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

STUDENT¹,

Student,

Case No: 2016-0077

v.

Kathleen C. Fuhrmann, Impartial Hearing Officer


School District.

FINAL DETERMINATION AND ORDER

JURISDICTION

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

BACKGROUND

Student is currently in eighth (8th) grade at the District's middle school as a general education student with a Section 504 plan. Student has attended District schools at all times relevant to this proceeding. Student resides with his father within the District's attendance boundaries. Father has enrolled Student each year. Student's mother is the petitioner/complainant in this matter.

The District received Mother's due process complaint on September 1, 2015. On September 10, 2015, Illinois State Board of Education (ISBE) assigned the matter to Impartial Hearing Officer (IHO) Philip Milsk. On September 11, 2015, District filed a Response to the DPCN and ISBE reassigned the matter to IHO Beatriz Diaz-Pollack pursuant to a request for

¹ Personal identification information is provided in Appendix A.

substitution. On September 16, 2015, ISBE after receiving a request for substitution reassigned the matter to the undersigned IHO.

On September 18, 2015, IHO issued introductory letters, preliminary orders, including a statement of the parties' rights. District filed a Motion to Dismiss on September 18, 2015. An initial status conference was held on September 22, 2016 by telephone conference. On October 2, 2015, Mother filed a Response to the Motion to Dismiss. On October 6, 2015, Mother filed a second request for a due process hearing with District. On October 9, 2015, District filed a Reply to the Motion to Dismiss. After a briefing schedule was completed by the parties, IHO entered an order granting in part and denying in part the Motion to Dismiss on October 20, 2015.

District sent the second due process request to the Illinois State Board of Education on October 22, 2015 with a Motion to Consolidate. On October 22, 2015 Mother was granted leave to amend her complaint. Mother's Amended DPCN was received by the IHO on November 2, 2015 by District on November 3, 2015. The Amended DPCN was deemed filed on October 30, 2015. On November 2, 2015, a status order was issued containing a November 16, 2015 deadline for the filing of motions and a briefing schedule was set for the District's Motion to Consolidate.

District Response to Amended DPCN was received on November 13, 2015. On November 5, 2015 Mother withdrew her Second DPCN and an Order of Withdrawal was entered on November 10, 2015. On November 10, 2015 an Order was entered allowing the Amended Complaint and establishing the end of the resolution period as November 29, 2015. The amended 45 day decision deadline began on November 30, 2015 and the decision date was January 13, 2016.

On November 13, 2015 SCHOOL DISTRICT'S MOTION TO STRIKE CERTAIN PARAGRAPHS OF AMENDED DPCN was filed. Mother filed PREHEARING MOTIONS ON BEHALF OF MOTHER on November 13, 2015 (date of the postmark) via U.S. Postal mail service. A Notice of Prehearing Conference was sent to the parties on November 16, 2015.

On November 16, 2015, a status order was issued clarifying that all documents will be deemed filed on the date postmarked and that the parties are deemed to have received documents four (4) days after the postmarked date for the purpose of calculating timelines in this matter. The order contained a briefing schedule for District's Motion to Strike, Mother's Prehearing Motions and other motions which Mother represented she would be filing that date.

On November 16, 2015 a Prehearing Conference Notice was sent to the parties scheduling the prehearing conference on December 22, 2015 at 1:00 p.m. by telephone. The parties prehearing conference disclosures of witness and document lists were due to one another and the hearing officer postmarked December 11, 2015. District tendered prehearing disclosures on December 10, 2015.

Mother filed two additional motions; MOTION TO STRIKE DISTRICT'S RESPONSE TO DUE PROCESS COMPLAINT and MOTION FOR RELIEF FOR DISTRICT'S VIOLATION OF RESOLUTION MEETING REQUIREMENT on November 19, 2015 (the date of the postmark). District Response to this motion was filed November 23, 2015. On November 25, 2015 (envelope contained no postmark date, it was received by IHO this date), Mother filed her RESPONSE TO DISTRICT'S MOTION TO STRIKE CERTAIN PARAGRAPHS OF AMENDED DPCN via email. On December 7, 2015, SCHOOL DISTRICT'S REPLY IN SUPPORT OF DISTRICT'S MOTION TO STRIKE CERTAIN PARAGRAPHS OF AMENDED DPCN was filed. Mother's replies were due on December 8, 2015, no replies were filed. On December 21, 2015 an Interim Order was issued deciding the following motions:

- a) SCHOOL DISTRICT'S MOTION TO STRIKE CERTAIN PARAGRAPHS OF AMENDED DPCN,
- b) PREHEARING MOTIONS ON BEHALF OF MOTHER,
- c) MOTION TO STRIKE DISTRICT'S RESPONSE TO DUE PROCESS COMPLAINT, and
- d) MOTION FOR RELIEF FOR DISTRICT'S VIOLATION OF RESOLUTION MEETING REQUIREMENT.

On December 7, 2015, District filed SCHOOL DISTRICT'S MOTION TO DISMISS AMENDED DPCN FOR LACK OF SUBJECT MATTER JURISDICTION. Mother's Response to the Motion to Dismiss for Lack of Subject Matter Jurisdiction was filed on January 11, 2016. District filed its Reply on January 19, 2016. The Order denying this motion was issued on January 27, 2016.

On December 23, 2015, the parties filed a joint Motion for Continuance of the 45 day decision deadline and prehearing conference. The Motion for Continuance was granted on December 24, 2015 and the 45 day decision deadline was extended to March 17, 2016.

MOTHER'S MOTION TO EXTEND TIME LIMITATION BY TWO ADDITIONAL YEARS PURSUANT TO IDEA was filed on December 30, 2015. District filed its Response to

this motion on January 8, 2016. The Order denying the Motion was entered on January 28, 2016.

On February 2, 2016 Mother tendered via facsimile transmission Mother's Prehearing Conference Disclosures. The Prehearing Conference was held on February 9, 2016. A prehearing Conference order was issued on February 12, 2016. (IHO #53.) A second Prehearing Conference was scheduled on February 19, 2016. On February 11, 2016 a subpoena directed to Father (*name omitted*) was issued and tendered to Mother for service. (IHO #54.)

On February 15, 2016 District's Motion In Limine To Bar Testimony of Certain Witnesses and to Bar Documents Outside of the Statute of Limitations was filed. (IHO #55.) On February 18, 2016 Mother's Prehearing Objections and Mother's Prehearing Conference Disclosures were filed. (IHO #56 and #57.) On February 22, 2016 Mother's Response to District's Motion in Limine and Revised Witness List was filed. (IHO #58.) On February 23, 2016 District's Reply To Mother's Response To District's Motion In Limine and Revised Witness List was filed. (IHO #58.) On February 24, 2016 the undersigned issued an Order containing the decision on the Motion in Limine. (IHO # 60.) On February 24, 2016 a Supplement To Prehearing Conference Report and Order was issued. (IHO #61.) Finally, a final status call was scheduled for March 4, 2016 at 10:30 a.m. to schedule witnesses and discuss any matters necessary, including subpoenas. On March 4, 2016 at 7:52 a.m. Mother faxed the undersigned stating she was not available for the conference call due to a "family emergency." (WC 26). A Second Supplemental Prehearing Report and Order was issued wherein the undersigned directed the District to establish a witness schedule and set forth other scheduling matters. (IHO #62.)

A closed hearing was held on March 7, 2016 from 9:00 a.m. to 5:00 p.m., March 11, 2016 from 9:00 a.m. to noon, March 18, 2016 from Noon to 4:00 p.m. and April 4, 2016 from 9:00 a.m. to 12:45 p.m. at Crete Monee School District Administrative Center in Crete, Illinois. Mother represented herself. Crete Monee School District 201U was represented by [REDACTED], Dr. [REDACTED], Assistant Superintendent for Student Affairs, [REDACTED], Principal, [REDACTED], Principal, [REDACTED], Principal, [REDACTED], Director of Special Education, and [REDACTED], School Psychologist, testified at the hearing. As agreed by the parties, written closing arguments were due on April 8, 2016 and the record was closed on that date. Court Reporter, Renee Garcia-Ruiz, Cynthia A. Pavesich &

Associates was present for the entire hearing and recorded the proceedings. A transcript of the proceedings was not available at the time of this decision; therefore, the testimony referenced below is based on the undersigned's written hearing notes and memory. The official record of the hearing consists of the following: Hearing Officer Exhibits HO 1 – 62 (prehearing documents), IHO A-K (hearing documents), documents submitted by Mother and marked as exhibits PD 1 – 3, 20, 23 – 25, 28 -31, 33A, 34, 28, 41, 43, and 45, documents submitted by the District marked as SD Group 1, 2,3, III, IV, SD 1-19, 25-29, 34-25, 47-48, 50-60, 84-94, 101-550, 563-809, 874-876, 1045. In addition, the administrative record contains the following Correspondence: Written Correspondence 1-30 and Email Correspondence 1-102. In rendering this decision, the undersigned considered all the documents entered into evidence, testimony presented by the witnesses, the parties' opening statements and closing arguments, and the hearing office' independent research. This decision is issued within ten days as required by Illinois law and within the 45 day decision deadline in this matter.

On March 11, 2016 during the hearing, Mother filed Mother's Motion for Recusal or Removal of the Hearing Officer. The undersigned recessed the hearing, read the motion, reconvene the hearing, heard oral argument from Parent and District and issued an oral decision denying the motion was given on the record. The written decision was issued this date and is found at IHO J in the Hearing Officer's Exhibits. On March 18, 2016 during the hearing, Mother's Motion For Disqualification of Hearing Officer and For Substitution of Hearing Officer For Cause was filed. A briefing schedule was set; District Response due on March 25, 2016, Parent Reply due on April 1, 2016. District response was received on March 25, 2015 and Mother did not reply. The written decision denying the motion was issued this date and is found at IHO K in the Hearing Officer's Exhibits.

