

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

Decisions Issued Between October 1, 2006 and December 31, 2006

**Case No. 005045 – Mary Schwartz, Hearing Officer
Continuum of Placement Options, Educational Progress, Standing
Decision and Order Issued October 2, 2006**

The parent requested a due process hearing in May 2006, alleging that the district withheld information from the parent regarding their responsibility to provide an appropriate program for the child through age 21, and to offer a full continuum of services. The parent stated that the district failed to inform the parent that they were not providing an appropriate education, and they misrepresented the student's progress. The parent alleged that the withholding and misrepresentation of information gave the parent standing to file for hearing, even though the alleged violations took place more than two years prior to the filing. The parent also alleged that numerous procedural violations and denials of an appropriate education were committed by the district between 2001 and 2006. As remedy, the parent requested two years of compensatory services in a residential placement. The district denied the parent's allegations and challenged the timeliness of the filing of the complaint. The hearing officer found that the parent did not prove that the student's education was inappropriate. The hearing officer also found that the parent did not prove that the district misrepresented the student's progress or withheld information it was required to provide to the parent. Therefore, the hearing officer found that the parent's complaint was not timely, as it alleged violations that occurred more than two years prior to the date on which the parent knew or should have known about the alleged violations, and it did not meet the exceptions to the statute of limitations in IDEA 2004. The complaint was dismissed.

Both parties were represented by attorneys.

Parent initiated the request.

**Case No. 005104 – James Wolter, Hearing Officer
Evaluation, Program and Services
Decision and Order Issued October 5, 2006**

The parent requested a due process hearing in June 2006, alleging that the district failed to evaluate the student in a timely manner, and did not conduct an appropriate evaluation. The parent further alleged that the district did not develop an adequate IEP and provide the student necessary instruction and related services. The district also allegedly failed to properly measure the student's academic performance in advance of an IEP meeting. As relief, the

parent requested an independent evaluation at public expense, placement in a private, therapeutic day facility with appropriate related services, and after-school tutoring to compensate for the district's failure to provide the student an appropriate education over a two year period. The hearing officer found that the district's evaluation of the student was appropriate, and that the district did develop an adequate IEP. The hearing officer also found that the district adequately measured the student's academic performance in the IEP. The hearing officer did find that the district did not initiate an evaluation of the student in a timely manner, and ordered the district to provide after-school tutoring to compensate for the special education services the student did not receive as a result of the district's delay. The parent's other requested remedies were denied.

Both parties were represented by attorneys.

Parent initiated the request.

**Case No. 004990 – Stacey Stutzman, Hearing Officer
Evaluation, Program and Services, Extended School Year
Decision and Order Issued October 24, 2006**

The parent requested a due process hearing in April 2006, alleging that the district failed to evaluate the student in a timely manner, thus denying the student an appropriate education. The parent also alleged that the student's initial IEP was inadequate, and that the district failed to offer compensatory services for their two year delay in providing special education services to the student. The district also allegedly failed to provide sufficient Extended School Year (ESY) services to the student. The hearing officer found that the district did not evaluate the student in a timely manner, and that failure prevented the student from receiving the instruction and services needed for an appropriate education. The hearing officer also found that the initial IEP developed for the student was inadequate, as it contained numerous flaws and was based on an incomplete evaluation. The hearing officer also found that the student was entitled to ESY services for a greater duration than the district offered. The district was ordered to place the student in a private, therapeutic day facility that the parent had requested, partially as compensatory services for the past denial of an appropriate education. The district was also ordered to develop an appropriate IEP that would include ESY and related services.

Both parties were represented by attorneys.

Parent initiated the request.

**Case No. 004948 – Mary Schwartz, Hearing Officer
Evaluation, Related Services, Compensatory Education
Decision and Order Issued October 26, 2006**

The parent requested a due process hearing in March 2006, alleging that the district failed to conduct a timely and adequate evaluation of the student, failed to develop adequate goals or provide necessary related services, and did not utilize an adequate curriculum or teaching methods. The parent also alleged that the district failed to offer compensatory services for their two year delay in providing special education services to the student. The parent sought placement for the student in a private, therapeutic day school, compensatory education, sufficient related services, and independent educational evaluations at public expense. The hearing officer found that the district did offer an adequate curriculum to the student. However, the hearing officer found that the district did not conduct an adequate evaluation and inappropriately identified the student for special education. The hearing officer also found that the goals developed for the student were inadequate, and the district did not provide the student essential related services. The district was ordered to convene a meeting to change the student's eligibility for special education and IEP goals, increase the provision of related services, place the student in a private, therapeutic day school and provide transportation services, and to provide compensatory education from a teacher and speech/language therapist.

