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ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING

_____,
Student,

v.

Case No. 2017-0393

School District.

Philip C. Misk,
Impartial Hearing Officer

FINAL DETERMINATION AND ORDER

I. PROCEDURAL HISTORY

The initial hearing request in this matter was submitted to the _____ District _____ ("District") on April 24, 2017, by _____ attorney _____ on behalf of the Student, _____ ("Student"), and his foster parent at the time, _____. This hearing officer was appointed on April 26, 2017. Mr. _____ filed an Amended Due Process Complaint on behalf of his clients on May 5, 2017. The District filed its Response to the Amended Complaint on May 11, 2017. Because the Amended Complaint modified the issues and the proposed resolutions, an Order was entered on May 13, 2017, restarting the case timelines. See, 105 ILCS 5/14-8.02a(g-15). On May 18, 2017, the parties agreed to waive a resolution meeting. Informal settlement discussions were unsuccessful.

After an initial status conference with counsel on May 25, 2017, a Pre-hearing conference was held by telephone on July 13, 2017. A Pre-hearing Order was subsequently issued and then modified prior to the due process hearing.

A preliminary issue regarding the two-year Statute of Limitations was raised by the District in a Motion for partial dismissal. In their Amended Complaint _____ and _____ raised alleged violations and the denial of a free appropriate public education (FAPE) dating back to the 2009-2010 school year. This issue had to be resolved before the due process hearing could be convened. After receiving and considering written arguments on the issue and holding several conference calls with counsel on the issue and how they wished to proceed, it was determined that a separate evidentiary hearing to determine the "knew or should have known" date was required. *Damarcus S. v. District of Columbia*, 190 F. Supp. 3d 35 (D.DC 2016).

That hearing was held on November 20, 2017, at the District's _____ administrative offices. During a status conference call prior to the Motion hearing counsel were instructed to prepare for the due process hearing assuming that claims dating back to 2009-2010 would be considered.

On November 27, 2017, an Order was issued denying the District's Motion for partial

dismissal and allowing [REDACTED] and his educational surrogate parent, [REDACTED], to present claims dating back to the 2009-2010 school year based on a finding that the "knew or should have known" date was established to be no earlier than May 9, 2016.

The due process hearing commenced on November 28, 2017, and concluded on December 4, 2017, with the submission of written arguments. The hearing was held at three locations in Chicago to accommodate witnesses: [REDACTED] Administrative offices, [REDACTED] Academy and [REDACTED] High School.

II. BACKGROUND

[REDACTED] is seventeen years old and will turn eighteen on January 12, 2018. When the hearing began he was in the [REDACTED] juvenile detention facility and was represented by his educational surrogate parent, [REDACTED]. However, the hearing officer and counsel were notified during the hearing that [REDACTED] had been placed in a foster home in a south suburb within a new school district. Student is a ward of the Illinois Department of Children and Family Services ("DCFS") and is now represented by his new foster parent, [REDACTED].

[REDACTED] lived with his biological mother, [REDACTED] until March, 2015, when he was taken into the care of DCFS. (Testimony of [REDACTED], his case manager). An educational surrogate parent, [REDACTED], was appointed in November, 2015. (Testimony of [REDACTED]). In January, 2017, he was placed in foster care with [REDACTED] (Testimony of [REDACTED], but [REDACTED] testified that she was not removed as his educational surrogate parent until April, 2017. [REDACTED] was reappointed as educational surrogate parent within a month of the hearing when [REDACTED] was moved out of the foster placement with [REDACTED].

According to the District's school social work evaluations and re-evaluations (Exhibits 4, 14, 23) [REDACTED]'s family moved a lot when he was young, and his mother reported that there was domestic violence in the home when [REDACTED] was a baby. (Exhibit 4, p. 60).

[REDACTED] was referred for school-based problem solving in October, 2008 when he was in the second grade due to his teacher's concerns about his performance in all areas of reading and math and his inability to retain information. He also exhibited inappropriate and disruptive behaviors, had difficulty sitting for more than five minutes, and chewed on items such as paper and paper clips. School-based problem solving interventions were unsuccessful. (Exhibit 4, p. 61).

In September, 2009, at the beginning of the third grade [REDACTED] was referred for a special education case study evaluation. At the time he was repeatedly unsuccessful in all subjects, was unable to focus, and was receiving all "Fs". (Exhibit 1). The District's initial evaluation of [REDACTED] consisted of a school psychological evaluation, a school social work assessment and a school nurse assessment. He was determined eligible for special education on the basis of an emotional disorder and specific learning disabilities, and an IEP was prepared for him on February 19, 2010. (Exhibit 7). [REDACTED] was found to have a low-average IQ, very poor spelling, vocabulary and reading skills, difficulty understanding oral directions, processing deficits and the inability to sit still for more than five minutes. (Exhibit 3).

His IEP was reviewed and modified in May, 2011, at the end of 4th grade (Exhibit 10). He continued to read and spell at below the first grade level, was lacking in phonetic skills,

required a lot of repetition, guided practice and supervision. It was noted that he required a lot of one-on-one assistance, learned best with visual cues and examples, enjoyed working on a computer, was able to use a calculator, and worked best with hands-on manipulations. (Id.)

Another IEP meeting was held for ██████ at the end of the fifth grade on April 27, 2012 (Exhibit 11). The significant deficits in reading, spelling, vocabulary and math noted on this IEP were substantially the same as on the previous IEP. It was noted that he had not mastered any basic sight words, had a great deal of difficulty understanding oral directions, was unable to use phonetic awareness or recognize word patterns to identify unknown words, and did not demonstrate reading fluency.

During the sixth grade an assistive technology (AT) evaluation was conducted by the District for ██████ in October, 2012 (Exhibit 39), and a three-year re-evaluation was done in the winter of 2013. The re-evaluation consisted of a school psychological evaluation (Exhibit 13) and a school social work re-assessment (Exhibit 14). His reading and writing scores continued to be very poor. Reading was below first grade level on the KTEA-II. Math was considered a relative strength, but his Math Composite score was only at the third percentile. ██████ told the school psychologist that reading was his biggest challenge in school. The AT evaluator recommended certain AT services and products for M.H.

Following the completion of the re-evaluation an IEP meeting was convened on January 29 and February 14, 2013. (Exhibit 15). The IEP was not modified significantly, but it stated that ██████ had no communications needs (i.e., speech or language). It stated further that ██████'s behavior in class was "dependent on his skill set", and "if he understands a concept he can be helpful to others and complete his own work, but if he is struggling he can become disruptive." (Exhibit 15, p. 213). His need for a small structured setting and lower student/teacher ratio were noted on the IEP. Eligibility continued to be based upon an emotional disorder and specific learning disabilities.