ISSUES

The issues to be determined are as follows:

- i.) Whether the District failed to provide Mother with notice and procedural safeguards as required under the IDEA (34 C.F.R. §§300.322, 300.503) and Section 14-8.02 of the Illinois School Code (23 Ill. Admin. Code §226.530) in connection with the evaluation, assessment and/or identification of her son as potentially a student with disabilities in need of

special education and/or annually during the period beginning in September 1, 2013 and continuing to this date,


ii.) If the District failed to provide the notice and procedural safeguards required under the IDEA and school code, whether that failure significantly impeded Mother's opportunity to participate in the decision making process regarding the provision of FAPE under the IDEA to her son during the period beginning in September 1, 2013 and continuing to this date,

iii.) Whether Mother was denied an opportunity to inspect, review, and receive copies of all education records with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE (pursuant to 34 C.F.R. §§ 300.501 and 300.613) during the period beginning in September 1, 2013 and continuing to this date, and

iv.) If the District denied Mother the opportunity to inspect, review, and receive copies of all education records with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE, whether that failure significantly impeded Mother's opportunity to participate in the decision making process regarding the provision of FAPE under the IDEA to her son (*name omitted*) during the period beginning in September 1, 2013 and continuing to this date.

FINDINGS OF FACTS

After considering all the evidence, as well as the arguments of both parties, this Hearing Officer's Findings of Fact are as follows:

1. Mother was given access to Crete-Monee School District 201U website on September 22, 2009. (PD 34, Ms. Spence).
2. Student's father enrolled Student in District schools and completed the 2013-2014 and 2014-2015 school year registration materials. (SD 24, SD 159, and SD 162).
3. On July 2, 2013, Father listed on the 2013-2014 registration card Mother's address as  (SD 159, Ms. Spence).

4. Ms. [REDACTED], the Assistant Superintendent of Student Affairs, [REDACTED] [REDACTED], has provided to Mother all documents stored in District electronic systems related to Student. (Ms. [REDACTED]).

5. Ms. [REDACTED] principal [REDACTED] Middle School, is records custodian for the Middle School. As record custodian, she maintains the cumulative folder for each student in her building. Student records are store in the office in a locked file cabinet. The cumulative folder of each student consists of the temporary and permanent file. The cumulative file contains individual assessment reports, attendance, legal status, health records, report cards and academic reports. (Ms. [REDACTED]).

6. District has a policy regarding student records. This policy is found on the District website and contained in the student handbook. The District's student records policy has not changed much over many years. The student handbook is distributed at registration and is always available on the District website. The policy explains how to obtain student records and lists the names of the records custodians and gives the phone numbers for each records custodian. (Ms. [REDACTED], SD 11-15).

7. If a parent requests a hearing concerning student records, the records custodian meets with the parent and if the request is within their jurisdiction, handles the request. If the request is not within their jurisdiction, the request is sent to Dr. [REDACTED]. (Ms. [REDACTED])

8. Ms. [REDACTED], Director of Special Education, [REDACTED] oversees and supervises District's special education programs, including IDEA and Section 504, staff and faculty and grants. (Ms. [REDACTED]).

9. Non-custodial parents are able to receive information about their child, but do not have the authority to make educational decisions unless a court order specifically states that power. Non-custodial parents cannot request IEEs or file due process complaints because they are not the educational decision maker for their child. District understanding of court orders is that Mother is the non-custodial parent of Student. (Ms. [REDACTED]).

10. [REDACTED], school psychologist, [REDACTED] School District, assigned to Sixth Grade Center for the past nine years. School psychologist is not generally responsible for sending IDEA notices to parents and staff unless it is an initial evaluation or a transfer student, generally the special education teachers sent these notices. Notices are generated through the use of a file maker. The file maker populates the notices with student information contained in the

database. All forms are auto populated by the file maker. Ms. [REDACTED] did not recall sending any notices for Student. She testified that if she had sent notices, she would have used the file maker and sent the notice to the parents at the address contained in the file. Ms. [REDACTED] said that [REDACTED] was the school psychologist assigned to the Middle School who would have been responsible for sending the notice to Student if he was not a special education student. (Ms. [REDACTED]).

11. The District website maintains copies of the IDEA Procedural Safeguards, copies of the Student Handbook for parent and public access. (Ms. [REDACTED] and Ms. [REDACTED])

11. On September 26, 2013, Mother sent to three District employees, including principal Ms. [REDACTED], an email related to one of her daughters. The email contained her address on [REDACTED] in [REDACTED], IL in the signature block of the email (PD 20, pgs.13-14).

12. On July 23, 2014, Father listed on the 2013-2014 registration card Mother's address as [REDACTED], [REDACTED], IL [REDACTED]. (SD 33, 159, SD 176).

13. On October 30, 2013 Father signed Parent/Guardian Consent for Reevaluation which was addressed to both parents, Father at his [REDACTED] address and Mother at the [REDACTED] address. (PD 32, pg. 3b, PD 41, pgs. 79, 82, 85, SD 25, SD 184, SD 285-286, SD 386-387).

14. On November 6, 2013, Mother faxed [REDACTED] custody documents and updated contact information which included the [REDACTED] address. (PD 34).

15. On November 7, 2013, [REDACTED] acknowledged receipt of Mother's fax and indicated that she updated the student's profiles in [REDACTED] (the District's online student information system discussed below) and attached the custody documentation. (PD 34).

16. Ms. [REDACTED] met with Mother on December 11, 2013 with Mr. [REDACTED] but not in reference to Student. Ms. [REDACTED] met with Mother in January 2015 at the Middle School on at least two occasions. Mother was able to view and inspect Student's cumulative file. Student's file had been copied and sent to Ms. [REDACTED]. Ms. [REDACTED] also emailed copies of student information and records to Mother. Ms. [REDACTED] acknowledged that there were several addresses for Mother in Student's file. (Ms. [REDACTED]).

17. On January 21, 2014 a Parent/Guardian Notification of Conference was mailed to Mother at [REDACTED], [REDACTED], Illinois inviting parent to an Initial Evaluation/Eligibility Conference for Student on February 3, 2014. (PD 41, pg.6).

18. On February 4, 2014 an Initial Eligibility Conference was held for Student. Father's signature in the Conference Summary Report indicates he attended the Conference and participated in the decision-making for Student. Father's concerns for Student are noted throughout the report. The IEP Team determined that Student was not eligible for special educations and related services as a student with disabilities under the IDEA. (PD 41, pgs. 100 – 117, and SD186-193, and 366-385).
19. On February 3, 2014 District mailed to both parents a Parent/Guardian Notification of Conference Recommendations. The Notification form was signed by [REDACTED], psychologist and was mailed to Mother at the [REDACTED] address. (PS 41, pg. 99, and SD 31, 365).
20. On August 18, 2014, Mother sent a fax to Ms. [REDACTED], principal concerning a request for assistance with an application for one of her daughters which contained her address in the signature block, specifically a post office box in [REDACTED] Illinois (PD 20, pg. 16).
21. On August 22, 2014, Father did not list an address for Mother on the 2014-2015 registration card. (SD 34-35, Ms. [REDACTED]).
22. On September 10, 2014 Ms. [REDACTED] emailed Mother requesting that Mother speak directly to Ms. [REDACTED] and provided Ms. [REDACTED] phone number. (PD 20)
23. On December 9, 2014, Mother sent an email to Ms. [REDACTED]. Mother stated that she previously received her children's report cards and progress reports by mail but was no longer receiving them. Mother requested the District's response to their review of child custody documents that had been previously provided. Mother asked if she could receive report cards, progress notes and all other documents that parents receive. Mother requested information about counseling that was being provided to Student. (SD Group 1, pg.10).
24. Ms. [REDACTED] did not have any contact with Mother related to Student prior to December, 2014. (Ms. [REDACTED]).
25. Ms. [REDACTED] followed up with staff and provided Mother with the requested information concerning counseling and grief group. (SD 47, SD 56-57, Ms. Spence).
26. On December 11, 2014, a letter was sent to Father from District confirming the District's refusal to complete the requested case study educational evaluation for Student. Enclosed with the letter was a Notification of Decision Regarding a Request for an Evaluation. The

Notification of Decision Regarding a Request for an Evaluation was addressed to Mother at the [REDACTED] address. (SD 874-875).

27. Ms. [REDACTED] responded by email on December 15, 2014 to Mother. Ms. [REDACTED] stated that "both the custodial and non-custodial parent have the right to access and view their child's education record." In addition, Ms. [REDACTED] listed the child custody documents that the District possessed and agreed to forward information about Student's "class." (SD Group 1, pgs 8-9).

28. On September 15, 2015, Ms. [REDACTED] sent Mother various outstanding records, including Grade 7 progress reports, Grade 5 Trimester progress reports for the second and third trimmest, Grade 4 progress reports. (SD 402-403, Ms. [REDACTED]).

28. On December 15, 2014, Mother responded to Ms. [REDACTED] requesting online access to her children's records and school records for the years of 2011 and 2012, including enrollment documents, medical records, report cards, and progress reports, emergency document and discipline documents. Mother also asked to come in to view the files and request copies of what she needed. (SD Group 1, pg. 8).

29. On December 19, 2014 Mother sent an email to Ms. [REDACTED] in which Mother provided her current address as a P.O. Box in [REDACTED]. (SD Group 1, pg.3).

30. On December 19, 2014, Ms. [REDACTED] responded to Mother by indicating that she was out of the office, would have copies made of the children's records. Ms. [REDACTED] inquired whether Mother would like to pick up the records at the Administrative Center Office or have them mailed to her. Ms. [REDACTED] agreed to request a login/password for the [REDACTED] account for Mother. (SD Group 1, pg. 8, Ms. Spence).

