

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

[REDACTED] CCSD [REDACTED],

School District,

v.

STUDENT¹,

Student.

Case No: 2023-DP-0152

Janet K. Maxwell-Wickett,
Impartial Hearing Officer

Expedited Hearing

FINAL DETERMINATION AND ORDER

JURISDICTION

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

BACKGROUND

The Student is a 6-year-old, male who is currently a 1st grade student at a District elementary school. He qualifies for special education and related services under the disability categories of Other Health Impairment (OHI) and Autism (O). (IHO Exhibit #1.) Pursuant to the Student's November 28, 2022, IEP, he is to attend a private therapeutic day school for the morning portion of the school day and the Structured Teaching Program classroom (STP) in the District elementary school from 1:30 p.m. to 3:30 p.m. each school day. To date, Parents have refused to enroll the Student in the private therapeutic day school. Therefore, he only attends the

¹ Personal identification information is provided in Appendix A.

District STP from 1:30 p.m. to 3:30 p.m. on school days. (IHO Exhibit #1.) The District filed its Expedited Due Process Hearing (DPCN) request on February 17, 2023, seeking to place the Student in a therapeutic day school alleging that it was dangerous to maintain the Student in his current educational placement as the Student is a danger to himself or others. (IHO Exhibit #1.) The Parties did not participate in resolution session. The District offered three dates for same but received no response from Parents. (IHO Exhibit #9.) Based upon this, the 20-School Day timeline for this Hearing Officer to conduct the hearing began to run on February 17, 2023, with March 20, 2023, being the 20th school day. (IHO Exhibit #7-9.) The 10 School- Day deadline for this Hearing Officer to render a decision is April 5, 2023.² (IHO Exhibit #7-9.)

Parents were initially represented by legal counsel in this matter. Parents' counsel filed a Motion to Dismiss this expedited hearing matter alleging that same was moot after the Parents withdrew the Student from the District. The District provided a written response to said Motion and Parents' filed a reply to same. (IHO Exhibits #5-6, 10-11.) This Hearing Officer denied the Motion to Dismiss in her order dated March 3, 2023. (IHO Exhibit #16.) Parents' counsel withdrew from the representation on the morning of the Prehearing Conference. (IHO Exhibit #14.) The Prehearing Conference was held on March 3, 2023. District counsel participated in same. Parents did not participate in the Prehearing Conference. (IHO Exhibit #14-15, 17.) The Due Process Hearing dates were scheduled for March 15 & 17, 2023. (IHO Exhibit #17.) The Due Process Hearing was commenced and concluded on March 15, 2023, via Zoom video conference and Parents did not appear. Parents provided email correspondence to this IHO and District counsel which indicated they were aware of the due process hearing. They were also provided with a Zoom meeting invitation for the hearing date. (IHO Exhibits #14-17, 20.)

² Based upon due process hearing date of March 15, 2023. The District's spring break recess is from March 27, 2023, through April 3, 2023, when school resumes.

A closed hearing was held. The Due Process Hearing was held on March 15, 2023. Mr. Neal Takiff of Whitted Takiff LLC represented the District. Parents did not appear at hearing. A Russian interpreter was provided by the District.³ However, she was released from the hearing when Parents did not appear. The District presented its witnesses. (IHO Exhibit #18-19.) The District presented the following Exhibits: District Exhibits SD# 1-20 which were introduced into evidence. The Parents did not appear at or participate in the hearing and did not present any witnesses or exhibits. The Hearing Officer's Exhibits are: IHO Exhibits # 1-21. The District submitted a written outline of its closing statement and the case law relied upon. (IHO Exhibit #21.)

ISSUES

The issue raised by the District for determination by this Hearing Officer are:

(a) Whether a change of placement to an interim alternative educational setting is necessary because it is dangerous to maintain the Student in his current educational placement pursuant to 105 ILCS 5/14-8.02(b), 23 Ill. Admin. Code §226.655, and 20 U.S.C. §615(k)(2) and (3), 34 C.F.R. §300.532, §300.507, §300.508.