An IEP written at the end of the seventh grade on May 22, 2014 indicated continued struggles in all academic areas due to his very poor reading skills. It was reported that there were no concerns about his expressive or receptive language at that time. (Exhibit 18, p. 268). The IEP stated that ██████ benefited from small group instruction and choices. Extended school year (ESY) services were added for the first time. The IEP indicated that an interest inventory was conducted in order to write a Transition Plan.

In 2014-2015 ██████ was in the eighth grade. He continued to have significant academic difficulties and very poor reading skills according to the IEP prepared on November 18, 2014. (Exhibit 19, p. 295).

The District again re-evaluated ██████ in 2015-2016, his first year in high school. The re-evaluations were conducted by a school psychologist (Exhibit 22) and a school social worker (Exhibit 23). Dr. ██████ the school psychologist, found ██████ to be extremely weak in reading and at the level of a late seven year-old for vocabulary. His verbal comprehension was at the first percentile. Math, block design (abstract verbal reasoning) and auditory short-term memory were relative strengths although all well below grade level. ██████ the school social worker, noted difficulties in all areas of executive functioning and difficulties with writing.

His IEP team met in February, 2016, to consider the re-evaluations. (Exhibit 24). The IEP stated that [REDACTED] was receiving an "F" in English, U.S. History and Biology. School social work minutes were increased from thirty to sixty minutes per week. A placement change was recommended to a therapeutic day school. At this point [REDACTED] was represented by counsel from [REDACTED] and [REDACTED], his educational surrogate parent, became actively involved in advocating for services for [REDACTED], particularly with respect to literacy skills. (Testimony of [REDACTED]). [REDACTED] was placed in the [REDACTED] Academy Therapeutic Day School ([REDACTED]).

After [REDACTED] entered [REDACTED] in mid-February 2016, within a matter of a week or two his teachers recommended that he receive a speech and language evaluation. (Testimony of [REDACTED]). Ms. [REDACTED] conducted the evaluation and issued her report on March 18, 2016. (Exhibit 26). She found a mixed expressive-receptive language processing disorder affecting reading and writing skills and all areas of learning requiring expressive and receptive language, social communication and attention.

In addition, at the request of [REDACTED] the District conducted additional testing by a District school psychologist, [REDACTED] in April, 2016. (Exhibit 30). Dr. [REDACTED]'s testing found very poor reading and phonological processing skills.

At an IEP meeting held on May 9, 2016, the IEP team added speech and language impairment to [REDACTED]'s eligibility and included 60 minutes per week of direct speech and language services in the IEP. (Exhibit 29). Ms. [REDACTED] testified that she delivered these services in two thirty-minute sessions per week because [REDACTED] had difficulty participating for longer than thirty minutes per session. A referral for another AT evaluation was made at this meeting. ESY services were offered for the first time.

The next IEP meeting for [REDACTED] was held on November 4, 2016. (Exhibit 31). It was substantially the same as the previous IEP. Attention, focus and easy distraction continued to be a problem for [REDACTED]. The IEP again stated that [REDACTED] performed best with one-on-one instruction.

The most recent IEP in the hearing record is from June 13, 2017. (Exhibit 40). ESY services were again proposed. The IEP shows that on April 24, 2017, the WRAT-IV was administered to [REDACTED] and his grade equivalent scores were: Reading: 1.6, Spelling 2.0, Sentence Composition 1.2, Math Computation 3.5.

In addition to his academic and learning problems, [REDACTED] has a history of instability in his family life, inappropriate behaviors, emotional problems and involvement with law enforcement. (See, District school social work assessments, Exhibits 4, 14 and 23). He has also had several hospitalizations for mental health issues and there are references in the hearing record to specific diagnoses made in connection with his hospitalizations. The District argues that these social and emotional problems have directly affected its ability to address his learning deficits. It also argues that his frequent transfers from school to school and excessive absences have affected the District's ability to address his educational needs. Neither [REDACTED] or his mother testified at the hearing, and no testimony was provided directly by mental health professionals who have treated and/or diagnosed [REDACTED]. Several witnesses mentioned his hospitalizations (e.g., [REDACTED], [REDACTED], [REDACTED]) but the hearing was focused mainly on his learning deficits, so the specifics of his hospitalizations were not part of the hearing.

District records show (see Exhibit 42) that from the third through the eighth grade [REDACTED] attended six different schools within the District. However, in the fifth grade he attended [REDACTED] School the entire 2011-2012 school year. In the sixth grade he was at [REDACTED] School the entire 2012-2013 school year. In the ninth and tenth grades he attended [REDACTED] High School, [REDACTED] Academy and [REDACTED] High School. [REDACTED] is a school operated by the District for youth being held at the county juvenile correctional facility, so he attended [REDACTED] on two occasions when he was being detained at the juvenile facility.

There were some school years when [REDACTED] was absent or tardy on many days. For example, in ninth grade he was absent from [REDACTED] High School 77 out of 96 enrollment days. From the testimony of [REDACTED] staff it appears that many of the days absent were due to hospitalizations during which he should have been receiving hospital instruction. At [REDACTED] he was recorded as having zero absences or tardies from February 16, 2016, to October 17, 2017. (Exhibit 42).

III. JURISDICTION

The hearing officer has jurisdiction under 20 U.S.C. 1415, 34 C.F.R. 300.507, and 105 ILCS 5/14-8.02a.

IV. ISSUES

A. FAPE

1. Whether the District denied a FAPE to [REDACTED] by failing to conduct timely, comprehensive and individualized evaluations of the Student to identify all of the Student's special education and related services needs.
2. Whether the IEPs developed by the District for [REDACTED] from 2009-2010 through the hearing were reasonably calculated to enable [REDACTED] to make progress appropriate in light of his circumstances.

B. PLACEMENT

1. Whether [REDACTED] requires placement in a therapeutic day school in order to receive a FAPE.

B. COMPENSATORY SERVICES

1. If [REDACTED] was denied a FAPE by the District as described above, should the District provide compensatory services to the Student?
2. If so, what type, amount and duration of compensatory services should the District be required to provide?