31. On December 19, 2014, Mother replied to the email requesting to view her children's records on Monday at Ms. [REDACTED]'s office and she provided her P.O. Box address. Ms. [REDACTED] responded that she needed to check on whether the building would be open. Mother replied that if Monday is not a good day, she would take the earliest day at whatever time anyone is available. (SD Group 1, pgs. 27, and 8).

32. On December 29, 2014, [REDACTED], District Registrar, sent Mother login and password information for [REDACTED] to Mother via email. On June 6, 2015 Mother sent an email to Ms. [REDACTED] asking if her login information was still good. (PD 34).

33. On December 30, 2014, Mother sent another email request to Ms. [REDACTED] to view student records for her children. In addition, Mother confirmed that she had been given electronic access to her children's records. (SD Group 1, pg. 2).

34. Ms. [REDACTED] responded to Mother on December 30, 2014 explaining that the Principal and her secretary were on break and that Ms. [REDACTED] was having the files of the children copied for her. (SD Group 1, pg. 2).

35. On January 8, 2015, Ms. [REDACTED] emailed Mother telling her, "I have your paperwork if you would like to review otherwise it can be placed in the mail." In addition, Ms. [REDACTED] indicated she would be in the office the next day and gave her office hours. (SD Group 1, pg. 2).

36. On January 9, 2015, Mother restated that she would like to view the original documents and requested to do so on January 13, 2015 at 10:00 a.m. (PD 20, SD 52).

37. Ms. [REDACTED] replied that she was not available, but Ms. [REDACTED] would assist Mother on January 13th at the Middle School and gave Mother Ms. [REDACTED]' phone number. (PD 20, SD 51, [REDACTED] testimony).

38. Mother replied confirming the January 13, 2015 appointment to view and pick up copies of the student records. (SD 51).

39. Mother met with Ms. [REDACTED] and viewed student records in January, 2015. (Ms. [REDACTED]).

40. Ms. [REDACTED] did not have any further contact with Mother until June 10, 2015. (Ms. [REDACTED]).

41. On June 9, 2015 Ms. [REDACTED] emailed Mother the records of Student's disciplinary reports for the period from October 23, 2013 to March 20, 2015 in response to Mother's request for the record made to Mr. [REDACTED]. Ms. [REDACTED] sent the records at the request of and on behalf of Mr. [REDACTED] Assistant Principal Sixth Grade Center. Mother acknowledged receipt. (PD 32, [REDACTED]).

42. On June 10, 2015 Mother sent an email to Ms. [REDACTED], Ms. [REDACTED], and [REDACTED] which contained her summary of a conversation earlier that day with an unnamed staff member. Mother included a request that the staff person she was addressing provide her with copies of any records or documents in possession concerning Student, after acknowledging that Ms. [REDACTED] had told her that she did not have any records or documents concerning her son. The request for documents was detailed, seeking medical records, 504 plans, the bases for

conclusions that son was impaired, including testing, social work services, Copeland scales, all ISAT scores, student interview documents, teacher interview documents, weekly monitoring sheets, Student's "contract," Daily CICO records, Point Card Sheet/Star Sheet and teacher observations, all written correspondence to parent related to 504 plan, all documents concerning her son's specific teachers/staff who provided information for the 504 plan, any function based assessment from 2012 to 2015, the "Impulse Control for Middle School Student Workbook. Mother concluded by stating that if the documents requested are not provided within 30 days, she would conclude that the documents or records are not in the possession of cm201U [sic] School District school or administrative personnel. (PD 41, SD 58-60).

43. On June 17, 2015 Mother filed a due process complaint notice with District. (PD 23).

44. On June 19, 2015, Mother requested Student's seventh grade math and science test scores for the last two quarters, evidence of tutoring, evidence of grief counseling, counseling, assessment or progress notes for services received by Student. (SD 92).

45. On June 22, 2015, Ms. [REDACTED] provided to Mother the MAP and EXPLORE reports and detailed progress reports for the last two quarters of the year. (SD 92). On June 19, 2015, Mother sent an email request for math and science test scores for the last two quarters of Student's 7th grade, for evidence of tutoring services, grief counseling assessments or progress notes. (PD 20).

46. On June 22, 2015, Ms. [REDACTED] sent Mother Student's MAP and EXPLORE reports and progress detail reports, including assessments, from the last two quarters of the year. (PD 20).

47. On July 2, 2015, in an email, Mother confirmed receipt of the "requested information for the last 2 quarters of the 2014-2015, the 7th grade for my son, (*name omitted*)" and the Map and Explore Report which included assessments and detailed reports. Mother requested the same reports for the first 2 quarters of 7th grade and the same reports for 6th grade. (PD 20, SD 91).

48. On July 7, 2015 Mother sent an email to Ms. [REDACTED], Director of Special Education. The subject line of the email said, "FW: Request for any and all records related to my son, (*name omitted*)."

The body of the email provided was blank. (PD 33A, pg. 8).

49. On July 9, 2015, [REDACTED] and [REDACTED] met with Mother to resolve problems that Mother was having in communications with the District and to establish a "point person" for her communications with the District.. District agreed to meet in August to review Student's 504 plan with school staff and parents, determine a communication plan and assign a "point person"

to serve as the school contact. Mother responded to the email agreeing with the contents. (SD 84-85, Ms. Belotti).

50. On July 14, 2015 Mother requested the removal of a police report from Student's permanent record. In addition, Mother challenged the inclusion of specific court documents, references to parents being divorced or separated, her address. Mother requested a hearing if District did not remove or correct records. (SD 86-87).

51. On July 24, 2015 Mother emailed Ms. [REDACTED] concerning a resolution meeting schedule. Included in this email, amongst other requests, was a request for school records for 4th to 7th grade, any documentation that shows parent counseling training or the offer of such training, to view the complete educational file, paper and electronic notes, emails, video or recordings. (SD 88-89, Ms. [REDACTED]).

52. On July 27, 2015, Ms. [REDACTED] emailed Mother and explained that the detailed progress reports from the first two quarters are not available; the only records available are summative grades for each of the quarters. [REDACTED] explained that those grades appear on the report card for the year. [REDACTED] explained that the information had rolled over into a new school year and that first and second quarter information for the 2014-2015 school year was not available. (SD 90, Ms. [REDACTED]).

53. In response to Mother's July 14, 2015 letter (SD 36) the District removed the challenged materials, police report, missing person report and court documents, and redacted the [REDACTED] address from Student's temporary and permanent record on July 27, 2015 after meeting with Mother and Father. (SD 36, SD 28-29).

54. On July 28, 2015, Mother emailed Ms. [REDACTED] to request documents that she had not been provided. Mother stated that her requests had been ignored and requested that her son's educational records be preserved. (SD Group 2).

55. On July 29, 2015, Ms. [REDACTED] explained to Mother in an email that the District had not destroyed information is required as part of Student's permanent or temporary records. Ms. [REDACTED] explained that detailed reports for grades are issued through each quarter of a report card. [REDACTED] explained that [REDACTED] may not have access to the detailed reports requested from prior school years. [REDACTED] told Mother that she had requested assistance of the database processor, who was working on retrieving the information, if possible. [REDACTED] informed Mother that the

other school personnel were not available until after school resumes for the 2015-16 school year. ██████ requested clarity on what records Mother wanted to view. (SD Group 2)

56. On September 2, 2015 Ms. ██████ sent a letter to ██████ and provided her with a copy of the "Explanation of Procedural Safeguards" and a list of agencies that provide parents with resources and other assistance related to their rights under the IDEA in response to the instant due process complaint notice. (SD Group III).

57. Ms. ██████ requested from the District technology department every email that was connected in any way to Student. She reviewed close to 2,000 emails. If Student's name was in the email, it was sent to Mother. If other student's names were in the emails, those names were redacted using a black marker before being sent to Mother to protect the confidentiality of the other student. After the emails were reviewed and redacted, they were scanned and sent to Mother. There were duplicates of many of the emails due to the manner in which the emails are stored. The District stores emails for each sender or recipient. There were challenges in obtaining the emails from the Student's 4th through 6th grade years. The District maintained only a limited amount of records and those were given to Mother after review and redaction. (Ms. ██████).

58. On September 23, 2015, Ms. ██████ emailed to Mother six packets of emails per her request. Ms. ██████ explained that all the email that were connected to her son during his time at the Middle School had been retrieved, and reviewed to enable the names of other students to be redacted before scanning. Ms. ██████ acknowledge Mother's request for all emails from the 4th to 6th grade period and agreed to request a search for those emails. (SD416).

59. On October 21, 2015, Ms. ██████ asked Mother for a response to an email sent to her by District's attorney seeking clarification as to the documents that Mother was seeking from the District. (SD 548-549) Mother did not respond with specificity. (Ms. Spence).

60. On November 20, 2015, Ms. ██████ mailed Mother a packet containing emails, the amended page of the social history, the file record sheet and notes from the Resolution Session. (SD 563- 809, Ms. ██████).

