

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

Decisions Issued Between July 1, 2008 and September 30, 2008

**Case No. 2008-0376 – James Wolter, Hearing Officer
Placement, Independent Evaluation
Decision and Order Issued July 24, 2008**

The parents requested a due process hearing to challenge the decision of the district to reduce the services provided to an elementary school student identified as special education eligible under the categories of Other Health Impaired (OHI) and Emotional Disturbance (ED). The parents also requested an independent evaluation of the student at district expense. The issue of the evaluation was settled prior to hearing. At hearing, the hearing officer found that the district did not offer sufficient justification for a reduction in the student's services based on either the evidence supplied in the student's current IEP or on the testimony of the IEP team members. As a result, the hearing officer refused to support a reduction in services to the student for the coming school year.

The school district was represented by an attorney.

Parents initiated the hearing request.

**Case No. 2008-0423 – Alfred Spitzzeri, Hearing Officer
Related Services
Decision and Order Issued July 25, 2008**

The parent requested a hearing seeking to reinstate social work services for the student, a high schooler eligible for services under the category of Learning Disability (LD). The student had previously received social work services at a time when the student had been eligible under the category of Emotional Disturbance (ED), but such services were terminated approximately eighteen months previous to the hearing. The hearing officer found that the student currently did not present with any issues that interfered with the student's learning so as to make social work an appropriate related service. As a result, the hearing officer found that the district offered an appropriate IEP and held in favor of the school district.

The district was represented by an attorney.

Parent initiated the hearing request.

**Case No. 2008-0424 – Sheana Hermann, Hearing Officer
Placement, Tuition Reimbursement
Decision and Order Issued August 1, 2008**

The parent requested the hearing to challenge the district's choice of day therapeutic placement following the decision of the student's prior placement to terminate the contract. The student was in high school under the eligibility category of Emotional Disturbance (ED). Despite the fact that the district had identified a new placement for the student, the parent opted to forego the placement and seek an alternative, unilateral placement for the student in a school for the fine arts. The hearing officer found that the placement the district had secured could reasonably meet the student's needs, while the parent's placement could not. Accordingly, the hearing officer affirmed the district's placement proposal and refused to grant tuition reimbursement to the parent for the unilateral placement.

The district was represented by an attorney.

Parent initiated the hearing request.

**Case No. 2008-0047 – Kristine L. Anderson, Hearing Officer
Placement, IEP, Compensatory Education, Tuition Reimbursement
Decision and Order Issued August 9, 2008**

The parent filed a request for due process alleging that the school district provided an inadequate placement for the student, who was a middle schooler identified as eligible under the category of Learning Disability (LD). Following a lengthy evaluation process during which the student struggled while attending a general education setting, the parents informed the district of their intent to seek a private placement to address the student's perceived needs. The parents ultimately placed the student in a private day school serving Learning Disability (LD) students. The hearing officer found that a series of IEPs drafted by the district while continuing to work with the parents indicated that the district did not fully grasp the extent of the student's disability. Moreover, the hearing officer found that the parents were justified in seeking their own placement and provided the district with adequate notice of their intent to secure the placement. Accordingly, the hearing officer ordered the district prospectively to fund the placement and to provide tuition and transportation reimbursement to the parents.

Both parties were represented by attorneys.

Parents initiated the hearing request.

**Case No. 2008-0488 – Stacey L. Stutzman, Hearing Officer
Transportation, Compensatory Education
Decision and Order Issued August 11, 2008**

The parent requested a hearing after the student had missed a number of days of school due to alleged deficiencies in the supports provided to the student on the bus. The student, who was in high school and eligible for special education under the eligibility categories of cognitive disability, hearing impairment, Other Health Impaired (OHI) and several other secondary disability categories, was medically fragile. As a result the parent claimed that a nurse was a necessary component to enable the student to use student transportation. The hearing officer was not persuaded and determined that the student could have attended school for all the days claimed by the parent with the exception of one day. The hearing officer therefore ordered a single day of compensatory education and rejected the remaining claims of the parent.

Both parties were represented by attorneys.

Parent initiated the hearing request.

**Case No. 2008-0396 – Mary Schwartz, Hearing Officer
Identification, Least Restrictive Environment
Decision and Order Issued August 22, 2008**

The parents requested a hearing to challenge the district's identification of the student as Emotional Disturbance (ED) and to challenge the district's decision to place the student in a therapeutic day program. The student, who was in primary school, had a history of behavioral and emotional issues that led to hospitalization on one occasion, followed by a protracted period of homebound placement. The hearing officer found that the evidence supported the district's conclusion that the student was eligible for special education services under the category of Emotional Disturbance (ED). However, given the evidence, the hearing officer also found that the student could be accommodated in a self-contained special education setting as opposed to a day therapeutic school.

The district was represented by an attorney.

Parents initiated the hearing request.

**Case No. 2009-0027 – Mary Schwartz, Hearing Officer
Eligibility, Evaluation, Placement, Related Services
Decision and Order Issued September 29, 2008**

The parents 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 student, who was in elementary school at the time, had a history of emotional issues occurring outside of school that resulted in periods of hospitalization. However, evidence at hearing also showed that the student's in-school behavior was neither disruptive nor such as to interfere with the student's learning. The hearing officer therefore found that, contrary to the parents' assertions, the student was not eligible under either the Emotional Disturbance (ED) or Other Health Impaired (OHI) categories. Having found that the student was not eligible for special education, the hearing officer further rejected the parents' claim that the district failed to offer a placement to the student that conferred FAPE.

Both sides were represented by attorneys.

Parent initiated the hearing request.