



# Illinois State Board of Education

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## MEMORANDUM

**TO:** Directors of Special Education

**FROM:** Andrew Eulass *A.E.*  
Due Process Coordinator

**DATE:** June 14, 2010

**SUBJECT:** Due Process Decisions Issued between January 1, 2010 –  
March 31, 2010

Enclosed is a summary of impartial due process hearing decisions issued between January 1, 2010 – March 31, 2010. Each summary identifies the case number, the hearing officer, moving party, the issue(s) in dispute, the student's disability (if known), the hearing officer's finding, and whether the parties were represented by legal counsel.

This summary is provided so that you are aware of the issues currently being brought before hearing officers. If you would like to receive a copy of the non-personalized due process hearing decisions, which correspond with the enclosed summary, or any particular decision summarized, please contact me at 217/782-5589. You are reminded that these decisions are not precedent setting; they represent how hearing officers have ruled after reviewing specific facts placed before them.

Should you have any questions, please do not hesitate to contact me at 217/782-5589.

Enclosure: Summary Only

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

**Decisions Issued Between January 1, 2010 and March 31, 2010**

**Case No. 2010-0171 – Stacey L. Stutzman, Hearing Officer  
Placement, Compensatory Education  
Decision and Order Issued January 14, 2010**

The parent initiated a due process hearing request contending that the district had failed to provide any meaningful support to the student while attending a charter high school within the district. The student, who had a long history of performance issues associated with pervasive developmental disorder, had been served intermittently through IEPs and Section 504 plans offered by the district since elementary school. The student had difficulties from the outset of high school and had attended school only a few days from January 2009 onward due to several hospitalizations. Subsequent to the parent request for due process, the district agreed with the parent to reevaluate the student to consider his needs at a new IEP meeting. The IEP meeting conducted just prior to hearing was incomplete and did not identify the placement the district was proposing, although the district agreed that the student now required placement in a therapeutic day setting. The hearing officer found that the evidence supported placing the student in a private therapeutic day school identified by the parent. The district was also ordered to provide extensive supplemental tutoring and counseling as compensatory education for its past failure to provide a FAPE to the student.

Both parties were represented by attorneys.

Parent initiated the hearing request.

**Case No. 2010-0077 – D. Michael Risen, Hearing Officer  
Placement  
Decision and Order Issued January 20, 2010**

The parent's due process complaint claimed that the district failed to afford the student a FAPE while serving the student in a district-operated self-contained program. In addition, the parent claimed that the district interfered with the student's access to the parent during an incident while the student was being registered for an extended school year ("ESY") term. At hearing, the hearing officer found that the district had evaluated the student appropriately and developed an IEP that was based on those needs. The hearing officer further found that the district's proposed placement options were appropriate. There was no evidentiary support for the parent's claim that the incident occurring during



ESY registration had affected the ability of the district to offer a FAPE. Accordingly, the hearing officer held that the district's placement was appropriate.

The district was represented by an attorney.

Parent initiated the hearing request.

**Case No. 2009-0392 – Alfred A. Spitzzeri, Hearing Officer  
Unilateral Placement, Reimbursement  
Decision and Order Issued January 29, 2010**

The parent requested due process seeking retroactive reimbursement and prospective placement for the student at an out-of-state residential program. The district argued that the student's needs could be met with appropriate supports in a public high school setting. At hearing, the hearing officer found that the issues leading to the student's placement in a residential setting were the result of behaviors and issues arising outside of the school setting. Despite failing grades as a result of chronic truancy, the hearing officer still held that the issues creating the truancy were not within the district's control. Although there was a justification for the student's placement in a residential setting, the justification was not based upon educational reasons. As a result, the hearing officer held that the district was not liable for the parent's accrued costs associated with the parent's placement of the student in a residential setting.

The district was represented by an attorney.

Parents initiated the hearing request.