61. During the Resolution Meeting, District offered to invite Mother to all education meetings related to Student, provide web based access to Student's information and provide her with Student's records, academic progress information, and school based activities. Mother did not accept District's offer. (Ms. ██████)

62. On May 9, 2009 [REDACTED] Support Notice lists Mother's address as [REDACTED] [REDACTED], [REDACTED] IL [REDACTED]. (PD 25).
63. On September 5, 2009 the Illinois Department of Healthcare and Family Services, Division of Child Support Enforcement mailed a letter to Mother at [REDACTED], [REDACTED] IL regarding Father's child support obligations to Mother. (PD 25).
64. Mother told Ms. [REDACTED] that she never resided at the Wentworth address listed in the file. (Ms. [REDACTED]).
65. Mother admitted in her affidavit that she has been to [REDACTED] offices at least four times to view Student's records. (PD 24).
66. District houses the records, permanent and temporary, of all students enrolled in their District in the building the student attends. The principal is the records custodian for the records of student at each building. At the District level Dr. [REDACTED] is responsible for all other student records. (Ms. [REDACTED], Ms. [REDACTED]).
67. District online student grade information is teacher driven. Each year, in July, the online system is "rolled over" and archived by the District. (Ms. [REDACTED]).
68. [REDACTED] was the assistant principal at the Sixth Grade Center and Middle School during Student's attendance in 6th and 7th grade. He was responsible for discipline, teacher evaluation, and the general supervision of athletic events. Mr. [REDACTED] sent Mother copies of the 6th and 7th grade discipline reports at her request last summer through his secretary [REDACTED]. Mother never requested any other records from Mr. [REDACTED]. (Mr. [REDACTED] PD 32).
69. Ms. [REDACTED] is currently a building principal for [REDACTED]. She was a teacher in the six grade center when Student attended there. Student was enrolled in the WIN program, a math and reading program. Every student in the district is enrolled in the WIN program. Ms. [REDACTED] did not have any responsibility for any special education in connection to Student. She was not responsible for any of Student's records. (Ms. [REDACTED]).
70. [REDACTED], Director of Technology for [REDACTED], oversees the technology department and is involved with support of the network and computer devices for the school District. (Mr. [REDACTED]).
71. [REDACTED] the District's system for student information that has a parent access component. Parents must be registered and can access their children's information. The student

records on [REDACTED] are maintained through a Skyward data base, are not stored on the District servers. [REDACTED] has several modules, attendance (including tardiness), lunch counts, discipline, and grades. Grade modules contain details until grading period is complete, then details are converted to grades which are captured and stored on a set schedule. Parents may access current information until the annual "rollover." After the "rollover" the records are archived by the District and no longer available at the District level. Districts must request information from archives, which are not located within the District. (Mr. [REDACTED])

72. District servers contain the current programs and applications used in the curriculum, not records software. The District has two inform student information specialists who support student information and data, [REDACTED] and [REDACTED]. Mr. [REDACTED] has no control over or input over student records or the correction of student records. Mr. [REDACTED] did not know who was responsible for the archived records. Mr. [REDACTED] did not have any contact with Student or his records. (Mr. [REDACTED])

73. Documents file by Mother in the Circuit Court of Cook County in Domestic Relations case no. [REDACTED] by Mother, pro se, and provided to the school by Mother or Father list her address was listed as follows:

- December 18, 2012 - - Mother's address listed as [REDACTED], [REDACTED], IL [REDACTED],
- January 3, 2013 Order - Mother's address is listed as [REDACTED], [REDACTED] IL [REDACTED]
- January 30, 2013 Motion-Mother's address listed as [REDACTED], [REDACTED] IL [REDACTED]
- October 14, 2015 Petition for Order of Protection - Mother's address listed as [REDACTED], [REDACTED], IL [REDACTED] and [REDACTED]
- December 10, 2015 Motion - Mother's address listed as P.O. Box [REDACTED], [REDACTED], IL [REDACTED] (PD 25, SD 177).

DISCUSSION AND CONCLUSIONS OF LAW

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

The standard of proof in impartial hearings under the IDEA is preponderance of the evidence.² Under this standard, the party seeking relief must establish that the fact sought to be provide is more probable than not.

If the identification and/or evaluation of nature and severity of the student's suspected or identified disability is at issue or if the student has been or should have been determined eligible for special education and related services the school district is required to present evidence the it properly identified, evaluated the student and that it is provide or has offered a free appropriate public education (FAPE) to the student in the least restrictive environment, consistent with procedural safeguards and in accordance with the individualized educational program.³

Preliminary Discussion

The IDEA ensures that all children with disabilities have available to them a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs."⁴ The IDEA contains substantive and procedural requirements that are designed to protect the child's right to receive FAPE.⁵ The procedural requirements of the IDEA grant parents the right to be involved in the development of their

² See 20 U.S.C. § 1415(i)(2)(C)(iii).

³ 105 ILCS 5/14-8.02(a).

⁴ 20 U.S.C. 1400(d)(1)(A) and *Bd. of Educ. v. Rowley*, 458 U.S. 176, 179-91 (1982).

⁵ *Winkelman v. Parma City School District*, 550 U.S. 516, 523 (2007).

child's educational plan⁶ and to ensure parental involvement at all stages of the development and implementation of a child's individual education program.⁷

⁸IDEA defines "parent" as "a natural, adoptive or foster parent of a child," "a guardian" or "an individual acting in the place of a natural or adoptive parent.... with whom the child lives, or an individual who is legally responsible for the child's welfare."⁹ When one or more persons attempt to act as parent for the purposes of IDEA, a biological parent is presumed to be the parent unless the biological parent does not have legal authority to make educational decisions for the child.¹⁰ The IDEA leaves the clarification of terms like "the parent" to the states.¹¹

In Illinois, if a judgment of parentage contains no explicit award of custody, the establishment of visitation right in one parent shall be considered a judgment granting custody to the other parent.¹² In Illinois, the custodian of a child may determine the child's upbringing, including, but not limited to, his education unless this authority is specifically limited by order of the court.¹³ Although the IDEA includes all biological parents in the regulatory definition of "parent", it does not by this inclusion override states' allocation of authority as part of a custody determination.¹⁴ In Illinois, a noncustodial parent cannot pursue a due process complaint notice on behalf of the student without specific court authority to make educational decisions; it is the custodial parent who has the authority to make decisions for the child, including educational

⁶ *Amanda J. v Clark County School District*, 267 F.3d 877, 822 (9th Cir. 2001).

⁷ *Collingsgru v Palmyra Bd. of Educ.*, 161 F.3d 225 (3rd Cir. 1998).

⁸ *Id.* at 530.

⁹ 20 U.S.C. §1401(23)(A)-(C), 34 C.F.R. §300.30, and 23 Ill. Admin. Code §226.75.

¹⁰ 34 C.F.R. §300.30(b).

¹¹ *Fuentes v. Board of Educ. of the City of New York*, 52 IDELR 152 (2nd Cir. 2009).

¹² 750 ILCS 45/14(a)(2).

¹³ 750 ILCS 45/14(a) and 750 ILCS 5/608(a).

¹⁴ *Navin v Park Ridge School Dist. 64*, 270 F.3d 1147 (7th Cir. 2001).

decisions.¹⁵ The only the custodial parent may pursue a due process complaint notice on behalf of the student.

The plain language of the IDEA shows that Congress intended to protect the rights of parents to ensure that his/her child received a FAPE and does not appear to protect only the rights of custodial parents.¹⁶ “The IDEA grants rights to “parents” and the regulatory definition of “parent” includes all biological parents, which implies that a divorced parent retains statutory rights, nothing in the IDEA overrides states’ allocation of authority as part of a custody determination.”¹⁷ These rights are designed to ensure parental involvement at all stages of the development and implementation of a child’s individual educational program.¹⁸ Congress provided that parents would play a significant role on the IEP Team by requiring that they are members and that parent concerns for enhancing the education of their child must be considered by the team, requiring that the IEP team revise the IEP when appropriate to address certain information provided by the parents and required states to ensure that the parents are a part of any group that makes educational decisions for the child with disability.¹⁹ Nothing in the IDEA’s interlocking provisions excludes a parent from the protections provided by the statutory scheme of procedural safeguards, and the Court has interpreted the IDEA to convey rights to parents as well as children.²⁰ Parents have an independent and enforceable right to procedural protections under the IDEA, separate and apart from the rights of their child. Those rights are the procedural protections designated specifically to parents of a child with a disability.

¹⁵ See *Navin v Park Ridge School Dist. 64*, 270 F.3d 1147 (7th Cir. 2001), *Saucon Valley Sch. Dist.*, 114 LRP 45479 (SEA Pa 2014), 750 ILCS 45/14(a) and 750 ILCS 5/608(a).

¹⁶ *Fauconier v. Committee on Sp. Educ. 3, New Your City Bd. of Educ.*, 37 IDELR 250, 102 LRP 23719 (D. N.Y. 2002) (ruling that non-custodial father improperly denied right to pursue due process hearing).

¹⁷ *Navin v Park Ridge School Dist. 64*, 270 F.3d 1147, 1149 (7th Cir. 2001).

¹⁸ *Collingsgru v Palmyra Bd. of Educ.*, 161 F.3d 225 (3rd Cir. 1998).

¹⁹ *Winkelman v. Parma City School District*, at 524.

²⁰ See *Winkelman* at 528 - 529.

Illinois family law specifically addresses this access when it states that, “Notwithstanding any other provision of law, access to records and information pertaining to a child, including but not limited to medical, dental, child care and school records, shall not be denied to a parent for the reason that such parent is not the child’s custodial parent.”²¹ A noncustodial parent retains some statutory rights that are separate and distinct from the rights of the parent that are by designed to allow enforcement of a FAPE to their child. Non-custodial status does not automatically divest a non-custodial parent of all parental rights.²²

A due process complaint may be filed on any matter for which notice must be given (i.e. relating to the identification, evaluation or educational placement of a child with a disability or the provision of FAPE to the child).²³ The IDEA states that the hearing officer’s decision must be made on the substantive (i.e. real, substantial, or fundamental essential) grounds based on the determination of whether the child received a FAPE,²⁴ it permits a hearing officer to find that a child did not receive a FAPE only if the procedural inadequacies 1) impeded the child’s right, 2) significantly impeded the parents’ opportunity to participate in the decision-making process regarding the provision of FAPE to the child or 3) caused a deprivation of educational benefits.²⁵ In addition, the IDEA authorizes a hearing officer to order a local educational agency to comply with its procedural requirements.²⁶ The regulations stress the importance of parental participation requiring agencies to ensure that *one or both parents* (emphasis added) of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate through requiring the District to send notice, schedule the meeting at a mutually

²¹ See 750 ILCS 45/14(a) and 750 ILCS 5/602/1(e).

