

**Illinois State Board of Education
Due Process Summaries**

Decisions Issued Between April 1, 2008 and June 30, 2008

**Case No. 2008-0136 – Kristine L. Anderson, Hearing Officer
Child Find, Placement
Decision and Order Issued April 1, 2008**

Parents requested a due process hearing concerning their child, who was eligible for special education under the categories of emotional disturbance and other health impairment. The parents alleged that district had denied a free appropriate public education to their daughter who was suffering from post traumatic stress disorder. Specifically, the parents asserted that the district failed to comply with its child find obligations and had failed to provide her with appropriate educational services in the least restrictive environment. The hearing officer found that the district did not fail in its child find duties, but did deny the student a free appropriate public education by failing to provide her with an IEP sufficient to provide her with educational benefit, and by failing to monitor her progress on IEP goals. The district did provide educational services to the student in the least restrictive environment, however.

Both parties were represented by legal counsel.

Parents initiated the hearing request.

**Case No. 2008-0289 – Sheana Hermann, Hearing Officer
Least Restrictive Environment, IEP, Compensatory Education
Decision and Order Issued April 11, 2008**

A parent filed a due process hearing request after the child's IEP team determined that the student, who was a high-schooler eligible as a student with an emotional disturbance, needed a more restrictive setting. The district determined that the most appropriate placement for the student was its special education cooperative program at a non-neighborhood school. The parent stated that the district failed to provide the student with a free appropriate public education, was required to provide the student with services in his neighborhood school, and should have hired a teacher to provide a program for the student. It was determined that the district failed to properly implement the student's IEP. However it was also determined that the student needed more services and that the district was not required to structure a program for the student in his neighborhood school. The student was awarded compensatory education in the form of tutoring services or payment of tuition at a GED program.

Both parties were unrepresented by legal counsel.

Parent initiated the hearing request.

**Case No. 2008-0046 – Carolyn Ann Smaron, Hearing Officer
Placement, Reimbursement, Stay-Put
Decision and Order Issued April 14, 2008**

The school district filed a hearing request when the parents sought to return the student to his local school. The student was eligible under the category of specific learning disability and the parents demanded placement in a general education classroom in opposition to the district's placement of the student in a private therapeutic program. The parents, in turn, filed a hearing request demanding a change in placement back to the general education classroom with resource room support for the 2007-2008 school year. The parents requested a hearing to determine whether or not the school district had provided the student with a free appropriate public education during the 2006-2007 school year and during extended school year services provided during 2007. Further, the parents requested the hearing to determine whether the student's continued placement at a therapeutic placement for the 2007-2008 academic year represented an offer of a free appropriate public education when it was made at an IEP meeting held in August 2007. After the student's stay-put placement was clarified as the therapeutic program, the parents placed the student at a private school and requested reimbursement for this unilateral placement. The hearing officer found that the private placement did provide the student with a free appropriate public education in the least restrictive and affirmed the placement for the 2007-2008 school year. As a consequence, the hearing officer denied the parents' claim for tuition reimbursement for their decision to seek their own program.

The district was represented by legal counsel.

Parents initiated the hearing request.

**Case No. 2008-0052 – Carolyn Ann Smaron, Hearing Officer
Retroactive Reimbursement, Placement
Decision and Order Issued April 17, 2008**

The parent filed a request for due process alleging that the school district had failed to provide a FAPE to the student in 1st and 2nd grade and did not offer a FAPE for 3rd grade. The mother had unilaterally placed the student in a private day school for students with learning disabilities and requested reimbursement for tuition, independent evaluations, and private tutoring. The mother asked that the student receive compensatory educational services in the form of two additional years at the unilateral placement. The hearing officer found that the district had, during the period in question, failed accurately to identify the nature and extent of the student's disabling condition and needs. As a result, the hearing officer ordered the district to reimburse the parent for tuition costs associated with the placement from June 2007 to the present and ordered the

district to maintain the placement for an additional two school years as compensatory education.

Both parties were represented by legal counsel.

Parent initiated the hearing request.

**Case No. 2008-0085 – Carolyn Ann Smaron, Hearing Officer
Placement, Compensatory Education
Decision and Order Issued April 25, 2008**

The parent filed a request for due process alleging that the student had been denied a free appropriate public education in 7th and 8th grade, that the three year re-evaluation was not comprehensive, and that the placement decisions were inappropriate and not sufficiently intense enough to address the student's severe emotional issues and language-based disorder. The student, who was eligible for special education under the categories of specific learning disability and emotional disturbance, had a history of detention and hospitalization. Despite this and evidence that the student's academic performance was extremely low, the district contended that the student could be served within programs offered by the district. The hearing officer found that the student's services were unnecessarily delayed due to untimely evaluations and that the services the district did provide were unresponsive to his needs. The hearing officer, therefore, ordered the district to place the student in an appropriate residential facility and, as compensatory education, that the residential placement continue at least through the 2010-2011 school year.

Both parties were represented by legal counsel.

Parent initiated the hearing request.