(b) The hearing officer shall consider the following factors in determining whether an interim alternative placement is appropriate:

- 1.) Whether the local school district has demonstrated by substantial evidence (i.e., beyond a preponderance of the evidence) that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;
- 2.) Whether the child's current placement is appropriate;
- 3.) Whether the district has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and
- 4.) Whether the interim alternative educational setting will permit full implementation of the student's IEP and includes services and modifications designed to prevent the undesired behavior from recurring.

³ Father speaks English and Russian. Mother speaks only Russian.

105 ILCS 5/14-8.02(b).

The District requests that this Hearing Officer determine that the Student is substantially likely to injure himself or others if his current educational placement is maintained which is a nonpublic therapeutic day school for the majority of the day and in the Structured Teaching Program classroom (STP) at the District general education elementary school for the remainder of the day. The Student is a 1st grader. The District further requests that this Hearing Officer order a change of placement to the public therapeutic day school which is part of the District special education cooperative and order Parents to comply with the interim alternative educational setting placement process, including signing necessary releases, touring the facility, making the Student available for placement, and facilitating the Student's initial placement in the interim alternative educational setting.

Presumably, the Parents maintain that the Student is not substantially likely to injure himself or others in his current educational placement, partial nonpublic therapeutic day school and partial Structured Teaching Program (STP) classroom in the District general education elementary school, and request that this Hearing Officer determine that the current educational placement be maintained.⁴ Presumably, Parents are requesting that the Student remain in the STP in the District general education elementary school.

FINDINGS OF FACT

This Hearing Officer did not have the benefit of a transcript when writing this decision. Therefore, the following is based upon this Hearing Officer's personal notes and recollection. This Hearing Officer carefully considered the testimony of all witnesses presented and all

⁴ The Student's IEP placement is the majority day nonpublic therapeutic day school and remainder of the day at the STP in the District general education elementary school. The Student has never attended the nonpublic TDS because either the TDS would not accept him or Parents refused to place him in the TDS programs that did accept him.

documents introduced and admitted into evidence whether or not specifically referred to or cited when making her final determination. To the extent that a Finding of Fact adopts one version of a matter on which the evidence is in conflict, the evidence adopted has been determined more credible than the conflicting evidence. After considering all the evidence, as well as the arguments of District counsel, this Hearing Officer's Findings of Fact are as follows:

1. The Student is a 6-year-old, male who is currently in 1st grade. The Student qualifies for special education and related services under the disability categories of Other Health Impairment (OHI), due to his Attention Deficit Hyperactivity Disorder (ADHD) diagnosis and Autism (O). Per the Student's November 28, 2022, IEP, the Student is to receive special education and related services in a private therapeutic day school during the morning hours of his school day. From 1:30 p.m. to 3:30 p.m. each school day, the Student attends the Structured Teaching Program classroom at PES, a District general education elementary school. (Testimony of SW⁵, SPED⁶; SD# 1.)

2. To date, Parents have refused to enroll the Student in a private therapeutic day school for the morning hours of the school day so he has only been attending PES from 1:30 p.m. to 3:30 p.m. on school days. (Testimony of SW, SPED; SD #17-18.)

3. The Student has a one to one dedicated Russian speaking aide when he attends PES. PES has a Russian bi-lingual program. (Testimony of SW, SPED, SD #1.)

4. Since September 16, 2022, the Student's aggressive behaviors have increased in frequency and intensity. (Testimony of SW, SPED; SD# 2-18.) The Student engages in

⁵ SW is the school social worker. She has been employed by the District in that capacity for two (2) years. She holds a bachelor's degree in psychology and a master's degree in social work. She is a licensed school social worker in the State of Illinois and is Crisis Prevention Institute (CPI) trained. She has worked with students with disabilities for six years as a social worker and has worked in public school, private therapeutic day school, and residential programs. (Testimony of SW.)

⁶ SPED is the special education teacher assigned to the Structured Teaching Program (STP) classroom. She is a licensed special education teacher in Illinois. She holds a bachelor's degree in special education and a Licensed Behavior Specialist (LBS1) credential. (Testimony of SPED.)

instances of hitting, kicking, punching, pinching, scratching; throwing objects and classroom materials; running around the classroom; climbing on furniture and countertops; standing on desks and chairs; choking peers and staff by squeezing their necks and not letting go; pulling the hair of staff and peers until the hair is ripped out. The Student frequently engages in work refusal behaviors. (Testimony of SPED, SW; SD #2-18.)