²² See, *Fuentes v Bd. of Educ. of City of New York*, 37 IDELR, 102 LRP 13446 (D.C.N.Y. 2002).

²³ 20 U.S.C. §1415(b)(6) , 34 C.F.R. §300.507, and 105 ILCS 14/8.02a(f),(g).

²⁴ 20 U.S.C. §1415(f)(3)(E)(i).

²⁵ 20 U.S.C. § 1415 (f)(3)E(ii).

²⁶ 20 U.S.C. § 1415 (f)(3)E(iii).

agreeable time and place, provide information to the parent, and to provide alternative methods for parents to participate in the meeting whenever needed.²⁷ It does not appear to the undersigned that Congress meant to exclude non-custodial parents from participation in the IEP process and therefore, the notice provisions of IDEA apply to non-custodial parents as well as custodial parents.

In this case, the Circuit Court of ██████████, Illinois has granted Father the temporary custody of Student until further order of the court. (PD 25). There are two orders affirming this (July 1, 2009 and August 25, 2009 order), these orders are silent as to Mother's rights other than granting her visitation for the Student. Father, as temporary custodian, is the custodial parent. As the custodial parent Father has decision-making authority. Mother asserts because she has visitation rights with the children, she therefore has the right to make decisions concerning Student's education. The Illinois statute on visitation clearly states that "the parent not granted custody" is entitled to reasonable visitation rights.²⁸ Here, Mother has visitation rights and therefore, Father, as the custodial parent pursuant to Illinois court order, has the authority to make educational decisions for Student as the temporary custodian of Student until further order of the Court. Mother, as noncustodial parent, does not have the authority to make educational decisions for Student. Therefore, Mother is not "the parent" under IDEA with the authority to make educational decision for Student. The question of whether or not the District has provided a FAPE to Student is not at issue in this hearing and therefore, the District does not carry the burden of production.

District argues that unless a non-custodial parent has a court order with specific educational decision making authority that parent has no right to make educational decisions for

²⁷ 34 C.F.R. §300.322.

²⁸ See 750 ILCS 45/14(a) and 750 ILCS 5/607(a).

the child. District cites cases which do stand for that proposition that the non-custodial parent is unable to pursue claims on behalf of the student for substantive or procedural violations that may have resulted in the denial of FAPE.²⁹ Here, Mother is seeking to enforce the procedural rights that Congress provided to her as the “biological” parent to assure her ability to be involved in the education of her child under the IDEA. As discussed above, nothing in the IDEA’s interlocking provisions excludes a parent from the protections provided by the statutory scheme of procedural safeguards, Court has interpreted the IDEA to convey rights to parents as well as children.³⁰ Parents have an independent and enforceable right to procedural protections under the IDEA, separate and apart from the rights of their child. Those rights are the procedural protections designated specifically to parents of a child with a disability. The right to notice is designed to enable one or both parents to attend and contribute to the IEP meetings, to provide the IEP team with their concerns for enhancing the education of the team.³¹ The IEP team is required to consider the parental concerns.³² These protections do not automatically confer on the non-custodial parent the role of educational decision maker.³³ Non-custodial parent involvement in and contributions to the education of their children is protected under IDEA through the notice and records provisions of the IDEA. However, Mother, as a (noncustodial) parent, retains procedural protections granted to parents under the IDEA, including the right to receive notices and procedural safeguards and the right to access and inspect student records.

²⁹ District cites *Fuentes v Bd. of Educ. of City of New York*, 53 IDELR 152 (2nd Cir. 2009) (non-custodial parents have no right to make educational decisions and therefore cannot challenge special education services); *Saucon Valley Sch. Dist.*, 114 LRP 45479 (SEA PA 2014) (hearing officer dismissed mother’s due process complaint because a state court order gave the father exclusive decision making authority for the child’s education); and *Navin v. Park Ridge Sch. Dist.* 64, 270 F.3d 1147 (7th Cir. 2001) (non-custodial parent could not pursue due process claim unless permitted by the divorce decree).

³⁰ See *Winkelman* at 528 - 529.

³¹ See *Id.* at 524 and 20 U.S.C. §1414(d)(1)(B).

³² 20 U.S.C. §1414(d)(3)(A)(ii).

³³ *In re Beaverton School District*, 41 IDELR 48(OR SEA 2004). (Hearing officer explained that both parents have an equal opportunity to consult with the school staff, the district is under no obligation to give the non-custodial parent’s advice and preferences equal weight, unless there is a court order to the contrary).

Prior Written Notice and Procedural Safeguards Discussion

The IDEA has two major notice requirements; prior written notice and procedural safeguards notice.³⁴ Parents are entitled to notice under the IDEA at specific points in time to enable them to exercise their right to meaningfully participate in the IEP process and to ensure that a parent is a member of the decision-making team.³⁵ Agencies are to provide parents with notice before the initiation or change of or in the identification, evaluation, or educational placement or provision of FAPE for the child.³⁶ In addition, agencies are also required to provide parents with notice of the procedural safeguards at least annually and at the time of the initial referral or parental request for evaluation, at the first State complaint filed during a school year, and in accordance with the discipline procedures or at the request of a parent.³⁷

The notice due to the parent when an agency proposes, or refuses, to initiate or change the identification, evaluation, or educational placement of the child for the provision of FAPE to the child and related information is referred to as prior written notice. Prior written notice must be given to the parents of a child with a disability a reasonable time before the action or inaction triggering the notice requirement stated above. The agency must also give parents notice of the confidentiality requirements and access rights under the IDEA and FERPA.³⁸

In addition, the IDEA requires that the agency must take steps to assure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate by sending meeting notifications with enough time to ensure that they have the opportunity to attend, scheduling the meeting at a mutually agreeable time, and

³⁴ See 34 C.F.R. §300.503, 34 C.F.R. §300.504, 23 Ill. Admin. Code §226.510 and 23 Ill. Admin. Code §226.520..

³⁵ See 34 C.F.R. §300.322(a)

³⁶ See 34 C.F.R. §300.503, § 300.322; 105 ILCS 14-8.02 (b)and (g), and 23 Ill. Admin. Code §226.520.

³⁷ 34 C.F.R. §300.504(a) and 23 Ill. Admin. Code §226.510.

³⁸ See 34 C.F.R. §300.612 and 34 C.F.R. §300.613.

place.³⁹ The meeting notice must give, in addition to the date, time and place of the meeting, the purpose of the meeting and who will be in attendance and inform them of their right to exercise their discretion to have in attendance others who have knowledge of or expertise regarding the child.⁴⁰

The procedural safeguards notice must be given to the parents of a child with a disability one time each school year, unless there is an initial referral for or parental request for evaluation, and/or upon receipt of the first State complaint or due process complaint in a school year, and/or in accordance with IDEA discipline procedures.⁴¹

Mother's ADPC asserts that she never received notice as required under the IDEA from September 1, 2013 to September 1 2015. Mother claims that the District was aware of her contact information at all times from September 1, 2013. Mother did not attend or participate in any IEP team meetings from September 1, 2013 to September 1, 2015.

District argues that Mother failed to present any evidence that she did not receive IDEA notices or that the failure to receive notices denied her meaningful participation in Student's education. District asserts that during the two year statute of limitations period there were three events for which the District generated documentation pursuant to the IDEA, in October, 2013, December, 2014 and September, 2015. The first was the October, 2013 initial evaluation and eligibility determination for Student. The second event occurred in December, 2014 when Father requested another case study evaluation for Student. In this case, Student was not found eligible for special education under the IDEA (SD 365-385, SD 875) and therefore, after the respective ineligibility determinations were made and the notification requirements connected to those determinations were satisfied, neither parent was entitled to the IDEA procedural

³⁹ 34 C.F.R. §300.501(b)(2) and 23 Ill. Admin. Code §226.530.

⁴⁰ 20 U.S.C. 1414(d)(1)(B), 34 C.F.R. §300.322.

⁴¹ 20 U.S.C. §1415(b) (1) and (d), 34 C.F.R. § 300.121, 34 C.F.R. §300.504, and 23 Ill. Admin. Code §226.510.

protections until such time as a request for evaluation of Student was initiated by the parent under the IDEA. The third event was in September, 2015 after Mother filed her due process complaint notice. (HO 1.)

District sent notices to Mother at each point notice was required. These notices were sent to Mother at her Wentworth address in connection with the October, 2013 and December, 2014 IDEA events. (PD 32, pg. 3b, PD 41, pgs. 79, 82, 85, SD 25, SD 184, SD 285-286, SD 386-387 and SD 874-875). The notices sent in connection with the September, 2015 due process complaint were sent to Mother's post office box address. (SD Group 3). The District generated the notices each time using the districts registration system to auto-populate the IDEA forms. (Hrapek).

In 2013-2014 school year, the District's registration system had the Wentworth address for Mother which was provided on the student registration material by Father. (SD 24, SD 159, and SD 162). On September 26, 2013 Mother sent an email to three District employees, including Ms. [REDACTED] principal concerning her daughter. The email contained a signature block listing Mother's address on [REDACTED] in [REDACTED] (PD 20, pgs. 13-14). The email did not request a change of address. There was no testimony or other evidence given that Mother had alerted the District that she had changed her address. The Student Handbook is silent on the issue of updating District records with changes of address. (SD 1-15). Apparently, no one noticed the new address and it was not changed in the student registration system, no testimony was offered on this. On October 30, 2014 District sent Parent/Guardian Consent for Reevaluation to both parents. Mother's notice was sent to the [REDACTED] address. (PD 32, pg. 3b, PD 41, pgs. 79, 82, 85, SD 25, SD 184, SD 285-286, SD 386-387).