**Case No. 2010-0225 – Linda Mastandrea, Hearing Officer  
Manifestation Determination, Student Discipline  
Decision and Order Issued February 4, 2010**

The parent filed for an expedited due process hearing contending that the district had incorrectly found that the student's disability was unrelated to a disciplinary incident resulting in the student's subsequent expulsion for bullying. The student was eligible for special education support under the eligibility categories of specific learning disability and other health impairment. The hearing officer found that the student had a significant history of anxiety in school and poor responses to social situations. Moreover, evidence and testimony indicated that the student had significant challenges containing emotional responses due to a long history of bipolar disorder. The hearing officer held that the evidence showed a direct and substantial relationship between the student's disabilities and the incident in question. Accordingly, the hearing officer ordered the reversal of the district's



manifestation determination review and subsequent expulsion. The student was ordered to be returned to his original placement.

Both parties were represented by attorneys.

Parent initiated the hearing request.

**Case No. 2010-0029 – Stacey L. Stutzman, Hearing Officer  
Placement, Related Services  
Decision and Order Issued February 17, 2010**

The parent requested a due process hearing challenging the district's IEP and placement of an elementary school student with hearing impairment. The parent also alleged that the district had not conducted appropriate evaluations of the student, requiring the parent to obtain private evaluations. At hearing, the hearing officer found that the district had adopted many of the findings of the private evaluator at an IEP meeting conducted in late 2009. Also, the hearing officer found that the district did not account for several behavioral issues that should have warranted the development of a functional behavioral analysis and behavior management plan for the student. However, the hearing officer found that the placement proposed by the district, a self-contained program in a general education building, was a more appropriate option than placement of the student in the program desired by the parent in a private therapeutic day setting. The hearing officer, therefore, ordered the district to fund the private evaluations obtained by the parent, while upholding the district's proposed placement.

Both parties were represented by attorneys.

Parent initiated the hearing request.

**Case No. 2009-0478 – Alfred A. Spitzzeri, Hearing Officer  
Eligibility  
Decision and Order Issued March 5, 2010**

The parent filed for due process to challenge the district's assertion that the student, an elementary school student with a history of attention deficit hyperactivity disorder, should receive a Section 504 plan, rather than an IEP under the disability category of specific learning disability. At hearing, the evidence showed that although the student had progressed from grade to grade, the student displayed significant issues with writing and language. The evidence indicated that the student substantially could benefit from supports available for students with specific learning disabilities ("LD"). Accordingly, the hearing officer reversed the most recent decision of the district to provide the student with a 504 plan, ordered the district to find the student eligible with specific learning



disabilities and to fund an independent evaluation of the student's needs. The district was further ordered to provide extended school year to the student as compensation for its failure to provide a FAPE.

The district was represented by an attorney.

Parent initiated the hearing request.

**Case No. 2010-0209 – Stacey L. Stutzman, Hearing Officer  
Independent Evaluation**

**Decision and Order Issued March 13, 2010**

The district requested a due process hearing in response to the parent's request for an independent evaluation covering all evaluation domains following an evaluation and IEP meeting in late 2009. The student had a history of poor attendance in school and displayed a variety of social issues while in school. At hearing, the hearing officer found that the district had failed to properly identify a number of areas for which evaluation should be conducted, including the area social and emotional issues. As a result, the hearing officer found that the parent's request for an independent evaluation was warranted and ordered the district to proceed with obtaining the independent evaluation.

Both parties were represented by attorneys.

District initiated the hearing request.

**Case No. 2010-0219 – D. Michael Risen, Hearing Officer  
Child Find, Placement**

**Decision and Order Issued March 13, 2010**

The parent requested a due process hearing seeking an order requiring the district to fund the student's placement in a residential setting. The student had a history of inattention and poor educational performance for the previous several school years before the district determined the student was eligible for special education support in the sophomore year of high school. Prior to hearing, the student was found eligible to receive an Individual Care Grant ("ICG") from the Illinois Department of Human Services. At hearing, the hearing officer found that there was ample evidence to support a finding of special education eligibility as early as the sixth grade. Moreover, the hearing officer found that the student had lost several high school credits as a direct result of the school district's failure to find the student eligible at an earlier date. The hearing officer held that the district was liable for appropriate costs associated with the student's residential placement following the award of the ICG. In addition, the hearing officer

ordered the district to provide supplemental educational opportunities to afford the student the opportunity to recoup lost high school credits.

Both parties were represented by attorneys.

Parent initiated the hearing request.