V. FINDINGS OF FACT

1. Eligibility. [REDACTED] has multiple significant disabilities which individually and collectively make him eligible for special education and related services. His evaluations and IEPs since 2010 identify an emotional disability and specific learning disabilities. His IQ scores are generally in the low-average range, according to school psychological testing done in 2010 (Exhibit 3), 2013 (Exhibit 13), and 2016 (Exhibits 22 and 30) by the District and in 2017 by Dr. [REDACTED] [REDACTED] who testified as an expert witness for [REDACTED] and [REDACTED] (Exhibit 36).

2. Language Disorder. [REDACTED] also has a language impairment that was first identified in March, 2016, when he was evaluated by [REDACTED] a speech and language pathologist under contract with [REDACTED] Academy, a therapeutic day school [REDACTED] attended starting on February 16, 2016. (Exhibit 26). He was referred for this evaluation by [REDACTED] Academy teachers within one or two weeks after his arrival at [REDACTED] because of his reading and writing difficulties. (Testimony of [REDACTED]).

Ms. [REDACTED] found a communications impairment she described as a mixed expressive-receptive language disorder. This disorder significantly affects his reading, spelling, written expression, language processing, attention and pragmatic communication. It has an impact on his verbal interactions and causes embarrassment and frustration. The language disorder causes [REDACTED] to have difficulty expressing his thoughts and ideas in the classroom and would affect his social interactions. (Testimony of [REDACTED] and Exhibit 26). Direct speech and language therapy services of two thirty-minute sessions per week were started with Ms. [REDACTED] following the May 9, 2016 IEP meeting. (Exhibit 29).

A speech and language evaluation should have been included as part of the case study evaluation for [REDACTED] starting with the initial evaluation in 2010, and continuing until the [REDACTED] evaluation. [REDACTED] has suffered a significant loss of educational benefit due to the failure to identify and address his speech and language impairment starting in the third grade. He requires an intensive speech and language therapy program consisting of direct therapy and consultation with his teachers in an attempt to remediate his language processing deficits.

His ongoing very poor reading, spelling and vocabulary skills and annual lack of progress were clear indicators of a language impairment. (Testimony of Dr. [REDACTED]). In 2010 in the third grade he was spelling at the kindergarten level, had a poorly developed vocabulary, poor sentence composition and difficulty understanding oral directions during the testing. (Exhibit 3-[REDACTED] [REDACTED]). He was "essentially a non-reader". (Id.). Ms. [REDACTED] referred in her report to his "processing" problems (Id.), but did not believe a speech and language assessment was appropriate at the time. (Testimony of [REDACTED]).

In the fourth and fifth grades he was reported to have lacked phonetic skills, was unable to read or spell basic sight words, and learned best with visual cues and examples. Achievement testing in April, 2011 showed that he was below the first

grade level in reading and spelling. He was performing "significantly below grade level in all content areas". (Exhibit 10-IEP of May 5, 2011). The IEP of April 27, 2012 (Exhibit 11) reports a continuation of the same reading and language deficiencies including difficulty understanding oral directions, inability to use phonetic awareness and recognize word patterns to identify unknown words, and inability to demonstrate reading fluency. In March, 2012, achievement testing using the Wide Range Achievement Test (WRAT) indicated below first grade performance in reading, mid-first grade in spelling and early second grade in Math. He continued to need assistance with vocabulary development, phonetic awareness, spelling patterns and spelling rules.

█████ was re-evaluated in 2012-2013 by a school psychologist and school social worker. (Exhibits 13 and 14). The Assessment Plan prepared for █████ indicated no issues in the area of communications status (speech and language). (Exhibit 12, testimony of █████) He continued to have severe deficits in reading and writing, both scoring at the Kindergarten to first grade level, and told the evaluators that reading was his greatest challenge. (Exhibit 15-IEP of February 14, 2013.) The IEP stated that he had no communications needs. (Id. p. 213).

At the end of the seventh grade his IEP noted that he struggled in all core areas due to his reading, but there were no concerns about his expressive or receptive language. (Exhibit 18-IEP May 22, 2014, p. 268).

█████ was re-evaluated again in 2015-2016, his first year in high school. The Assessment Plan indicated that there were no issues concerning his communications status. (Exhibit 20). The re-evaluations took place just prior to his enrollment in █████ and consisted of a school psychological evaluation by Dr. █████ and a school social work assessment by █████. Dr. █████ testified that █████'s language skills were not well-developed and he was weak in verbal and expressive language. She stated that she is not very familiar with speech deficits and it would be an IEP team determination as to whether █████ needed a language evaluation. The Bernard evaluation was conducted the following month after █████ entered █████ and his teachers almost immediately identified a need for a speech and language evaluation.

3. Reading and Language Arts. Even though █████ has made little progress in his reading since the third grade, there is nothing in the record indicating that a comprehensive reading assessment was conducted for him until █████ his educational surrogate parent, expressed concern about his reading. Due to her efforts, █████ a District School Psychologist, was assigned to conduct additional testing in the area of reading and cognitive abilities in April, 2016. Mr. █████ used the Gray Oral Reading Test-V and found phonological processing below the first grade level, and very poor reading skills, in the early to mid-first grade level.

Considering his very poor reading, spelling and vocabulary skills and lack of progress in reading, the District should have considered █████ for a specialized reading program and language arts program starting in the third grade. █████ is almost eighteen years of age and reads at around the first grade level. He requires an intensive multi-sensory reading remediation program both in his

school-based program and as part of his compensatory services relief. He also requires multi-sensory remediation instruction and tutoring in core areas of language arts and math. (Testimony of Dr. [REDACTED]).

4. IEP Goals. Many of the goals on [REDACTED]'s IEPs were generally written as if he was performing at grade level, especially in the areas of reading and language arts. For example, in the November 4, 2016 IEP (Exhibit 31, p. 192) an annual language arts goal was: "[REDACTED] will demonstrate comprehension using the skimming strategy in order to answer a combination of literal, inferential and applied questions answering 8 out of 10 questions correctly 80%." This goal was written for a student whose reading level was measured consistently at Kindergarten or first grade levels from the third grade forward. Similarly in his IEP of May 22, 2014, an annual goal for English was "[REDACTED] will be able to read a grade level text with 95% accuracy, fluency and rate in 5 out of 5 trials." At the time [REDACTED] was in the seventh grade and was reading below the first grade level. (Exhibit 18, p. 278).

[REDACTED] requires measurable IEP goals that are based upon his present levels of performance and focused on remediation of his specific learning and language processing deficits, with basic literacy skills being the area requiring the primary focus.