Mother notified the District of her [REDACTED] address on November 6, 2013 and Ms. [REDACTED] confirmed that she entered the data into the District's Skyward data base. However, on January 21, 2014 a Parent/Guardian Notification of Conference was mailed to the parents. Mother's notice was sent to the [REDACTED] address. (PD 41, p.6).

The IEP meeting to determine eligibility was held on February 4, 2014. Father attended the conference and participated fully. Mother did not attend. (SD 186-199) Parent/Guardian Notification of Conference Recommendations were mailed that date. Mother's copy was sent to the Wentworth address. (PD 41, p. 99, SD 31, and SD 365).

On August 18, 2014, Mother sent a fax to Ms. [REDACTED] principal with a request for assistance for her daughter. The fax contained Mother's address in the signature block as a post office box. (PD 20, pg. 16). Father did not list an address for mother on the 2014-2015 registration materials. (SD 34-35). On December 11, 2014 District sent a Notification of Decision Regarding a Request for an Evaluation to both parents. Mother's was sent to the [REDACTED] address, not the [REDACTED] address provided in November 2013. (SD 874-875).

On December 19, 2014 Mother sent Ms. [REDACTED] an email which contained her "current" address as a post office box in [REDACTED] (SD Group 1, pg. 3).

On June 17, 2015 Mother filed a due process complaint notice with the District. (PD 23). There is no evidence that District sent Mother the notice of Procedural Safeguards as required.

On September 2, 2015 District sent Mother the notice of Procedural Safeguards in response to her instant due process complaint notice. The Procedural Safeguards were sent to Mother at her [REDACTED] post office box. (SD Group III).

Prior Written Notice and Procedural Safeguards Conclusions

The undersigned finds that during the 2013-2014 school year, the District's registration system contained the [REDACTED] address for Mother. This address was provided to the District by Father on the student registration material. (SD 24, SD 159, and SD 162). No evidence was presented showing that the Mother provided her contact information in connection with registration. Mother has asserted that she never resided at the [REDACTED] address. (SD 86, Ms. [REDACTED], however documents provided by Mother in this matter show that she provided the [REDACTED] address to the Illinois Circuit Court (PD 25 (2009 National Medical Support Notice)) and the Illinois Department of Healthcare and Family Services, Division of Child Support Enforcement. (PD 25). On September 26, 2013 Mother sent an email to three District employees concerning her daughter did not put the District on notice that she had a change of address and that she did not request that the District change her address in District records. There was no testimony or other evidence given that Mother had alerted the District that she had changed her address. The Student Handbook is silent on the issue of updating District records with changes of address. (SD 1-15). Mother's copy of the October 30, 2013 notice was sent to the [REDACTED] address. (PD 32, pg. 3b, PD 41, pgs. 79, 82, 85, SD 25, SD 184, SD 285-286, SD 386-387). District sent IDEA mandated to Mother at the address it had on file for Mother. There is no evidence that Mother did not receive the October 30, 2013 Parent/Guardian Consent for Reevaluation notice. The undersigned finds the District sent the October 30, 2014 Parent/Guardian Consent for Reevaluation to Mother as required by IDEA and Illinois law.

The undersigned finds that on November 6, 2013 Mother notified the District of her [REDACTED] address. (PD 34). The District recognized this as a change of address when District employee Ms. [REDACTED] entered the change into the District's [REDACTED] data base. (PD 34).

Mother had no reason to believe that she needed to provide the District of her an additional change of address request after Ms. [REDACTED] confirmed that she entered Mother's new address into the District's [REDACTED] data base. (PD 34). On January 21, 2014 the Parent/Guardian Notification of Conference was mailed to Mother at the [REDACTED] address. (PD 41, p.6). There is no evidence that the Mother received the January 21, 2014 Parent/Guardian Notification of Conference or knew of the conference scheduled on February 4, 2014. The undersigned finds the District did not send Mother January 21, 2014 Parent/Guardian Notification of Conference or otherwise provide her with knowledge of the scheduled meeting as required under the IDEA and Illinois law.

The IEP meeting to determine eligibility was held on February 4, 2014. Father attended the conference and participated fully. Mother did not attend. (SD 186-199). No evidence was presented related to the whether the failure of the District had an impact on Mother's opportunity to participate in her son's education.

After the February 4, 2014 meeting a Parent/Guardian Notification of Conference Recommendations was mailed to the parents. Mother's copy was sent to the [REDACTED] address. (PD 41, p. 99, SD 31, and SD 365). There is no evidence that the parent received the February 4, 2014 Parent/Guardian Notification of Conference Recommendations or knew of the conference recommendations. No evidence was presented related to the whether the failure of the District had an impact on Mother's opportunity to participate in her son's education. The undersigned finds that District failed to send the February 4, 2014 Parent/Guardian Notification of Conference Recommendations to Mother at the address contained in their records and Mother did not receive notice of the February 4, 2014 Conference Recommendations as required under the IDEA and Illinois law. The undersigned finds that there is no evidence that the District's

failure to provide Mother with the February 4, 2014 Conference Recommendations as required under the IDEA and Illinois law significantly impeded Mother's opportunity to participate in the decision making process regarding the provision of FAPE to her son.

On December 11, 2014 District sent a Notification of Decision Regarding a Request for an Evaluation both parents. Mother's was sent to the [REDACTED] address, not the [REDACTED] address provided in November 2013. (SD 874-875). In addition, Mother provided District (Ms. [REDACTED]) with a fax that contained Mother's address in the signature block as a post office box. (PD 20, pg. 16). Father did not list an address for mother on the 2014-2015 registration materials. (SD 34-35). There is no evidence that the parent received the December 11, 2014 Notification of Decision Regarding a Request for an Evaluation or knew of the request for evaluation or the District's decision and basis for the decision. No evidence was presented related to the whether the failure of the District to notify Mother of its December 11, 2014 Decision Regarding a Request for Evaluation had an impact on Mother's opportunity to participate in her son's education. The undersigned finds that District failed to send the December 11, 2014 Notification of Decision Regarding a Request for an Evaluation to Mother at the address contained in their records as required under the IDEA and Illinois law. The undersigned finds that there is no evidence that the District's failure to notify Mother of its December 11, 2014 Decision Regarding a Request for Evaluation significantly impeded Mother's opportunity to participate in the decision making process regarding the provision of FAPE to her son.

The undersigned finds that on June 17, 2015 Mother filed a due process complaint notice with the District which triggered the District's duty to provide Mother with Notice of Procedural Safeguards under IDEA. (PD 23). The undersigned notes that there is no evidence tendered by

either Mother or the District concerning the provision of the Notice of Procedural Safeguards to Mother prior to September 1, 2015. District provided testimony that the Procedural Safeguards are posted on the District's website. (██████████). There is no evidence that District sent Mother the notice of Procedural Safeguards as required. No evidence was presented related to the whether the failure of the District to provide Mother with the Procedural Safeguards after the filing of her June 17, 2015 due process complaint notice had an impact on Mother's opportunity to participate in her son's education. The undersigned finds that District did not provide Mother with Notice of the Procedural Safeguards in connection to the June 17, 2015 due process complaint notice as required under IDEA and Illinois law. The undersigned

The undersigned finds that on December 19, 2014 Mother sent Ms. ██████████ an email which contained her "current" address as a post office box in Chicago. (SD Group 1, pg. 3). On September 1, 2015 Mother filed the instant due process complaint. (HO 1). On September 2, 2015 District sent Mother the Notice of Procedural Safeguards in response to her instant due process complaint notice. The Procedural Safeguards were sent to Mother at her ██████████ post office box. (SD Group III). There is no evidence that Mother did not receive this notice. The undersigned finds that on September 2, 2015, District sent Mother Notice of the Procedural Safeguards as required under IDEA and Illinois law.

The failure to provide appropriate notice of procedural safeguards will not always result in a denial of a free appropriate public education to the student. The procedural safeguards were designed to afford parents of children with disabilities meaningful involvement in their child's education.⁴² In addition, if the student has not suffered any educational opportunity loss as a

⁴² *Christopher P. v. Marcus*, 16 IDELR 1347 (2d Cir. 1990), *C.H. v Cape Henlopen School District.*, 606 F.3d 59, at 66 (3rd Cir. 2010), *See 20 U.S.C. §141(a)*.

result of the failure to provide appropriate notice of the procedural safeguards, then the student may have received a free appropriate public education despite any procedural error.⁴³

However, this did not automatically result in loss of any educational opportunity to Student. The undersigned finds Father (educational decision-maker) attended the Conference and participated in the decision-making for Student. Father's concerns for Student are noted throughout the report. The IEP Team determined that Student was not eligible for special education and related services as a student with disabilities under the IDEA. (PD 41, pgs. 100 – 117, and SD186-193, and 366-385). District is not required to secure the attendance of both parents at the meeting.⁴⁴ The student may have received a free appropriate public education despite the procedural errors with respect to notification to Mother.⁴⁵ The undersigned has previously found that Mother is estopped from raising claims on behalf of her son in these proceedings.

Access to Records

The IDEA regulations presumes that parents have the opportunity to and authority to inspect and review all records relating to his/her child, unless the agency has been advised that the parent does not have the authority under applicable state law, such as guardianship, separation and divorce.⁴⁶ Parents must be afforded with an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE.⁴⁷ The IDEA regulations also require that agency's provide parents with notice of the confidentiality and their rights under Family Educational Rights and

⁴³ 20 U.S.C. §1415(f)(3)(E)(ii)(II)(III).