5. The Student's behaviors have increased in frequency, intensity and duration and occur at least five (5) times per school day, with the school day at PES consisting of two hours from 1:30 p.m. to 3:30 p.m. The behaviors are impulsive and the impulsivity is unpredictable making it difficult for school staff to manage. The school staff has been unable to determine the antecedents for the Student's behaviors. (Testimony of SPED, SW; SD #2-18.)

6. School staff have been pushed, kicked, hit, punched, scratched, choked, and had their hair pulled out. (Testimony of SPED, SW; SD #2-18.)

7. Peers have been hit, punched, kicked, choked, scratched, and had their hair pulled out. (Testimony of SPED, SW; SD #2-18.)

8. On several occasions staff and peers have received injuries requiring medical attention due to the Student's dysregulated and aggressive behaviors. (Testimony of SPED, SW; SD #2-18.)

9. For the two hours each school day that the Student attends the District elementary school, he is in the Structured Teaching Program (STP) classroom. The STP classroom has seven (7) students in total all of whom have Autism diagnoses and all of whom require a smaller learning environment, visual and behavioral supports. There are three (3) teaching assistants assigned to the classroom and multiple related service professionals who "push in" to the

classroom. The STP classroom is the most supportive setting in the District elementary school for students with Autism. (Testimony of SPED, SW; SD #1-18.)

10. The Student's most concerning behaviors consist of targeting certain peers for choking and hair pulling and the Student is not redirectable when engaging in aggressive and dysregulated behaviors. (Testimony of SW, SPED; SD #1-18.)

11. The Student has a Russian speaking one to one aide per the request of Parents. However, when at school, the Student indicates that he does not want to speak or be spoken to in Russian. Further, his behaviors become more aggressive when Russian speaking staff attempt to speak to him in Russian. (Testimony of SPED, SW; SD #1-18.)

12. The District developed a Behavior Intervention Plan (BIP) to support the Student. The Student was provided with the following environment: smaller classroom with less open space; highly structured routine; 1:1 structured teaching; limiting undesired choices; physical boundaries around desk space to limit distractions and opportunity to show physical behavior toward peers; increased space between his desk and peers; strategic grouping or separating him from peers due to increased physical behaviors. Staff supporting the Student in the STP consulted formally once per week and informally, multiple times per week to attempt to find additional ways to support him and reduce his aggressive physical behaviors. However, these supports were ineffective. (Testimony of SPED, SW; SD #1-20.)

13. The Student's school team modified how social skills were delivered in order to change the Student's aggressive behaviors. SW reduced the size of the Student's social skills group, changed its location several times, and added additional adult support in an attempt to reduce the Student's physically aggressive behaviors. However, those attempts were unsuccessful. The Student was able to injure a peer even when his social skills group consisted

of one peer and three adults who were familiar with his aggressive behaviors. (Testimony of SW, SPED; SD #1-20.)

14. The Student was provided with positive supports in the form of small group social work lessons; work/break schedule; visual supports for communication; frequent breaks; classroom reward system; consistent use of classroom rules and expectation vocabulary and daily schedule; social stories reflecting expected behaviors; visual cues for safe hands. He was provided rewards in the form of preferred break items or activities; choices of preferred items or activities; his requests were honored when he did not want an item or activity. Visual cue cards were available to the Student at his desk and on the lanyards of all staff members. However, these supports were ultimately unsuccessful. (Testimony of SPED, SW: Sd #1-20.)

15. A safety plan was created on December 14, 2021, and updated on January 14, 2022, to reflect additional information. The safety plan provides that if the Student is engaging in targeted physical aggression, he will be removed from the room, provided with a sensory break to help him calm his body, will be re-taught expected classroom behaviors (social story), will review expected behaviors (safe hands visual), and re-integrate into the classroom when regulated. If the Student is not redirectable and is persistent with targeted physical aggression, the administrative team will be contacted to determine if suspension is necessary to ensure the safety of students and staff. The safety plan was updated on January 14, 2022, to include no access to scissors for up to six weeks due to the Student being unsafe with scissors. (Testimony of SPED, SW; SD #1, 19-20.)