5. Occupational Therapy. There is no occupational therapy evaluation of [REDACTED] in the record. Dr. [REDACTED]'s neuropsychological evaluation (Exhibit 36) refers to [REDACTED] as having "significant difficulty duplicating a series of 30 shapes when asked to copy them." He scored in the borderline range (SS-76) on the Beery-Buktenica Developmental Test of Visual Motor Integration. He also scored in the borderline range on the NEPSY-II, designed to assess the ability to judge Line orientation. [REDACTED]'s IEP of February 14, 2013 (Exhibit 15) indicates under Assistive Technology that he was using modified paper, a writing guide and a graphic organizer, indicating that a teacher or someone on staff recognized these were areas of need that should have been explored further.

[REDACTED] should be evaluated by a licensed occupational therapist with respect to executive functioning, visual motor integration, attention and regulation, and line orientation as a follow-up to Dr. [REDACTED]'s evaluation findings and red flags in the District's IEPs and evaluation reports that these were areas that required further assessment.

6. Assistive Technology. The District conducted two AT evaluations of [REDACTED]. The initial evaluation was in 2012 by [REDACTED] when he was in the sixth grade. She reported that he enjoyed using Cool Math and also enjoyed using a speaking word processing program. (Exhibit 39). She recommended text reading software with a scanner and headphones, computer access and instruction in keyboarding for reading. She also recommended talking word processing with auditory feedback and word prediction software for writing and spelling. She provided a list of software that could work best for him, but did not determine or specify the software that should be used. Ms. [REDACTED] recommended that the AT needed to be integrated into his daily routine.

The second AT evaluation was done by [REDACTED] at the end of the ninth

grade on June 8, 2016. (Exhibit 41). She noted that his previous AT experience was computer usage with spell-check and a recorder for taking notes. Her report did not indicate that Ms. [REDACTED]'s recommendations had been followed.

Ms. [REDACTED] recommended computer use with standard keyboard, scanner, mouse and printer. She stated that [REDACTED] would benefit from the use of a laptop computer in all environments. For reading, she recommended a reading pen, books on tape or CD, a talking word processing program, text reading software with highlighter, and bookshare.org. Like Ms. [REDACTED] for writing and spelling she recommended talking word processing with auditory feedback and word prediction software.

The IEPs do not reflect the use of AT in accordance with the recommendations of Ms. [REDACTED] and Ms. [REDACTED]. For example, the first IEP prepared for him following Ms. [REDACTED]'s evaluation was prepared on February 14, 2013 (Exhibit 15). It indicates that modified paper, writing guide and a graphic organizer would be used. These AT services were not recommended in the evaluation and the AT devices and services that were recommended are not listed on the IEP. The same is true for the June 14, 2013 IEP. (Exhibit 17). Ms. [REDACTED] did not participate in these IEP meetings. (Id.)

On May 22, 2014, [REDACTED]'s IEP was reviewed and modified. (Exhibit 18). Although no additional assessments were conducted concerning AT needs, there were no AT services listed in the IEP and it stated that no AT services were required. There was no explanation as to why Ms. [REDACTED]'s recommendations were not followed. Similarly, the IEP of November 18, 2014, stated that AT was not required for [REDACTED] (Exhibit 19).

The IEP written on February 12, 2016, when [REDACTED] was transitioning to [REDACTED] High School, stated that AT was required, but no recommended devices were listed and no devices were available that he could utilize. It also indicated that an evaluation was needed. Again, the IEP failed to state why the 2012 evaluation was not being followed. (Exhibit 24).

The next IEP meeting was held on May 9, 2016, following the evaluations by Ms. [REDACTED] and Mr. [REDACTED]. The IEP referred to the evaluation by Ms. [REDACTED] on February 9, 2016, but Ms. [REDACTED] did not participate in the IEP meeting. (Exhibit 29). The IEP stated that no AT devices were recommended and no AT devices were listed. The AT listed as being "available" was headphones, printer, scanner, Smart Board, Recorder. The AT portion of the November 4, 2016 IEP was identical to the May 9, 2016 IEP. (Exhibit 31).

The June 13, 2017 IEP, the most recent IEP in the record, did not list any recommended AT devices, but listed as available a computer, word prediction software, printer, scanner and Smart Board. (Exhibit 40).

The AT recommendations of the evaluators were not followed and, in addition, a review of all of the IEPs after the 2012 evaluation did not indicate when the AT that was being made available was used and how it was used. There are several IEP and evaluation entries stating that [REDACTED] enjoyed the use of AT (for example, Exhibit 4: "Reportedly does a great job listening to books on tape or on

computer”; Exhibit 10: “Enjoys working on computer”); Exhibit 11: “likes working on computer” and “able to use calculator”).

The District failed to meet [REDACTED]’s AT needs and did not provide the devices and services recommended by its own evaluators. When it did provide AT, there is nothing in the record to show how the AT was used and in which environments it was used for [REDACTED]. Neither Ms. [REDACTED] nor Ms. [REDACTED] participated in the IEP meetings following their evaluations. Their involvement would have provided valuable information and guidance to the IEP teams in the preparation of [REDACTED]’s IEPs. The failure to provide appropriate AT devices and services resulted in the loss of educational benefit for [REDACTED].

AT is a critical component of [REDACTED]’s IEP services across all environments. A new AT evaluation should be conducted as soon as possible. In the meantime, the recommendations of Ms. [REDACTED] should be followed with fidelity and modifications made based on the new evaluation.

7. Extended School Year (ESY). [REDACTED] was first offered ESY at the end of the seventh grade (Exhibit 18) even though his academic deficiencies were significant and his progress was extremely slow since the second and third grades. It appears that he was offered ESY in the summer of 2016 (Exhibit 29) and 2017(Exhibit 40).

[REDACTED] has required and continues to require year-round educational services in order to remediate his reading, vocabulary, spelling, math and language processing deficits and to address executive functioning issues. (Testimony of Dr. [REDACTED]).

8. Emotional Disturbance. [REDACTED] clearly suffers from a serious emotional disturbance that impacts his educational progress and requires special education and related services. This has been manifested by a marked inability to build or maintain satisfactory relationships with peers and staff, inappropriate behaviors, and frustration due to his learning difficulties. See, 34 C.F.R. §300.8(4)(i). This is reflected in many exhibits including IEPs, evaluation reports and progress notes that appear in the hearing record.