Both parties were represented by attorneys.

Parent initiated the request.

**Case No. 005137 – Sheana Hermann, Hearing Officer
Placement
Decision and Order Issued November 6, 2006**

The parent requested a due process hearing in July 2006 to challenge a change of placement which the district recommended for the student from a private, therapeutic day school to an instructional special education program in the student's home school. The hearing officer found the district's proposed placement was the least restrictive environment for the student, and ordered the district to implement the change of placement.

The district was represented by an attorney.

Parent initiated the request.

**Case No. 004915 – Alan Cook, Hearing Officer
Behavior Intervention Plan
Decision and Order Issued November 14, 2006**

The parent requested a due process hearing in April 2006, challenging the district's inclusion of a physical transport intervention in the student's Behavior Intervention Plan (BIP). The hearing officer found that the IEP team had considered positive behavioral interventions for the student, but they had not

been successful. The hearing officer upheld the physical transport intervention in the student's BIP as an appropriate response to incidents in which the student could cause harm to self or others.

The district was represented by an attorney.

Parent initiated the request.

**Case No. 004844 – James Wolter, Hearing Officer
Placement, Failure to Prosecute Claim
Decision and Order Issued November 25, 2006**

The parent requested a due process hearing in January 2006, alleging that the placement proposed by the district, a full-time special education program outside the student's home school, was too restrictive. The parent sought placement of the student in a general education classroom with appropriate supports, as well as a new evaluation. After the parent's attorney resigned from the case, the parent requested several extensions of the hearing to obtain legal counsel. The hearing officer denied the parent's third request for an extension, ruling that the parent had more than adequate time to prepare for the hearing. The parent then refused to participate in the hearing. The hearing officer found that the failure to present evidence or testimony did not meet the parent's responsibility as the complaining party to prosecute the case. The district was ordered to change the student's placement to the special education program outside the student's home school. In response to the parent's other requested remedies, the hearing officer pointed out that the district agreed to conduct a new evaluation of the student in their response to the filing of the complaint, and the district was already providing some of the supports which the parent requested.

The district was represented by an attorney.

Parent initiated the request.

**Case No. 005073 – Janet Kidd, Hearing Officer
Program and Services, Compensatory Education
Decision and Order Issued November 27, 2006**

The parent requested a due process hearing in June 2006, alleging that the district did not provide appropriate evaluation, instruction, and support services to the student. The parent also alleged that the district committed several procedural errors. The parent sought compensatory services for the district's failure to provide the student with a certified special education teacher for part of the 2005-2006 school year. The hearing officer found that the district failed to devise and implement an appropriate IEP for the student, and that the student was likely to derive a greater educational benefit in a private, therapeutic day program. The district was ordered to change the student's placement from an

instructional special education program to a private, therapeutic day school, and to convene an IEP meeting to address the adequacy of the student's goals and Behavior Intervention Plan, consider the student's need for assistive technology services, and consider the results of independent evaluations previously obtained for the student. The district was also ordered to reimburse the parent for the privately obtained independent evaluations.

Both parties were represented by attorneys.

Parent initiated the request.

**Case No. 004863 – Alfred Spitzzeri, Hearing Officer
Program and Services, Placement, Compensatory Education
Decision and Order Issued December 18, 2006**

The parent requested a due process hearing in January 2006, alleging that the student was denied an appropriate education because the IEPs developed by the district over a four year period were both inadequate and not implemented as required. The parent further alleged that the district committed several procedural violations. The parent sought continued placement for the student in an out-of-state residential facility due to the alleged violations. The hearing officer did not find that the district committed any procedural violations. However, the hearing officer did find that the student's IEPs were not adequate, as the goals and Behavior Intervention Plan developed by the district were not appropriate. The hearing officer also found that the student's placement in an out-of-state residential facility was appropriate. The district was ordered to maintain the student's placement in the residential facility, and to pay for compensatory education for the district's failure to provide an appropriate education for the two years prior to the parent's filing of the request. The district was also ordered to reimburse the parent for tuition and educational expenses, dating to the point that the district ceased paying for those services in the residential placement.

Both parties were represented by attorneys.

Parent initiated the request.