⁴⁴ See *In re Silver Falls Sch. Dist.*, 115 LRP 24115 (OR SEA April 9, 2015).

⁴⁵ Father is the custodial parent and educational decision maker for Student. Father has not raised a claim the denial of FAPE against the District and has not joined Mother in her attempts to do so.

⁴⁶ 20 U.S.C. §1415(b)(1) and 34 C.F.R. §300.613 (c)

⁴⁷ 34 C.F.R. §300.501 and 23 Ill. Admin. Code §226.530.

Privacy Act of 1974.⁴⁸ In addition, IDEA provides that parents may request the amendment of records that they believe are inaccurate, misleading or violates the privacy or other rights of the child.⁴⁹ Parents may request a hearing if the agency denies their request for amendment of records.⁵⁰

Mother asserts in her Amended Due Process Complaint Notice that District has denied her access student records under the IDEA and the Illinois School Code and as a result that her opportunity to participate in the decision making process regarding the provision of FAPE under the IDEA to her son was impeded from September 1, 2013 to September 1, 2015. Since June 2015, Mother asserts that she made multiple requests for records and information concerning her son's education and that she did not receive the requested documents and was not allowed to view documents relating to her son's education.

District asserts that Mother has had access to Students' student record and that they have provided requested information concerning Student. District asserts that in spite of the District's notice on its website and in its student handbook concerning how a parent can obtain student records, Mother did not utilize the correct procedure, the District responded promptly and thoroughly to her requests to ensure that Mother received all of Student's records.

Father is the temporary custodian of Student until further order of the court. (PD 25). There are two orders affirming this (July 1, 2009 and August 25, 2009 order), these orders are silent as to Mother's rights other than granting her visitation for the Student. Mother's right to access to school records has not been restricted by order of a court.

⁴⁸ 34 C.F.R. §300.612.

⁴⁹ 34 C.F.R. § 300.618(a).

⁵⁰ 34 C.F.R. § 300.618(c) and 34 C.F.R. § 300.619.

Mother was given access to [REDACTED] website on September 22, 2009. (PD 34, Ms. [REDACTED]). On November 7, 2013, [REDACTED] updated the student's profiles in [REDACTED] after Mother provided her new contact information. (PD 34).

On December 9, 2014, Mother sent an email to Ms. [REDACTED] stating that she previously received her children's report cards and progress reports by mail but was no longer receiving them. Mother requested the District's response to their review of child custody documents that had been previously provided. Mother asked if she could receive report cards, progress notes and all other documents that parents receive. Mother requested information about counseling that was being provided to Student. (SD Group 1, pg.10). Ms. [REDACTED] had not had contact with Mother related to Student prior to December, 2014. (Ms. Spence). Ms. [REDACTED] responded by email on December 15, 2014 affirming that Mother, as non-custodial parent has the right to access and view their child's education record. Ms. [REDACTED] listed the child custody documents that the District possessed and agreed to forward information about Student's "class" to Mother. (SD Group 1, pgs. 8-9). Mother responded to Ms. [REDACTED] requesting that online access to her children's records and school records for the years of 2011 and 2012, including enrollment documents, medical records, report cards, and progress reports, emergency documents and discipline documents. Mother also asked to come in to view the files and request copies of what she needed. (SD Group 1, pg. 8).

On December 19, 2014 Mother sent an email to Ms. [REDACTED] in which Mother provided her current address as a P.O. Box in Chicago. (SD Group 1, pg.3). Ms. [REDACTED] responded to Mother's email indicating that she was out of the office, would have copies made of the children's records. Ms. [REDACTED] inquired whether Mother would like to pick up the records at the Administrative Center Office or have them mailed to her. Ms. [REDACTED] agreed to request a

login/password for the Family Access account for Mother. (SD Group 1, pg. 8, Ms. [REDACTED]). Mother replied to the email by requesting to view her children's records on Monday at Ms. [REDACTED]'s office. Ms. [REDACTED] responded that she needed to check on whether the building would be open. Mother replied that if Monday is not a good day, she would take the earliest day at whatever time anyone is available. (SD Group 1, pgs. 27, and 8).

Mother was given access to [REDACTED], the District student information system, by [REDACTED], District Registrar, on December 29, 2014, through the issuance of login and password information. (PD 34). The next day, Mother confirmed that she had been given electronic access to her children's records. (SD Group 1, pg. 2).

Mother made another records request on December 30, 2014, through an email to Ms. [REDACTED]. Mother asked to view student records for her children. Ms. [REDACTED] responded to Mother on December 30, 2014 explaining that the Principal and her secretary were on break and that Ms. [REDACTED] was having the files of the children copied for her. (SD Group 1, pg. 2). On January 8, 2015, Ms. [REDACTED] emailed Mother telling her, "I have your paperwork if you would like to review, otherwise it can be placed in the mail." In addition, Ms. [REDACTED] indicated she would be in the office the next day and gave her office hours. (SD Group 1, pg. 2). On January 9, 2015, Mother restated that she would like to view the original documents and requested to do so on January 13, 2015 at 10:00 a.m. (PD 20, SD 52). Ms. [REDACTED] replied that she was not available, but Ms. [REDACTED] would assist Mother on January 13th at the Middle School and gave Mother Ms. [REDACTED]' phone number. (PD 20, SD 51, Spence testimony). Mother replied confirming the January 13, 2015 appointment to view and pick up copies of the student records. (SD 51). Mother met with Ms. [REDACTED] and viewed student records on January 13, 2015. (Ms. [REDACTED]).

On June 9, 2015 Ms. [REDACTED] emailed Mother the records of Student's disciplinary reports for the period from October 23, 2013 to March 20, 2015 in response to Mother's request for the record made to Mr. [REDACTED]. Ms. [REDACTED] sent the records at the request of and on behalf of Mr. [REDACTED], Assistant Principal Sixth Grade Center. Mother acknowledged receipt. (PD 32, [REDACTED]).

On June 10, 2015 Mother emailed Ms. [REDACTED], Ms. [REDACTED], [REDACTED], and [REDACTED] a summary of a conversation with an unnamed staff person and a request that the unnamed staff person provide her with copies of any records or documents in possession concerning Student. The request for documents was detailed, seeking medical records, 504 plans, the bases for conclusions that son was impaired, including testing, social work services, Copeland scales, all ISAT scores, student interview documents, teacher interview documents, weekly monitoring sheets, Student's "contract," Daily CICO records, Point Card Sheet/Star Sheet and teacher observations, all written correspondence to parent related to 504 plan, all documents concerning her son specific teachers/staff who provided information for the 504 plan, any function based assessment form 2012 to 2015, the "Impulse Control for Middle School Student Workbook. Mother concluded by stating that if the documents requested are not provided within 30 days, she would conclude that the documents or records are not in the possession of [REDACTED] [sic] School District school or administrative personnel. (PD 41, SD 58-60). On June 19, 2015, Mother sent a separate request for Student's seventh grade math and science test scores for the last two quarters, evidence of tutoring, evidence of grief counseling, counseling, assessment or progress notes for services received by Student. (SD 92).

On June 22, 2015, Ms. [REDACTED] provided to Mother the MAP and EXPLORE reports and detailed progress reports for the last two quarters of the year. (SD 92). On June 19, 2015,

Mother sent an email request for math and science test scores for the last two quarters of Student's 7th grade, for evidence of tutoring services, grief counseling assessments or progress notes. (PD 20). On July 2, 2015, in an email, Mother confirmed receipt of the "requested information for the last 2 quarters of the 2014-2015, the 7th grade for my son, (*name omitted*)" and the Map and Explore Report which included assessments and detailed reports. Mother requested the same reports for the first 2 quarters of 7th grade and the same reports for 6th grade. (PD 20, SD 91). On July 7, 2015 Mother sent an email to Ms. [REDACTED], Director of Special Education. The subject line of the email said, "FW: Request for any and all records related to my son, (*name omitted*)."² The body of the email provided was blank. (PD 33A, pg. 8).

On July 24, 2015 Mother emailed Ms. [REDACTED] concerning a resolution meeting schedule. Included in this email, amongst other requests, was a request for school records for 4th to 7th grade, any documentation that shows parent counseling training or the offer of such training, to view the complete educational file, paper and electronic notes, emails, video or recordings. (SD 88-89, Ms. Belotti). On July 27, 2015, Ms. [REDACTED] emailed Mother and explained that the detailed progress reports from the first two quarters are not available; the only records available are summative grades for each of the quarters. [REDACTED] explained that those grades appear on the report card for the year. [REDACTED] explained that the information had rolled over into a new school year and that first and second quarter information for the 2014-2015 school year was not available. (SD 90, Ms. Chrisos). On July 28, 2015, Mother emailed Ms. [REDACTED] to request documents that she had not been provided. Mother stated that her requests had been ignored and requested that her son's educational records be preserved. (SD Group 2). On July 29, 2015, Ms. [REDACTED] responded to Mother in an email that the District had not destroyed information that is required as part of Student's permanent or temporary records. Ms. [REDACTED] explained that

detailed reports for grades are issued through each quarter of a report card. ██████ explained that ██████ may not have access to the detailed reports requested from prior school years.

██████ told Mother that she had requested assistance of the database processor, who was working on retrieving the information, if possible. ██████ informed Mother that the other school personnel were not available until after school resumes for the 2015-16 school year. Ms. ██████ requested clarity on what records Mother wanted to view. (SD Group 2) On September 15, 2015 Ms. ██████ sent Mother various outstanding records, including Grade 7 progress reports, Grade 5 Trimester progress reports (second and third trimester), Grade 4 progress reports. (SD 402, Ms. ██████).