While the parties did not disagree as to [REDACTED]’s eligibility due to an emotional disturbance, the District’s position is that the emotional disorder is the primary disability and affects [REDACTED]’s ability to progress academically. However, the District also agrees that [REDACTED] has specific learning disabilities and a language disorder. Dr. [REDACTED]’s opinion is that the lack of appropriate interventions and supports for the remediation of the specific learning disabilities and language disorder precipitated the inappropriate behaviors and social and emotional learning deficits.

2 Both sides are probably correct to some extent. However, under IDEA the District had a responsibility to address all identified disabilities through appropriate and individualized services as provided in his IEPs regardless of the precipitating factor or factors. In fact, several District witnesses testified that students with emotional disturbance are educable. (Testimony of [REDACTED], [REDACTED]).

Further, it is acknowledged in the record that teachers and other staff recognized the connection between his learning struggles and his behaviors. In his IEP of February 14, 2013 (Exhibit 15), for example, it is stated that his behavior in class was "dependent on his skill set", and "if he understands a concept he can be helpful to others and complete his own work", and "if he is struggling he can become disruptive." (Id. p. 213) This comment appeared several times in this IEP and in subsequent IEPs.

In addition, Ms. [REDACTED] testified and reported that [REDACTED]'s language disorder affected him adversely in all areas including social interaction and communication. According to [REDACTED], his school social worker at [REDACTED] High School for part of the 2015-2016 school year, knowing that a student has an expressive and receptive language processing disability would prompt her to modify the approach to therapy by using more prompts and giving the student more choices. (Testimony of [REDACTED]). This suggests that the counseling [REDACTED] was receiving was not as effective as it could have been if his language disorder had been identified earlier than 2016.

[REDACTED]'s emotional and behavioral needs must be addressed appropriately in order to enable him to make educational progress. He requires an appropriate level of counseling and should also be allowed time for activities he enjoys in order to release frustration and anger such as sports and other preferred hobbies and activities. He has received school social work services, but until he entered [REDACTED] he received only thirty minutes per week of social work services for a disability the District considered primary and quite serious. This was inadequate to meet his needs. After the 2016 re-evaluation and his enrollment in [REDACTED] he began to receive sixty minutes per week, but that allotment of time included group sessions. (Testimony of [REDACTED]).

[REDACTED] requires a minimum of sixty minutes per week of school-based social work services and an additional sixty minutes per week of outside therapy in order to remediate his emotional disturbance and benefit from instruction.

9. Motivation and willingness to participate in educational activities.

Dr. [REDACTED] testified that [REDACTED] is able, willing and motivated to participate in the compensatory educational services he recommended in his neuropsychological evaluation. The District offered the rebuttal testimony of [REDACTED] the case manager for [REDACTED] at the [REDACTED] High School. It was Ms. [REDACTED]'s opinion based on her discussions with teachers at [REDACTED] that [REDACTED] would not be a good candidate to participate in instructional activities outside of school. Ms. [REDACTED] admitted that she had very limited contact with [REDACTED] he had only been there for twenty-five days, and most of her information came from teachers.

We also heard from [REDACTED], [REDACTED]'s teacher at [REDACTED]. She testified that although he has good and bad days, he worked hard in her classroom and was improving in all subject areas. She noted in particular his "great leadership skills". (Exhibit 43, p. 39). [REDACTED] also testified that [REDACTED] performed better working on a one-to-one basis, a comment that appears regularly in his IEPs.

Ms. [REDACTED]'s testimony is credible and compelling in regard to [REDACTED]'s ability and motivation to learn. Her direct experience with him demonstrates that if his instruction is appropriately designed to meet his unique needs and he feels that he is progressing, he will be motivated to participate. Therefore, the argument that he lacks the motivation to participate in outside educational and therapy activities is rejected. He deserves the opportunity to gain the skills necessary to become a productive and independent individual.

With respect to Dr. [REDACTED]'s recommendation of twelve hours per week of compensatory instruction plus outside therapies, it would be difficult for [REDACTED] to sustain that level of service in addition to a full day of school. According to Ms. [REDACTED] [REDACTED] had a difficult time in language therapy sessions lasting longer than thirty minutes. He certainly requires outside services in an effort to remediate the disabilities that should have been addressed since 2010, but the amount of services needs to be manageable for him and he also needs some leisure and enjoyment in his daily routine.

10. Impact of Frequent Changes in Schools and Absences.

District argues that [REDACTED]'s very poor academic achievement was due to excessive absences and frequent changes of schools. Several witnesses including District school psychologists [REDACTED] and [REDACTED] and special education teacher and case manager [REDACTED] testified about the harmful impact of frequent school changes and absences on a student's ability to learn, feel comfortable at school, establish rapport with teachers and make friends.

As a general proposition, the District's argument certainly is logical and its witnesses were credible on this point. However, a review of [REDACTED]'s Enrollment and Academic Record (Exhibit 42) shows that there were entire school years when his attendance was excellent. He was enrolled in [REDACTED] from February 16, 2016, until the end of the 2016-2017 school year and had no absences or tardies.

He did miss seventy-seven days in 2015-2016 while enrolled at [REDACTED] High School, but there was testimony by Ms. [REDACTED] that he had a lengthy hospitalization that year and should have received instruction while hospitalized under provisions of the Illinois School Code, 105 ILCS 5/14-13.01(a-5). It is unclear from the record whether some or all of the seventy-seven days were days in which he was hospitalized, whether they were counted as absences, and whether he received hospital instruction during his stay in the hospital.

The only other year he was absent a significant amount of the time was in third grade at the [REDACTED] School when he was absent forty days and tardy eight during the second half of the 2009-2010 school year. There was no testimony at the hearing as to why he missed so many days that semester.

He attended two schools, [REDACTED] and [REDACTED] in the third grade and three schools in the fourth grade. However, in the fifth grade he only attended [REDACTED] and in the sixth grade he attended only [REDACTED]

While mobility and attendance had some affect on [REDACTED]'s educational performance, his minimal progress was due mainly to the lack of appropriate

services and supports to remediate his disabilities.

11. Educational Placement. [REDACTED] requires an educational setting that can provide him with an intensive program of multi-sensory academic instruction, consistent and appropriate use of AT in all environments, social and emotional supports, language therapy to address his language impairment, and services to remediate executive functioning deficits and visual motor integration needs. A year-round therapeutic day school would enable [REDACTED] to receive a FAPE. (Testimony of Dr. [REDACTED].)

The District's request to strike the placement issue due to [REDACTED]'s foster placement in a new school district is denied as this decision may provide guidance to the new school district regarding its placement determination. In addition, this finding is consistent with his current stay-put placement, which is a therapeutic day school.

12. Transition Services. [REDACTED] is almost eighteen years of age and his IEPs going forward should essentially be post-secondary transition plans that are in full compliance with applicable statutes and regulations governing post-secondary transition. See, 105 ILCS 5/14-8.03. His recent IEPs have sections prepared regarding transition services and there are references to assessments. See, e.g., Exhibit 40, pp. 257-259. The assessments listed on p. 257 are a career interest inventory and a student transition questionnaire. Other than the case study evaluations and re-evaluations, Ms. [REDACTED]'s evaluation, Dr. [REDACTED]'s neuropsychological evaluation, the interest inventory and questionnaire, there are no individualized transition assessments regarding daily living skills, benefits planning, or functional vocational skills in the record. Clearly, the acquisition of functional literacy and the remediation of his learning and language disabilities should be the primary transition goals for [REDACTED] at the outset. However, he requires an age-appropriate assessment of his current daily living skills, independent living skills and functional vocational skills, with goals developed to address any identified needs in those areas. 105 ILCS 5/14-8.03(a-5).

VI. CONCLUSIONS OF LAW

A. FAPE

1. The District denied a FAPE to [REDACTED] by failing to conduct timely, comprehensive and individualized evaluations to identify all of the Student's special education and related services needs. This student's significant language impairment was not evaluated and identified until the [REDACTED] evaluation in March, 2016, six years after his initial evaluation was conducted. There were many red flags indicating that a referral for a speech and language assessment should have been made including his very poor reading skills, struggles with vocabulary and spelling, difficulties with expressive and receptive language, lack of phonetic skills and even a reference by Ms. [REDACTED] in her initial psychological evaluation to "processing" problems.

The District should have also conducted an occupational therapy (OT) assessment of [REDACTED] as part of his case study evaluation. His apparent difficulties with attention, focus, executive functioning and visual motor skills justified a referral for an OT evaluation.

The District was required to assess [REDACTED] in all areas related to his suspected disability, including communicative status and motor abilities. 34 C.F.R. §300.304 (b)(4). It has failed to comply with this requirement.

Additionally, an individualized assessment of [REDACTED]'s daily living, independent living, benefits planning and functional vocational skills should have been conducted in order to establish post-secondary transition goals in those areas as recommended by the evaluator. 105 ILCS 5/14-8.03.

2. The IEPs developed by the District for [REDACTED] from 2009-2010 through the hearing were not reasonably calculated to enable [REDACTED] to make progress appropriate in light of his individual circumstances. *Andrew F. v. Douglas County School District RE-1*, 137 S.Ct. 988 (2017).
 - a. [REDACTED] has made minimal progress in reading, spelling, vocabulary and math since he was first found eligible for special education in 2010. He continues to read and write at the kindergarten to first grade level, his spelling and vocabulary skills are only slightly higher, and, while math is a relative strength, he is far below age and grade levels in math. He is almost eighteen years old, he does not have a cognitive disability and he lacks basic literacy skills.
 - b. [REDACTED]'s IEPs focus mainly on his behaviors and provide mostly accommodations and modifications rather than remediation services to address his learning and language deficits. (Testimony of Dr. [REDACTED] and Exhibit 36.) Many of his IEP goals were inappropriate because they were based on grade level expectations instead of his individual present levels of performance. 34 C.F.R. §300.320. IEP goals must be based on the student's present levels of performance, which provide the baseline data necessary to enable measurement of the student's progress. *Ravenswood City School District v. J.S.*, 870 F.Supp. 2d 780(N.D. Cal. 2012).

Accommodations and modifications such as extended time and preferential seating are important elements of [REDACTED]'s IEP, but without the necessary remediation strategies they will not result in academic progress. (Testimony of Dr. [REDACTED]). This is apparent from [REDACTED]'s lack of meaningful progress in academic achievement.

- c. Until May 9, 2016, the IEPs did not address [REDACTED]'s language disorder. This had a direct impact on the effectiveness of his interpersonal communications, social work services and academic instruction. His IEP teams did not even identify his language disorder until he was evaluated by Ms. [REDACTED] in 2016.

- d. The IEPs did not appropriately address [REDACTED]'s emotional disturbance by failing to offer an adequate level of social work services until the Spring of 2016. In addition, if his behavioral intervention plans (BIPs) were ineffective, the IEP teams should have considered other strategies or recommended a more restrictive placement for [REDACTED] between 2010 and 2016, but they did not.
- e. The IEPs did not address [REDACTED]'s OT needs, and, as noted above, [REDACTED] requires further assessment by a licensed OT.
- f. [REDACTED]'s AT needs were never met under his IEPs. The District was required to make AT devices and services available to [REDACTED] if required as part of his special education and related services. 34 C.F.R. §300.105(a). The District's own evaluators recommended the use of certain types of AT devices and services for [REDACTED], but the IEPs fail to show that AT was provided as recommended across all environments, and in several instances it was not provided at all.
- g. [REDACTED] was not offered ESY services under his IEPs until 2014 despite his clear lack of academic achievement since 2010, particularly in reading and language arts. The District was required to make ESY services available to [REDACTED] in order to provide FAPE given his lack of academic achievement and significant social and emotional needs. 34 C.F.R. §300.106.
- h. The IEPs since [REDACTED] turned age 14 1/2 have included transition plans based upon inventories of his interests and a questionnaire of [REDACTED]. There are no assessments in the areas of independent living, life skills, benefits planning and functioning vocational skills. As an almost eighteen year-old these areas of ability need to be evaluated and IEP transition goals need to be developed in order to provide a FAPE.

B. PLACEMENT

- 2. [REDACTED] requires placement in a therapeutic day school in order to receive a FAPE. First, [REDACTED]'s most recent placement was at [REDACTED] Academy, a therapeutic day school. Second, [REDACTED] was making some progress at [REDACTED] according to [REDACTED], one of his teachers. He had been making very little, if any, progress in other educational settings within the District. The District has raised his attendance as an issue in this case, and it should be noted again that his attendance at [REDACTED] was perfect in starting in February, 2016 until June, 2017. (Exhibit 42).

Further, [REDACTED]'s academic achievement in less restrictive settings was minimal at best. This is clearly demonstrated by his achievement test scores and reported academic struggles throughout his educational career. He has a lot of catching up to do, and he requires an environment where he can receive the intensive and individualized services required. He has a reported history of working best in one-on-one situations. He needs a multi-sensory instructional approach and

assistive technology devices and services across all environments. He also has a significant language disorder and a serious emotional disturbance. The combination of disabilities and their severity require a therapeutic day school placement.

Although schools are required to educate students with disabilities with their non-disabled peers to the maximum extent appropriate, 20 U.S.C. §1412 (a)(5)(A), the relevant question is whether the student's education in a less restrictive environment was satisfactory or could be made satisfactory through reasonable measures. *D.W. v. Milwaukee Public Schools*, 526 F. App'x 672, 61 IDELR 32(7th Cir. 2013). Considering [REDACTED]'s disabilities, his history of minimal progress, and his need for remediation at an accelerated pace, a placement in a setting less restrictive than a therapeutic day school would not be satisfactory.

C. COMPENSATORY SERVICES

1. Hearing officers may award compensatory services to be provided prospectively to a child as an equitable remedy to account for educational services that should have been provided to the child by a school district. *Bd. of Educ. Of Oak Park-River Forest High Sch. Dist. 200 v. Ill. State Bd. of Educ.* 79 F. 3d 654 (7th Cir. 1996). Reimbursement of costs is one type of an allowable compensatory award. *Foster v. Board of Education of the City of Chicago*, 611, F. App'x 874, 65 IDELR 161 (7th Cir. 2015).

While the Seventh Circuit has yet to prescribe how an award of compensatory services should be calculated, Illinois District Courts have used the approach applied in *Reid ex rel Reid v. District of Columbia*, 401 F.3d 516 (D.C. Cir. 2005). The court in *Reid* rejected the mechanical calculation quantitative approach and adopted a qualitative standard that compensatory services awards should "aim to place disabled children in the same position they would have occupied but for the violations of IDEA". *Reid*, 401 F.3d at 518. In *Petrina W. v. City of Chicago Public School District No. 299*, (08 CV 3183, N.D. Ill. 12/10/2009), the Court remanded the case to the hearing officer to determine the amount of compensatory services the child required, if any, to give her the benefits she would have likely accrued had she been provided FAPE. In *Minor T.G v. Midland School District 7*, 848 F.Supp. 2d 902 (C.D. Ill. 2012) the court upheld an award of compensatory education, finding that it was appropriate and reasonably calculated to provide the child the educational benefits she would have received had the school district provided appropriate services during her ninth grade year. Given the preference of Illinois District Courts to follow the *Reid* approach, it is appropriate to apply the qualitative standard in determining compensatory services in this case.

2. The denial of FAPE to [REDACTED] that occurred from 2010 through the hearing impeded his educational progress. The lack of appropriate individualized instruction in reading and language arts in particular, and to a somewhat lesser degree in math, resulted in minimal progress. While there was considerable attention given to his social and emotional and behavioral needs, the level of social work services was inadequate. A therapeutic day placement for [REDACTED] should have been considered for academic, social/emotional and behavioral reasons long before February, 2016 when he was placed in [REDACTED] Academy. His language disorder, which was not identified until March, 2016 and not addressed

in an IEP until May 9, 2016, affected all areas of learning and social and emotional development. The District's failure to provide AT in all environments as recommended by the District's own evaluators in 2012 and 2016 contributed significantly to his lack of progress. [REDACTED] clearly required ESY services each year due to his obvious lack of academic progress and serious emotional disorder, but ESY was not offered until 2014. Finally, the need for an OT evaluation should have been apparent given reports of executive functioning issues and possible visual motor deficits for which AT was provided in one of his IEPs.

3. [REDACTED]'s compensatory services must start with basic literacy. As [REDACTED] stated in her testimony, he "really needs to learn to read and write". In addition, he requires extra instruction in spelling, vocabulary and math. He may never reach age or grade level in any of these areas, as Ms. [REDACTED] testified, but functional literacy in order to live independently and productively appear to be reachable goals. He also needs compensatory speech and language therapy to supplement the services he receives in school in order to remediate his expressive and receptive language processing impairment. He requires an OT evaluation to as a follow up to Dr. [REDACTED]'s findings, and then OT direct and consultative services as recommended. In addition, a new AT assessment should be provided by a qualified specialist to determine appropriate AT devices and services that are appropriate for [REDACTED]

The amount of compensatory services [REDACTED] receives outside of his normal school day should be reasonable and manageable for him. It should also allow him time to engage in sports and other activities and hobbies he enjoys.

VII. ORDER

A. FAPE for [REDACTED] shall include the following:

- (1) multi-sensory reading instruction using the Orton-Gillingham, Wilson or Lindemood-Bell system with an instructor trained in the selected program for at least 60 minutes per day;
- (2) multi-sensory instruction in spelling, vocabulary, math and other academic subjects;
- (3) use of AT across all environments using the recommendations of [REDACTED] in her 2016 report and modified as recommended in the new AT evaluation ordered as a compensatory service;
- (4) measurable IEP goals written on the basis of [REDACTED]'s present levels of performance in all targeted areas as part of an IEP that is a comprehensive transition plan for [REDACTED];
- (5) at least sixty minutes per week of individual school social work services and at least thirty minutes per week of group counseling services;
- (6) direct speech-language therapy services of at least sixty minutes per week to

address expressive-receptive processing deficits, plus speech-language therapist consultation with teachers;

(7) one-on-one assistance by a dedicated paraprofessional or classroom paraprofessional as determined by the IEP team;

(8) OT direct services and/or consultation as recommended by the OT evaluation ordered as a compensatory service;

(9) Coordination between [REDACTED]'s teachers and the providers of compensatory instruction;

(10) Coordination between [REDACTED]'s therapists and the providers of compensatory therapy services;

(11) measurable IEP transition goals based on an assessment of [REDACTED]'s independent living skills, daily living skills, functional vocational skills and benefits planning abilities order as part of compensatory services;

(12) ESY services with goals based upon [REDACTED]'s individual needs.

B. The least restrictive environment for [REDACTED] to receive FAPE is a therapeutic day school.¹

C. The District shall pay for compensatory services over a three-year period as follows:

(1) Year One-Through [REDACTED]'s 19th birthday (January 12, 2019)

- (a) Up to \$12,000.00 for two one-hour sessions per week for forty-eight weeks of multi-sensory reading instruction outside of the school day using the same reading program as is used in the school provided by an instructor trained in the particular reading program and coordinated with [REDACTED]'s in-school program, at the rate of \$125.00/hour;
- (b) Up to \$6,000.00 for one one-hour session per week for forty-eight weeks of multi-sensory instruction in writing, spelling, vocabulary and math outside of the school day provided by an instructor holding an Illinois Professional Educator License endorsed as a learning specialist and coordinated with [REDACTED]'s in-school instruction, at the rate of \$125.00/hour;
- (c) Up to \$3,000.00 for one one-hour speech and language therapy session twice per month for forty-eight weeks with an independent speech and language pathologist outside of school to address his language processing deficits coordinated with the speech and language services he is receiving in school, at the rate of \$125.00/hour;

¹ Since [REDACTED] is currently not a resident of the respondent School District, parts A and B of this Order would only be applicable to the District if he again becomes a resident and enrolls in the District. Over the District's objection, the hearing officer has determined that he has the authority to determine FAPE and placement for this Student even though the Student's current district of residence is not a party in this case and technically not bound by this Order. The Student's residence changed on Day Three of the hearing.