**Case No. 2008-0078 – Julia Quinn Dempsey, Hearing Officer
Unilateral Placement
Decision and Order Issued May 2, 2008**

Parents initiated the due process hearing to challenge the district's recommended placement and to seek tuition reimbursement for the parents' unilateral placement of the student in a private therapeutic day school for students with learning disabilities. The student, who had a variety of conditions, had been placed by the elementary district in a therapeutic setting, but was recommended for placement in a small class setting for students with specific learning disabilities operated by the high school district upon entering high school. The parents opted to forego the district's recommendations and maintain his therapeutic program. The hearing officer found that the district offered an appropriate program with adequate supports. The parents' claim for tuition reimbursement was therefore denied.

Both sides were represented by legal counsel.

Parents initiated the hearing request.

**Case No. 2008-0212 – Kristine L. Anderson, Hearing Officer
Evaluation, Placement
Decision and Order Issued May 12, 2008**

The parent brought a due process claim against the district asserting numerous violations of FAPE including inadequate assessments, failure to provide related services with adequate intensity, failure to utilize appropriate instructional methodology with adequate intensity, and a failure to provide the student with IEPs that satisfied the procedural and substantive requirements of FAPE. The hearing officer found that the district failed to provide the student with adequate related services in the areas of speech and language and assistive technology. The hearing officer also determined that, in changing the student's placement from self-contained to resource room, the district failed to provide the student with sufficient time to address his needs for reading instruction. Other IEP deficiencies also denied the student FAPE. The hearing officer denied the parents requests for a private therapeutic day school and completion of a number of independent evaluations at public expense. However, the district was required to provide speech/language services, assistive technology services, and compensatory services, to include after school tutoring and summer reading instruction.

Both sides were represented by legal counsel.

Parent initiated the hearing request.

**Case No. 2008-0021 – Carolyn Ann Smaron, Hearing Officer
Student Transportation, Placement
Decision and Order Issued May 24, 2008**

The parent initiated the hearing request claiming that the student requires door-to-door transportation. The parent further alleged that the school district engaged in a pattern of intimidation, threats and coercion which effectively denied the parent the ability to participate in the development of IEPs for this student. The parent alleged that the IEPs developed for the student contained inappropriate goals, inappropriate assessments of the student's present levels of performance, insufficient related services, and did not state a specific methodology. Finally the parent alleged that the most recent reevaluation of the student was incomplete leading to the creation of an inappropriate IEP. Other than an order for door-to-door transportation, the school district prevailed on all allegations.

Both sides were represented by legal counsel.

Parent initiated the hearing request.

**Case No. 2008-0144 – Mary Schwartz, Hearing Officer
Child-Find, Evaluation, Student Discipline
Decision and Order Issued May 24, 2008**

The parent filed a due process hearing request after the student, who was not special education eligible, was suspended pending expulsion for an incident of misconduct directed toward a faculty member. Following a resolution session, the district agreed to conduct an evaluation but determined that the student did not meet the requirements for special education eligibility. At hearing, the hearing officer found that the district did not violate the student's rights by failing to conduct an evaluation in a timely manner nor did the district inappropriately find the student ineligible for special education. The hearing officer found that the district had no obligation to conduct a manifestation determination review of the student, having had no notice of the student's potential need for special education prior to the incident in question.

Both sides were represented by legal counsel.

Parent initiated the hearing request.

**Case No. 2008-0261 – James A. Wolter, Hearing Officer
Placement
Decision and Order Issued May 27, 2008**

The parents initiated the hearing alleging the district failed to implement the student's 2007-2008 IEP or to provide the necessary accommodations as requested by the parent. Further, the parents alleged that the district disciplined the student for behaviors that were a manifestation of his disability and the 2008-2009 IEP/BIP proposed by the district was not reasonably calculated to provide the student with more than minimal educational benefit. The student was a middle schooler eligible for special education under the category of autism. While the student struggled to obtain average grades in honors classes, the parents agreed that the student learned and made progress during the year. Although the hearing officer found that the district had not fully implemented some aspects of the student's prior IEP, the matters did not reach the level of a violation of FAPE. Moreover, the hearing officer found that the IEP drafted for the student's first year of high school was calculated to provide more than minimal education benefit for the student. The district prevailed on all issues.

Both sides were represented by legal counsel.

Parents initiated the hearing request.

**Case No. 2008-0245 – Carolyn Ann Smaron, Hearing Officer
Child-Find, Evaluation
Decision and Order Issued June 4, 2008**

The parent filed for due process claiming that the district had failed to identify the student's needs in a timely manner and violated the student's rights to a FAPE by providing the student with a 504 plan instead of an IEP. The student had received support under a 504 plan to address attention problems during the prior school year. During the next year, following continuing difficulties, the district performed an evaluation that resulted in finding the student eligible for special education services under the category of other health impairment. The student was recommended for pull-out services for the remainder of the school year and placement in a general education classroom for the following school year. The hearing officer found that the parent had, in fact, been in agreement with the earlier decisions to provide support to the student through a 504 plan, and that the district had appropriately evaluated the student and provide IEP supports at an appropriate time.

Both sides were represented by legal counsel.

Parent initiated the hearing request.