16. PES staff utilized the District behavior specialist who observed staff and Student and provided additional supports and interventions. However, her recommendations were not effective in controlling the Student's behaviors. (Testimony of SPED; SD #1-20.)

17. The District and school staff exhausted all available behavioral interventions. However, the Student's dysregulated and unsafe behaviors increased in frequency, intensity and duration and staff were unable to determine antecedents for the behaviors. Further, staff were unable to find any interventions that worked consistently to support the Student. (Testimony of SW, SPED; SD #1-20.)

18. The Student requires a therapeutic day school setting as the general education environment cannot provide the required behavioral support to the Student. (Testimony of SW, SPED; SD #1.)

19. TRS is a public therapeutic day school affiliated with the District special education cooperative. It services students in kindergarten through 8th grade with emotional disabilities who cannot attend their home schools due to aggressive behaviors. It is engaged in identifying social emotional deficits and assisting students with same in order to integrate them back into their home schools. (Testimony of MW⁷.)

20. TRS is able to provide support to English as a Second Language (ESL) learners, like the Student. There is a dedicated ESL teacher who supports ESL learning students twice per week. (Testimony of MW.)

21. TRS has ten (10) classrooms and each classroom covers two to three grade levels. In the kindergarten through third grade classroom there is a two to one student to staff ratio. Each classroom has a social worker or school psychologist, one to two classroom aids, a special education teacher with LBS1 certification. In addition there are two building assistants to

⁷ MW is the Principal of TRS, a public therapeutic day school associated with the District special education cooperative. He holds a Bachelor's Degree in Political Science and a Master's Degree in Social Work and a Master's Degree in the Principal Prep Program. He holds an Illinois Professional Educator's License in Social Work and as a School Principal.

provide substitute and behavior support. All staff are Crisis Prevention Institute (CPI) trained. All therapists are trained in crisis intervention/de-escalation. (Testimony of MW.)

22. The social worker/school psychologist support assigned to each classroom allows the program to be proactive in responding to student dysregulation which reduces aggressive behaviors. Social emotional learning curriculum is provided to all students daily. (Testimony of MW.)

23. TRS uses UKERU which is a technique in which staff use mats to deflect aggressive student behavior including hits, kicks, and punches without hands on the student. This technique allows staff to use verbal cues to de-escalate a situation in an effort to avoid hands on crisis intervention techniques. (Testimony of MW.)

24. TRS employs seven (7) social workers, three (3) school psychologists, a speech language pathologist, a physical education teacher, a school nurse, an assistant school nurse, and an occupational therapist provides related services in the building three to four times per week. (Testimony of MW.)

25. TRS provides grade level academic instruction to its students. All classrooms have two-way radios. All students receive group therapy two times per week; daily social emotional learning; and individual therapy. Therapists partner with parents to translate behavioral interventions into the home as well. There are sensory rooms for students to use. Students can go on walks outside and use the multipurpose room. Classrooms are large with few students so students can find space to work away from others. Students have desks with their own sensory reeducation tools designed to meet each student's individual needs. De-escalation techniques are available to support students and pro-actively address dysregulation. (Testimony of MW.)

26. TRS has the therapeutic supports and staffing to prevent the Student's behaviors from recurring. (Testimony of SW, SPED, MW.)

27. The testimony of all District witnesses was uncontroverted at hearing. (Testimony of SPED, SW, MW.)

28. The documentary evidence presented by the District at hearing was uncontroverted. (Testimony of SW, SPED, MW; SD#1-20.)

CONCLUSIONS OF LAW

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

The IDEA and the Illinois Administrative Code provide as follows: Requests for expedited due process hearings shall be made in accordance with 34 C.F.R. §300.532 and §300.533 and Section 14-8.02(b) of the Illinois School Code. 105 ILCS 5/14-8.02(b).

- (a) The hearing officer shall determine:
 - 1.) whether the child shall be placed in the proposed alternative educational setting; or
 - 2.) whether the local school district has demonstrated that the child's behavior was not a manifestation of the child's disability.

- (b) The hearing officer shall consider the following factors in determining whether an interim alternative placement is appropriate:
 - 1.) Whether the local school district has demonstrated by substantial evidence (i.e., beyond a preponderance of the evidence) that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;
 - 2.) Whether the child's current placement is appropriate;

- 3.) Whether the district has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and
 - 4.) Whether the interim alternative educational setting will permit full implementation of the student's IEP and includes services and modifications designed to prevent the undesired behavior from recurring.
- (c) If all conditions set forth in subsection (b) of this Section are met, the hearing officer shall order a change in the child's placement to an appropriate interim alternative educational setting for not more than 45 school days. If the district demonstrates that the student is substantially likely to injure himself or herself or others if returned to the placement that was used prior to the student's removal, the hearing officer may order that the student remain in the interim setting for subsequent periods of up to 45 school days each.

23 Illinois Administrative Code §226.655. *See also* 20 U.S.C. §1415(k)(3), 34 C.F.R. §300.532.

Factors of be considered:

In determining whether placement in an interim alternative educational setting is appropriate, the hearing officer shall consider the following:

- (1) Whether the local school district has demonstrated by substantial evidence (i.e., beyond a preponderance of the evidence) that maintaining the current placement of the Student is substantially likely to result in injury to the Student or to others.

The testimony and documentary evidence presented at hearing reflects the following:

The Student attends a Russian, bi-lingual, 1st grade Structured Teaching Program (STP) classroom in a District general education elementary school. His IEP provides that he attend a private therapeutic day school for the morning hours of each school day, however, Parents have refused to enroll him in same. (FF #1-3.) He is unavailable for learning due to physically aggressive, unsafe, and dysregulated behaviors. (FF #4-8.) The Student engages in problematic and aggressive, unsafe behaviors with no apparent antecedents. Specifically, the Student engages in the following behaviors: hitting, kicking, punching, pinching, scratching; throwing objects and classroom materials; running around the classroom; climbing on furniture and

countertops; standing on desks and chairs; choking peers and staff by squeezing their necks and not letting go; pulling the hair of staff and peers until the hair is ripped out. The Student frequently engages in work refusal behaviors. (FF# 3-8.)

The Student's behaviors have increased in frequency, intensity and duration and occur at least five (5) times per school day, with the school day at PES consisting of two hours from 1:30 p.m. to 3:30 p.m. The behaviors are impulsive and the impulsivity is unpredictable making it difficult for school staff to manage. The school staff has been unable to determine the antecedents for the Student's behaviors. (FF# 5.) School staff have been pushed, kicked, hit, punched, scratched, choked, and had their hair pulled out. (FF# 6, 11.) Peers have been hit, punched, kicked, choked, scratched, and had their hair pulled out. (FF #7, 10.) On several occasions staff and peers have received injuries requiring medical attention due to the Student's dysregulated and aggressive behaviors. (FF #8.) The testimony and documentary evidence presented at hearing was uncontroverted. (FF# 27-28.)

Based upon the above, this Hearing Officer finds that the evidence is clear and overwhelming that the District has demonstrated by substantial evidence (i.e., beyond a preponderance of the evidence) that maintaining the current placement of the Student, in the Structured Teaching Program (STP) classroom in the general education elementary school for two hours per school day, is substantially likely to result in injury to the Student or to others. (The Student's IEP provides for the Student to attend a private therapeutic day school for the morning hours of each school day, however, Parents have refused to enroll him in any private therapeutic day school. (FF #2.)) The District has met its burden with respect to this factor.

When determining whether an interim alternative placement is appropriate, the second factor to be considered is:

- (2) Whether the Student's current placement is appropriate.

The testimony and documentary evidence presented illustrate that the Student's current general educational placement is not appropriate. The overwhelming testimony at hearing reflects that a therapeutic day school is the appropriate placement for this Student. The Student is currently attending in the most supportive classroom setting for students with Autism and aggressive behaviors. However, he is unavailable for learning and his aggressive behaviors have increased in frequency, intensity, and duration. (FF #9-11, 18.) All District witnesses who testified at hearing agreed that the Student required a therapeutic day school setting as the PES staff have exhausted all behavioral interventions without success. (FF# 1-18.) The testimony at hearing was consistent and uncontroverted, the Structured Teaching Program classroom for two hours per day has been unable to support the Student and assist him with managing his unsafe and dysregulated behaviors and is therefore inappropriate. (FF# 1-20.)