- (d) Up to \$3,000.00 for one one-hour mental health therapy session twice per month for forty-eight weeks with a qualified mental health professional outside of the school day to address his mental health needs coordinated with his in-school school social work services, at the rate of \$125/hour;
- (e) Up to \$2,000.00 for an independent evaluation of his AT needs and, if the cost of the evaluation is less than \$2,000.00 (e.g., if a free or lower-cost AT evaluation is obtained), the remainder of this amount may be used to purchase AT devices, services or software for [REDACTED]'s use in school or outside of school in accordance with the recommendations of the AT evaluation;
- (f) Up to \$1,500.00 for an independent OT evaluation to determine his OT needs as they affect his educational progress and to determine appropriate IEP services and goals;
- (g) Up to \$1,500.00 for an evaluation of [REDACTED]'s functional vocational skills, independent living skills, daily living skills and benefits planning abilities by a independent rehabilitation specialist or vocational specialist for the purpose of assisting in the preparation of appropriate post-secondary transition goals and services.

Funds for these purposes shall be made available starting no later than 30 calendar days from the date of this Order. Year One funds that are not utilized for the stated purposes by January 12, 2019, shall no longer be available to [REDACTED]

(2) Year Two-January 12, 2019-January 12, 2020:

- (a) Up to \$12,000.00 for two one-hour sessions per week for forty-eight weeks of multi-sensory reading instruction outside of the school day using the same reading program as is used in the school provided by an instructor trained in the particular reading program and coordinated with [REDACTED]'s in-school program ,at a rate of \$125.00/hour;
- (b) Up to \$6,000.00 for one one-hour session per week for forty-eight weeks of multi-sensory instruction in writing, spelling, vocabulary and math outside of the school day provided by an instructor holding an Illinois Professional Educator License endorsed as a learning specialist and coordinated with [REDACTED]'s in-school instruction, at a rate of \$125.00/hour;
- (c) Up to \$3,000.00 for one one-hour speech and language therapy session twice per month for forty-eight weeks with an independent speech and language pathologist outside of school to address his language processing deficits coordinated with the speech and language services he is receiving in school, at a rate of \$125.00/hour.

Funds for these purposes shall be made available starting on January 12, 2019. Year Two funds that are not utilized for the stated purposes by January 12, 2020, shall no longer be available to [REDACTED]

(3) Year Three-January 12, 2020-January 12, 2021:

- (a) Up to \$12,000.00 for two one-hour sessions per week for forty-eight

weeks of multi-sensory reading instruction outside of the school day using the same reading program as is used in the school provided by an instructor trained in the particular reading program and coordinated with [REDACTED]'s in-school program;

- (b) Up to \$6,000.00 for one one-hour session per week for forty-eight weeks of multi-sensory instruction in writing, spelling, vocabulary and math outside of the school day provided by an instructor holding an Illinois Professional Educator License endorsed as a learning specialist and coordinated with [REDACTED]'s in-school instruction;

Funds for these purposes shall be made available starting on January 12, 2020. Year Three funds that are not utilized for the stated purposes by January 12, 2021, shall no longer be available to [REDACTED]

- D. Arrangements for the provision of the above compensatory services shall be made collaboratively by the DCFS Guardian and foster parent or educational surrogate parent. The District shall be responsible for any travel expenses incurred for the compensatory services if provided outside of [REDACTED]'s residence, in accordance with the District's mileage reimbursement policies and procedures. The location of compensatory services shall be within a fifteen-mile radius of his residence.
- E. If rates are lower than the allowable rate for a particular compensatory instructional or therapy service, [REDACTED] or his legal guardian or representative may obtain extra sessions for that service as long as the total cost for the particular service does not exceed its limit.
- F. If [REDACTED] discontinues his school-based program prior to January 12, 2021, he may continue to receive the compensatory services as ordered unless his circumstances make the provision of such services impracticable.
- G. Invoices for the compensatory services rendered shall be submitted to the District on a monthly basis. The District shall provide the foster parent or educational surrogate parent, and the DCFS guardian with all necessary information and forms required to secure direct payment by the District to the service providers.
- H. The District shall verify compliance with the foregoing compensatory services requirements by transmitting to the State Board of Education written confirmation of any payments made to service providers on a monthly basis and, if any funds are unused for any of the three years, by confirming in writing at the end of each year that the funds have lapsed due to non-use.

NOTICE OF RIGHT TO REQUEST CLARIFICATION

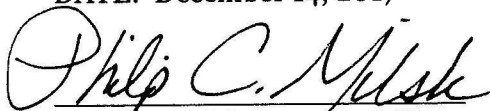
Pursuant to 105 ILCS 5/14-8.02a(h), either party may request clarification of this decision by submitting a written request to the Hearing Officer within five (5) days of receipt of the decision. The request for clarification shall specify the portions of the decision for which clarification is sought.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

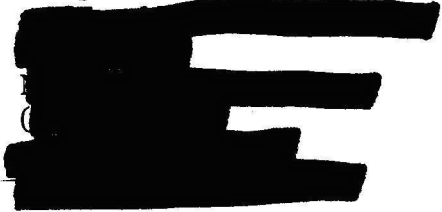
not permit a party to request reconsideration of the decision itself and the Hearing Officer is not authorized to entertain a request for reconsideration.

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's 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.

DATE: December 14, 2017


Philip C. Milsk, Hearing Officer



CERTIFICATE OF SERVICE BY CERTIFIED MAIL

I, Philip C. Milsk, Impartial Hearing Officer in the above-captioned matter, hereby certify that I served a true and correct copy of the foregoing Final Determination and Order upon the following counsel of record by certified mail on December 14, 2017:









Andy Eulass
Illinois State Board of Education
100 N. First Street
Springfield, IL 62777-0001



[REDACTED]

Philip C. Misk