On September 23, 2015 Ms. ██████ emailed to Mother six packets of emails per her request. Ms. ██████ explained that all the email that were connected to her son during his time at the Middle School had been retrieved, and reviewed to enable the names of other students to be redacted before scanning. Ms. ██████ acknowledge Mother's request for all emails from the 4th to 6th grade period and agreed to request a search for those emails. (SD416). Ms. ██████ had requested from the District technology department every email that was connected in any way to Student. She reviewed approximately 2,000 emails and redacted the names of other students. After the emails were reviewed and redacted, they were scanned and sent to Mother. There were duplicates of many of the emails due to the manner in which the emails are stored. The District stores emails for each sender or recipient. The District maintained only a limited amount of records from the Student's 4th through 6th grade year and those that were available were given to Mother after review and redaction. (Ms. ██████).

On October 21, 2015, Ms. [REDACTED] asked Mother for a response to an email sent to her by District's attorney seeking clarification as to the documents that Mother was seeking from the District. (SD 548-549) Mother did not respond with specificity. (Ms. [REDACTED]).

On July 14, 2015 Mother requested the removal of a police report from Student's permanent record. In addition, Mother challenged the inclusion of specific court documents, references to parents being divorced or separated, her address. Mother requested a hearing if District did not remove or correct records. (SD 86-87). In response to Mother's July 14, 2015 letter (SD 36) the District convened a meeting with Mother and Father to review records and discuss the materials Mother challenged. The District removed the challenged materials, police report, missing person report and court documents, except the most recent child custody/visitation order, and redacted the [REDACTED] address from Student's temporary and permanent record on July 27, 2015 after meeting with Mother and Father. (SD 36, SD 28-29). On September 15, 2015, Ms. [REDACTED] sent Mother various outstanding records, including Grade 7 progress reports, Grade 5 Trimester progress reports for the second and third trimester, Grade 4 progress reports. (SD 402, Ms. [REDACTED]). On November 20, 2015, Ms. [REDACTED] mailed Mother a packet including the amended page of the social history, the file record sheet and notes from the Resolution Session. (SD 563- 809, Ms. [REDACTED]).

Mother asserts that she has been denied access to Student's records and that she has not been provided with copies of records and student information she requested. Mother's continued requests for records and assertions that the records are not being provided, coupled with her inability to specify what records or information is lacking leads the undersigned to the conclusion that Mother does not know what records she is looking for.

District argues that Mother has received access to Student's records. District asserts that it has responded promptly and thoroughly to ensure that Mother received all of Student's records. District personnel have responded to requests for information and records and it has provided Mother with all records and information related to Student that are available.

Parents must be afforded with an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE.⁵¹ Agencies, here the District, must permit parents to inspect and review any educational records relating to their children that are collected, maintained or used by the agency.⁵² The IDEA uses the Family Educational Rights and Privacy Act (FERPA) definition for educational records.⁵³ FERPA defines the term "education records" as those records that contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution.⁵⁴

In this case, Mother admitted in her affidavit that she has been to [REDACTED] offices at least four times to view Student's records. (PD 24). District provided Mother with multiple copies of Student's permanent and temporary student record/file, including the permanent record, special education file, Section 504 file, registration records, health records, detailed progress reports, report cards, standardized testing, behavior interventions, Section 504 and IDEA documents. District also provided student information such as samples of student work, emails and other documents that refer to Student. District provided Mother with access to view the records at least twice during the period beginning September 1, 2013; however no evidence was presented concerning the period prior to the initial records request of December 9, 2014.

⁵¹ 34 C.F.R. §300.501, 34 C.F.R. §613, and 23 Ill. Admin. Code §226.530..

⁵² 34 C.F.R. §300.613(a).

⁵³ 34 C.F.R. §300.611(b).

⁵⁴ 20 U.S.C. §1232g(d) and 34 C.F.R. §99.3.

Mother made multiple requests for records as detailed above. District granted Mother online access to student records, provided her with multiple copies of the permanent and temporary student record file, including grade reports, and academic records. District also provided detailed progress reports, discipline reports, health records, student work samples, check-in check-out sheets, social work reports, counseling and grief group summaries, IEPs, Section 504 plans, standardized testing, behavior interventions, attendance reports, and emails.

Mother has repeatedly claimed that she did not have all requested information. However, she must specify what records she believes are missing.⁵⁵ After each of Mother's requests, District has searched for the requested information and either located the information or provided Mother with an explanation concerning the information, for example, that the detailed reports from Skyward are not available locally after the "roll over." Here, the District correctly asserts that information that is not maintained by a District is not a student record.⁵⁶ Therefore, the District is not able to capture items that it does not maintain such as detailed grade reports that are available through ██████████ but were not "rolled over" for some unknown reason or emails that are no longer retained by the district and cannot provide them to Mother.

The IDEA regulations also require that agency's provide parents with notice of the confidentiality and their rights under Family Educational Rights and Privacy Act of 1974.⁵⁷ In addition, IDEA provides that parent may request the amendment of records that they believe is inaccurate, misleading or violates the privacy or other rights of the child.⁵⁸ Parents may request a hearing if the agency denies their request for amendment of records.⁵⁹

⁵⁵ See, e.g. *Letter to Anonymous*, 114 LRP 37975 (FPCO 2014) (no violation were parent claimed district did not provide all records in two computer discs of documents produced without specifying what parent believed was missing.)

⁵⁶ See *Letter to Anonymous*, 115 LRP 18603

⁵⁷ 34 C.F.R. §300.612.

⁵⁸ 34 C.F.R. § 300.618(a).

⁵⁹ 34 C.F.R. § 300.618(c) and 34 C.F.R. § 300.619.

On July 14, 2015 Mother challenged the accuracy and contents of Student's record and requested a hearing. District responded by arranging a meeting with Mother and Father to discuss the records challenge. The meeting concluded with the parties agreeing to all but one of Mother's requests. Father agreed that all but the most recent child custody court documents would be removed from Student's file. No hearing was scheduled. Records were redacted, or modified as agreed, other court reports and police reports were removed and District provided Mother with copies of the portions of the corrected records.

The undersigned finds that the District provided Mother with access to Student records and copies of Student records as required under IDEA. The undersigned also finds that the District complied with the Mother's request for amendment of the Student records. The undersigned finds that Mother's opportunity to participate in the decision making process regarding the provision of FAPE under the IDEA to her son (*name omitted*) [REDACTED] during the period beginning in September 1, 2013 and continuing to this date was not impeded by District conduct with respect to access to student records.

Relief

A failure to satisfy the requirements of IDEA and Illinois law may merit relief; the appropriate relief depends on which requirement is not met.⁶⁰ Failure to comply with a procedural requirement of the IDEA, independent of any resulting denial of FAPE will result in only injunctive relief for prospective compliance.⁶¹ A hearing officer may order a local educational agency to comply with procedural requirements.⁶²

In this matter, the undersigned notes that the District has offered to send Mother notice of all educational meetings related to student, provide online access to Student's educational records

⁶⁰ *C.H. v Cape Hemolpen School Dist.*, 606 F.3d. 59, 66 (3rd Cir. 2010)

⁶¹ *Id.*

⁶² 20 U.S.C. §1415(f)(3)(E)(iii).

and provide access to school records. (SD 414, [REDACTED]) The undersigned finds these to be the remedies for the violations found above.

DECISION/ ORDER

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

- A. District is ordered to provide Mother with IDEA notices at her current address.
- B. District is ordered to refrain from restricting Mother's access to Student's records as required under IDEA and Illinois special education
- C. In accordance with 105 ILCS 5/14-8.02a(h), within 30 school days of receipt of this Order, the District shall submit proof of compliance to:

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

NOTICE OF RIGHT TO REQUEST CLARIFICATION

Pursuant to 105 ILSC 5/14-8.02a(h) either party may request clarification of this decision by submitting a written request to the Hearing Officer within five (5) days of receipt of the decision. The request for clarification shall specify the portions of the decision for which clarification is sought. A copy of the request shall be mailed to all other parties and the Illinois State Board of Education, Program Compliance Division, 100 North First Street, Springfield, IL 62777. The right to request clarification does not permit a party to request reconsideration of the decision itself and the Hearing Officer is not authorized to entertain a request for reconsideration.

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Pursuant to 105 ILCS 5/14-8.02a(i), any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard

to the amount in controversy within one hundred and twenty (120) days from the date the decision is mailed to the party.

Dated: April 18, 2016

[REDACTED]

Kathleen C. Fuhrmann, Impartial Hearing Officer

[REDACTED]

[REDACTED] phone and fax

[REDACTED]

APPENDIX A

[REDACTED] v. [REDACTED]

Case No: 2016-0077

Student	[REDACTED]
Mother (Petitioner/Complainant)	[REDACTED]
Father	[REDACTED]
District (Respondent)	[REDACTED]
Attending School	[REDACTED] [REDACTED] [REDACTED]

CERTIFICATE OF SERVICE VIA CERTIFIED MAIL

I, the undersigned Kathleen C. Fuhrmann, certify that on May 20, 2016, a copy of Final Determination and Order and Order Denying Mother's Motion for Recusal and Motion for Disqualification 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 Kathleen C. Fuhrmann, certify that on May 20, 2016, a copy of Final Determination and Order and Order Denying Mother's Motion for Recusal and Motion for Disqualification were served upon the following persons via email transmission by attached said document(s) in pdf format to the email addresses set forth below:

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

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

Andrew Eulass
Due Process Coordinator
Illinois State Board of Education
Division of Special Education Services
100 N. 1st Street
Springfield, IL 62777

Dated: May 20, 2016

Signed: [REDACTED]