This Hearing Officer finds based upon the uncontroverted testimony and documentary evidence presented at hearing that the Student's current educational setting is inappropriate. This Hearing Officer further finds that the District has met its burden with respect to this second factor.

When determining whether an interim alternative placement is appropriate, the third factor to be considered is:

- (3) Whether the District has made reasonable efforts to minimize the risk of harm in the Student's current placement, including the use of supplementary aids and services.

The hearing record is replete with the significant effort the District has made to minimize the risk of harm in the Student's current placement. The testimony at hearing is clear and uncontroverted. The District developed a Behavior Intervention Plan (BIP) to support the Student. The Student was provided with the following environment: smaller classroom with

less open space; highly structured routine; 1:1 structured teaching; limiting undesired choices; physical boundaries around desk space to limit distractions and opportunity to show physical behavior toward peers; increased space between his desk and peers; strategic grouping or separating him from peers due to increased physical behaviors. Staff supporting the Student in the STP consulted formally once per week and informally, multiple times per week to attempt to find additional ways to support him and reduce his aggressive physical behaviors. However, these supports were ineffective. (FF #12.)

The Student's school team modified how social skills were delivered in order to change the Student's aggressive behaviors. SW reduced the size of the Student's social skills group, changed its location several times, and added additional adult support in an attempt to reduce the Student's physically aggressive behaviors. However, those attempts were unsuccessful. The Student was able to injure a peer even when his social skills group consisted of one peer and three adults who were familiar with his aggressive behaviors. (FF #13.)

The Student was provided with positive supports in the form of small group social work lessons; work/break schedule; visual supports for communication; frequent breaks; classroom reward system; consistent use of classroom rules and expectation vocabulary and daily schedule; social stories reflecting expected behaviors; visual cues for safe hands. He was provided rewards in the form of preferred break items or activities; choices of preferred items or activities; his requests were honored when he did not want an item or activity. Visual cue cards were available to the Student at his desk and on the lanyards of all staff members. However, these supports were ultimately unsuccessful. (FF #14.)

A safety plan was created on December 14, 2021, and updated on January 14, 2022, to reflect additional information. The safety plan provides that if the Student is engaging in

targeted physical aggression, he will be removed from the room, provided with a sensory break to help him calm his body, will be re-taught expected classroom behaviors (social story), will review expected behaviors (safe hands visual), and re-integrate into the classroom when regulated. If the Student is not redirectable and is persistent with targeted physical aggression, the administrative team will be contacted to determine if suspension is necessary to ensure the safety of students and staff. The safety plan was updated on January 14, 2022, to include no access to scissors for up to six weeks due to the Student being unsafe with scissors. (FF #15.)

The District and school staff exhausted all available behavioral interventions. However, the Student's dysregulated, aggressive, and unsafe behaviors increased in frequency, intensity and duration and staff were unable to determine antecedents for the behaviors. Further, staff were unable to find any interventions that worked consistently to support the Student. (FF #17.) The District behavior specialist observed staff and Student and provided additional supports and interventions. However, the Student's problematic behaviors remained unchanged. (FF #16.)

Despite all of the supports and services implemented to assist the Student, his behaviors increased in intensity and duration. All of the above efforts implemented by the District have been unable to effectuate stabilization of the Student's behavior. Based upon the above, this Hearing Officer finds that the District made reasonable efforts to minimize the risk of harm in the Student's current placement, including the use of all available behavioral interventions. Further, the District has attempted to provide additional special education services to the Student in a therapeutic day school setting. However, those efforts have been unsuccessful due to the Parents' failure to cooperate and enroll the Student in the therapeutic day school setting. This Hearing Officer finds that the District has met its burden with respect to this factor.

When determining whether an interim alternative placement is appropriate, the fourth factor to be considered is:

- (4) Whether the interim alternative educational setting will permit full implementation of the student's IEP and includes services and modifications designed to prevent the undesired behavior from recurring.

The District requests that the Student be placed at TRS, a public therapeutic day school affiliated with the District special education cooperative for not more than forty-five (45) school days. TRS serves students in kindergarten through 8th grade with emotional disabilities and higher functioning Autism. It is engaged in assisting students with social emotional deficits and providing support and behavioral interventions to change problematic behaviors. (FF #19-20.) TRS has small class sizes with a student to staff ratio of two to one. Each classroom has a social worker or school psychologist, one to two classroom aids, a special education teacher with LBS1 certification. In addition there are two building assistants to provide substitute and behavior support. All staff are Crisis Prevention Institute (CPI) trained. All therapists are trained in crisis intervention/de-escalation. (FF #21-25.) Due to the two to one student to staff ratio and a social worker or school psychologist in each classroom, TRS is able to proactively identify and respond to student dysregulation in order to reduce aggressive behaviors. (FF #21-26.)

Further, TRS uses UKERU techniques which allow staff to de-escalate aggressive behaviors using mats and verbal cues to avoid hands on crisis intervention. (FF #23.) TRS is able to provide special education and related services to its students along with individual and group therapy within a small class-size setting. (FF #19-26.) Its therapeutic supports and staffing are designed to prevent the Student's unsafe, aggressive, and dysregulated behaviors from recurring. (FF #26.) This testimony was uncontroverted at hearing. (FF #27-28.)

In an expedited hearing in which the District is requesting removal of a Student to an interim alternative educational setting for not more than forty-five (45) school days, the burden

of demonstrating by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the child or others is the burden of the District alone. This Hearing Officer finds that the District has met its burden. The District has shown substantial evidence with respect to all of the four factors required. As all four factors required by 23 Ill. Admin. Code §226.665 have been met, this Hearing Officer hereby orders a “change in the child’s placement to an appropriate interim alternative educational setting for not more than 45 school days.”

This Hearing Officer determines that:

The District has met its burden will respect to all four factors required for placement of the Student in an interim alternative educational setting pursuant to IDEA, the Illinois School Code and its implementing regulations pursuant to 20 U.S.C. §1415(k)(3), 34 C.F.R. §300.532 and §300.533, 105 ILCS 5/14-8.02(b), and 23 Ill. Admin Code §226.655 for not more than 45 school days.

Parents are directed to comply with the interim alternative educational placement process, including signing necessary releases, touring the facility, making the Student available and facilitating the Student’s initial placement in the interim alternative educational setting. In the event Parents refuse to cooperate, the Student must attend the interim alternative educational setting, a therapeutic day school for students with emotional disabilities, prior to the Student’s enrollment in a local elementary school.

District’s request is hereby granted.

ORDER

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

The District's requested relief to change the Student's placement to an appropriate interim alternative educational setting, a therapeutic day school, TRS, for not more than 45 school days is granted.

Parents are ordered to comply with the IAES placement process including signing all necessary releases, touring the facility, making the Student available for placement, and facilitating the Student's initial placement at the IAES.

In the event Parents refuse to cooperate, the Student is hereby ordered to attend TRS for a period of 45 school days prior to the Student's enrollment in a local elementary school.

In accordance with 105 ILCS 5/14-8.02a(h), within 45 calendar days of receipt of this Order, the school district must 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: March 20, 2023

[Redacted Signature]

/s/ Janet K. Maxwell-Wickett _____

Janet K. Maxwell-Wickett,
Impartial Hearing Officer

[Redacted Address]

APPENDIX A

[REDACTED] CCSD [REDACTED] v. [REDACTED]
Case No: 2023-DP-0152

Student	[REDACTED] (Student)
Attending School	[REDACTED] Elementary School (PES)
Child's Parents	[REDACTED] [REDACTED] (Father)
	[REDACTED] [REDACTED] (Mother)
District Witnesses:	
School Social Worker	[REDACTED] (SW)
Special Education Teacher/Case Manager	[REDACTED] (SPED)
Principal - Timber Ridge School	[REDACTED] (MW)
Parent Witnesses:	
None.	
Therapeutic Day School:	Timber Ridge School (TRS)