.

As to the parents' claim that the district did not provide sufficiently qualified and trained staff, the undersigned finds that the events at the start of the 2016-17 school year, which resulted in a permanent special education teacher being in place at the beginning of January was not in compliance with his IEP and educational needs and did deny the student a FAPE for that period of time.

The evidence supports a finding that the student's AT needs are central to his programming and that the district has addressed those needs through his related services, and through provision of services, including consultation and attendance at IEP meeting, by the parents' private providers. ¶¶20-22.

The parent presented no evidence on her claims that the district failed to provide appropriate transportation and failed to insure timely arrival/departure that resulted in decreased educational minutes for the student.

Based on the above factual findings and conclusions of law, the undersigned finds that the district has provided the student a free appropriate public education in the least restrictive environment, with the exception of the first four months of school year 2016-17, when there was not a qualified special education teacher in place for the student.

The undersigned further finds that going forward, the district's proposed program and placement for the student provides a FAPE shall be implemented.

IT IS ORDERED THAT:

RECEIVED 4/8/2018 - SPECIAL EDUCATION SERVICES

- The district shall convene an IEP meeting within 10 school days of receipt of this Order and prepare an IEP that includes the following program:
 - a morning block (8:15 to 11:40), including instruction in math, functional academics, preparation for living, and related services; lunch with a small group and an individual aide; PESO (adaptive physical education) and
 - an afternoon block (from 1:15 to 3:25), including individualized reading and English instruction 40 minutes/day with a 1:1 Special education teacher; training to facilitate communication and mobility, including pre-vocational experiences and related services to address communication, mobility needs, and breaks (restroom).
 - Related service minutes include: 480 min/mth speech services; 300 min/mth AT services; 240 min/mth occupational therapy services; 360 min/mth physical therapy services; and, 90 min/mth vision services. The foregoing includes direct and consult minutes. Related service personnel will provide service flexibly across the schedule and shall log minutes to verify service delivery.

- The district shall provide compensatory education to the student for the FAPE denial found in the first four months of school year 2016-17. The compensatory education shall be in the form of activities with peers, such as Special Olympics or some other peer-related activity.

Within 45 calendar days of receipt of this Order, the New Trier High School District #203 shall submit proof of compliance to:

Illinois State Board of Education
Program Compliance Division

RECEIVED 4/8/2018 - SPECIAL EDUCATION SERVICES

100 North First Street
Springfield, Illinois 62777-0001

REQUEST FOR CLARIFICATION

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

RIGHT TO APPEAL

This decision is binding on the parties unless a civil action is timely commenced. Any party to this hearing aggrieved by this final decision has the right to commence a civil action with respect to the issues presented in the hearing. Pursuant to 105 ILCS 5/14-8.02a(i), that civil action shall be brought in any court of competent jurisdiction within 120 days after a copy of this decision is mailed to the parties.

ISSUED: April 7, 2018

Mary Schwartz
Impartial Hearing Officer

CERTIFICATE OF SERVICE

RECEIVED 4/8/2018 - SPECIAL EDUCATION SERVICES

The undersigned hereby certifies that a true and correct copy of the Final Decision and Order was sent by electronic mail directed the individuals listed below:

Ms. Maureen Graves, Esq.

[REDACTED]
[REDACTED]

Ms. Dana Fattore Crumley, Esq.

Mr. John Relias, Esq.

Ms. Mary Deweese, Esq.

Franczek Radelet

[REDACTED]
[REDACTED]

Mr. Andrew Eulass

Due Process Coordinator

Illinois State Board of Education

100 North First Street

Springfield, Illinois 62777

before 6:00 p.m. on April 7, 2018.

Mary Schwartz
Impartial Hearing Officer
6116 S. University Avenue, 2N
Chicago, Illinois 60637
773.947.0526 (facsimile)
708.912.0755 (cellular)
ihoschwartz@gmail.com

RECEIVED 4/8/2018 - SPECIAL EDUCATION SERVICES

APPENDIX A

[Student] v. [School District]
Case No:

Child	
Attending School	
Child's Parent(s) (specific relationship)/Petitioner	

**CERTIFICATION OF THE RECORD –
HEARING OFFICER RESPONSIBILITIES**

A. RESPONSIBILITY.

1. Hearing Officer. The Hearing Officer has the sole responsibility for certifying the record for all cases to which the Hearing Officer is assigned.

2. Timing. After issuance of an Order of Withdrawal, Order of Dismissal or Decision, Hearing Officers shall certify and return the organized record to the ISBE. Hearing Officers shall provide the ISBE a record certification, along with the complete record within thirty (30) calendar days of the issuance of the Order of Withdrawal/Dismissal or Decision, as the case may be.

3. Form. The Hearing Officer shall certify the record using the attached Form “Certification of the Record.”

B. CONTENTS OF THE RECORD.

1. Content of Certification. Hearing Officers shall include in the record all exhibits submitted by any party that were admitted into evidence, all pleadings, motions, briefs, or other documents filed with the Hearing Officer, all orders, the Decision and any correspondence between the Hearing Officer and the parties/counsel as provided below at B-2.

2. Correspondence. The Hearing Officer will not include any letters, emails or facsimiles as part of the record except for letters, emails and facsimiles requested for inclusion by a party and included in the party’s five-day disclosures. The Hearing Officer has the discretion to include any other letters, emails or facsimiles into the record prior to the end of the hearing. The Hearing Officer should include in the record any letters, emails and facsimiles that document the basis for any rulings, relate to compliance with any IDEA or Illinois legal requirements, or might be relevant to any possible basis for appeal.

3. Evidence Excluded From the Record. Any exhibits, or portions of the verbatim record, that the Hearing Officer during the course of the hearing allowed as a separate record for the purposes of appeal, shall be so marked or identified, noted in the certification, and accompany the record. Any other proposed exhibits or documents not admitted into the record shall be destroyed or returned to the party who provided the proposed exhibit or document.

CERTIFICATE OF SERVICE VIA REGULAR MAIL

I, the undersigned Mary Schwartz, certify that on April 8, 2018, a copy of (add list of documents here) was/were served upon the following persons via regular US Mail delivery by depositing the same in the United States Mail, in an envelope securely sealed, postage prepaid, and legibly addressed to the addresses set forth below:

CERTIFICATE OF SERVICE VIA CERTIFIED MAIL

I, the undersigned Mary Schwartz, certify that on April 8, 2018, a copy of (add list of documents here) was/were served upon the following persons via certified US Mail delivery by depositing the same in the United States Mail, in an envelope securely sealed, postage prepaid, return receipt requested and legibly addressed to the addresses set forth below:

CERTIFICATE OF SERVICE VIA EMAIL

I, the undersigned Mary Schwartz, certify that on April 8, 2018, a copy of (add list of documents here) was/were served upon the following persons via email transmission by attached said document(s) in pdf format to the email addresses set forth below:

Maureen Graves

[REDACTED]
[REDACTED]

**Dana Fattore-Crumley
Franczek, Radelet P.C.**

[REDACTED]
[REDACTED]
[REDACTED]

**Mary Dewese
Franczek Radelet P.C.**

[REDACTED]
[REDACTED]
[REDACTED]

**John Relias
Franczek Radelet**

[REDACTED]
[REDACTED]
[REDACTED]

**Andrew Eulass
Due Process Coordinator
Illinois State Board of Education
Division of Special Education Services**

RECEIVED 4/8/2018 - SPECIAL EDUCATION SERVICES

**100 N. 1st Street
Springfield, IL 62777**

Dated: April 8, 2018

Signed:

