

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

Decisions Issued Between April 1, 2005 and August 31, 2005

**Case No. 004332 – Ann Breen-Greco, Hearing Officer
LRE, Compensatory Education
Decision and Order Issued April 4, 2005**

The parents requested due process to challenge the district's on-going placement of their second grade student in a public therapeutic day school program with the disability category of ED. The parents asserted that the student's functioning suggested that placement in less restrictive setting would be more appropriate. The hearing officer found that the evidence in fact demonstrated the parents' on-going support for the placement, and that the district had provided ample support for the student in such a setting. Moreover, the hearing officer found that the parents' own private evaluation of the student was incomplete and did not make a persuasive case for placement in a less restrictive setting than a therapeutic day school. The hearing officer therefore rejected the parents' claims and held in favor of the district.

The district was represented by legal counsel.

Parents initiated the hearing request.

**Case No. 004425 – Carolyn Ann Smaron, Hearing Officer
Revocation of Consent, Evaluation
Decision and Order Issued April 4, 2005**

The district requested due process when, after an effort was made to secure written consent for a tri-annual re-evaluation, the parents informed the district that they wished to have the student returned to general education with no special education support. At hearing, evidence showed that despite gains, the student still had great difficulty reading at grade level. The hearing officer concluded that the district demonstrated ample basis for going forward with the evaluation. Accordingly, the hearing officer authorized the evaluation to proceed and ordered the child to remain in special education pending the outcome of the evaluation and the subsequent eligibility determination.

The district was represented by legal counsel.

District initiated the request.

**Case No. 004375 – Marie A. Bracki, Hearing Officer
Placement
Decision and Order Issued April 6, 2005**

The parent requested due process to challenge the placement of the student in a fourth grade special education setting, contending that the student, who was adopted from a foreign country, might not have an accurate birth certificate. The parent advocated that the student was actually younger than the indicated date of birth on the birth certificate and should be placed in a lower grade-level setting. The hearing officer found that the district had followed all procedures correctly and developed an IEP reasonably calculated to confer educational benefit to the student. The hearing officer further found that the hearing officer had no authority to affect the contents of the student's birth certificate.

The district was represented by legal counsel.

Parent initiated the request.

**Case No. 004417 – Sheana Hermann, Hearing Officer
Grade Promotion, Motion to Dismiss
Order Issued April 11, 2005**

The parent requested due process seeking an order to place the student in first grade due to the student's academic strengths, despite the fact that the student's age indicated that placement in kindergarten was appropriate. Upon the district's motion to dismiss, the hearing officer determined that there was no jurisdiction allowing the hearing officer to decide whether the student should receive advance promotion into the first grade, finding that such a determination was the proper domain of school authorities. The hearing officer therefore dismissed the hearing request with prejudice.

The district was represented by legal counsel.

Parent initiated the request.

**Case No. 003875 – Marie A. Bracki, Hearing Officer
Eligibility, Placement
Decision and Order Issued April 15, 2005**

The parent requested due process to challenge the district's placement of the student in self-contained setting as sixth grader with a cognitive disability. Instead, the parent contended that the student was LD and could be satisfactorily educated in a general education setting with an aide. In addition, the parent sought an independent evaluation in order to challenge the district's eligibility

determination. Separately, the district agreed with the parent to pay for an independent evaluation. Upon the district's motion for summary judgment, the hearing officer found that the district's placement of the student was appropriate and order the district to continue its placement of the student in a self-contained setting.

The district was represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004174 – Vivian Gordon, Hearing Officer
Extended School Year, Reimbursement
Decision and Order Issued April 18, 2005**

The parent requested due process to challenge the district's decision not to offer extended school year (ESY) services to the student and to obtain reimbursement for summer services obtained at the parent's expense. The student, who was six years old and eligible for speech language services, had received extended school year services during the previous two school years. The hearing officer found that the district had properly considered a range of factors including the student's disability, the rate progress shown by the student and the student's regression/recoupment rate during summer months and concluded that the district had a sound basis for its decision not to provide ESY services. On this basis, the hearing officer further held that the parent was not entitled to reimbursement for summer services obtained by the parent.

The district was represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004362 – Stacey Stutzman, Hearing Officer
Parental Consent for Re-evaluation
Decision and Order Issued April 21, 2005**

The district requested due process to obtain authorization to proceed with a three-year re-evaluation of the student. In turn, the parents raised the claim that the district had failed to complete the three-year re-evaluation of the student in a timely manner. The student, who was an eighth grader eligible under the disability category of OHI, had been receiving support for Attention Deficit Disorder. The hearing officer found that the district had ample basis for conducting the evaluation, and ordered the district to proceed with the evaluation. The hearing officer found no merit to the parents' claim that the district failed to conduct a timely re-evaluation in light of the parents' own refusal to provide consent for the evaluation.

The district was represented by legal counsel.

Parents initiated the hearing request.

**Case No. 004023 – Robert F. Ladenson, Hearing Officer
Residential Placement, Retroactive Reimbursement
Decision and Order Issued April 23, 2005**

The parents requested due process seeking reimbursement of two years' costs for the placement of the student in an out-of-state residential facility. The parents placed the student at a non-approved out-of-state residential facility in the Fall of 2003 due to growing concerns over the student's behaviors, although the student had not yet been determined eligible for special education by the district. After the student was placed in the out-of-state facility, the parents requested the district to conduct an evaluation of the student. When the district did not agree to do the evaluation, the parents request due process. During the course of mediation, the parties agreed to complete an evaluation beginning in August of 2004, after which the district's IEP team found the student eligible for special education services as an ED student. After several delays occasioned by parental actions, the IEP team finally placed the student in a state-approved residential setting in January 2005. Placement was not effectuated, however until March 2005. Having concluded that the district's actions up to January 2005 were appropriate, the hearing officer denied the parents' claims for retroactive reimbursement of the residential placement between Fall 2003 and January 2005. However, the hearing officer did order the district to reimburse the parents their costs associated with the placement between January and March 2005, finding that the district's delay in officially placing the student between January and March was unjustified.

The district was represented by legal counsel.

Parents initiated the hearing request.

**Case No. 004185 – Robert F. Ladenson, Hearing Officer
Placement, High School Graduation
Decision and Order Issued May 4, 2005**

The student filed for due process after the district had denied the student the right to enroll during the current school year due to the fact that the student, who was 19-years-old with a diagnosis of cerebral palsy, had graduated the previous spring. The hearing officer found that the IEP team had given appropriate consideration to all relevant factors in deciding to allow the student to graduate. Moreover, the district provided appropriate notice of the student's impending

graduation. On this basis, the hearing officer held that the district acted properly in graduating the student and thus denied the student's claim.

The district was represented by legal counsel.

Student initiated the hearing request.

**Case No. 004167 – Julia Quinn Dempsey, Hearing Officer
Placement, Retroactive Reimbursement
Decision and Order Issued May 14, 2005**

The parent initiated the hearing request to challenge the district's recommended placement and to seek reimbursement of tuition costs associated with the parent's unilateral placement of the child in a therapeutic day school. The student, who was identified with a specific learning disability, had received instructional LD support and occupational therapy in first grade, that was increased in 2nd grade. After 2nd grade, the parent unilaterally placed the student in a therapeutic day school after the district refused to implement a specific teaching method with the student. The hearing officer found that the student had made ample educational progress during first and second grade. As a result, the hearing officer denied the reimbursement claim and upheld the district's decision to provide instructional support for the student.

Both parties were represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004453 – James A. Wolter, Hearing Officer
Placement, Stay-Put
Decision and Order Issued May 16, 2005**

The parent initiated the hearing to challenge the district's decision to place the student, who was a 7th grader, in a private therapeutic day placement. In addition, the parent challenged the position of the school district that the private placement was the stay-put placement during the pendency of the due process proceedings. The hearing officer found that the stay-put was the private placement due to the fact that the parent had allowed approximately 26 days to elapse after the completion of the IEP in question before filing their hearing request. The hearing officer further found that the student had not made adequate educational progress in his prior placement in a general education building and that the district was justified in seeking a more restrictive placement option.

The district was represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004336 – Marie A. Bracki, Hearing Officer
Placement
Decision and Order Issued May 16, 2005**

The parent requested the hearing to challenge the district's to place the student, a second-grader, in a private therapeutic day school. The hearing officer found that the district's offered an IEP crafted to meet the student's needs. Based on the district's motion for summary judgment, the hearing officer affirmed the district's placement recommendation and ordered the implementation of the IEP.

The district was represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004476 – James A. Wolter, Hearing Officer
Initial Evaluation, Summary Judgment
Decision and Order Issued May 17, 2005**

The district requested the hearing after the parent refused to provide consent for an initial case study evaluation. The student, who was in seventh grade, was failing in most of his classes and faced a number of behavioral challenges. Based on the district's motion for summary judgment, the hearing officer found that the district had ample basis for proceeding with the evaluation and order it to proceed.

The district was represented by legal counsel.

District initiated the hearing request.

**Case No. 004086 – Julia Quinn Dempsey, Hearing Officer
Placement, Evaluation, Summary Judgment
Decision and Order Issued June 6, 2005**

The parent requested the hearing because of a dispute over the classroom placement of the student and requesting a delay in the three-year re-evaluation of the student. The district made an oral motion for summary judgment based on certain initial agreements between the parties regarding the timing of the evaluation and the placement of the student in a particular classroom. The hearing officer granted the district's motion and ordered the agreements between the parties to be implemented.

The district was represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004340 – Marie A. Bracki, Hearing Officer
Compensatory Education, Evaluation
Decision and Order Issued June 7, 2005**

The parent requested the hearing, claiming compensatory education based upon the alleged failure of the district to provide necessary supports for the student. The student, who was a seventh grader identified as LD, was being provided pull-out LD services. The hearing officer found that the district provided appropriate support for the student and that concerns for the student's progress were attributable to the large number of tardies the student had accumulated during the school year. The hearing officer ordered the district to continue implementing the student's current IEP.

The district was represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004386 – Robert F. Ladenson, Hearing Officer
Evaluation, Placement, Independent Evaluation
Decision and Order Issued June 13, 2005**

The parent requested a due process hearing to challenge the district's IEPs developed during the school year. The student was a seventh-grader identified as OHI, who was served primarily in the general education setting with a range of accommodations to address attention issues, organization, and certain other health issues impacting the student's in-school performance. The parent met with the IEP team three times during the Fall semester to review and revise the IEP, as well as to consider independent evaluations obtained at parent expense. The hearing officer found that the district had considered these evaluation and other data in crafting a comprehensive IEP that was found to be appropriate to meet the student's needs. The hearing officer therefore denied the parent's claims for reimbursement for the independent evaluations and compensatory education for alleged failings in the IEPs.

Both sides were represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004321 – James A. Wolter, Hearing Officer
Least Restrictive Environment
Decision and Order Issued June 13, 2005**

The parent initiated the due process hearing to dispute the district's decision to place the student in a separate special education day school to address behavioral issues. The student was a sixth-grader identified as ED. The hearing officer found that the district had correctly determined that the student's needs could not be served in a special education classroom in a general education building. Moreover, the hearing officer found that the services the student required could not feasibly be implemented in the general education building. On this basis, the hearing officer held the district's decision to place the student in a separate facility was the correct one.

Both sides presented their cases pro se.

Parent initiated the hearing request.

**Case No. 003816 – Alan J. Cook, Hearing Officer
Eligibility, Compensatory Education
Decision and Order Issued June 17, 2005**

The parent initiated the hearing seeking compensatory education for the alleged failure of the district to identify the student's special education eligibility in a timely and to implement the student's IEP in an appropriate manner. The student was a seventh-grader at the time of the hearing identified as LD. Prior to being identified as LD, the parents had made several attempts to advocate for special education eligibility. The student had been on a Section 504 plan prior to being found eligible for LD services. The hearing officer found that the district provided support to the student prior to eligibility and further implemented subsequent IEPs in an appropriate manner. The hearing officer denied the parent's claims for compensatory education and upheld the district's IEP.

Both sides were represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004193 – Carolyn Ann Smaron, Hearing Officer
Eligibility, Independent Evaluation, Placement
Decision and Order Issued June 20, 2005**

The parent initiated the hearing seeking reimbursement for a number of independent evaluations and to obtain speech-language support for the student as well as additional accommodations for the other health conditions of the

student. The student at the time of hearing was a seventh-grader identified as LD. At hearing the hearing officer found that the district had given ample consideration to the full range of academic and non-academic needs of the student, but that the district did not appropriately identify the student's need for speech-language in a timely manner. The hearing officer denied all the parent's claims for reimbursement for independent evaluations except for costs associated with an independent speech-language evaluation. The hearing officer further ordered that the district's proposed IEP be implemented.

Both sides were represented by legal counsel.

Parent initiated the hearing request.

**Case No. 003808 – Vivian Gordon, Hearing Officer
Placement, Related Services
Decision and Order Issued June 21, 2005**

The parent initiated the hearing to dispute the district's decision to place the student in a general education classroom with related services and other accommodation. The parent contended that the student's appropriate placement was in a classroom for gifted students with related services and accommodations. In addition, the parent requested the provision of vision therapy and occupational therapy, along with reimbursement for services the parent obtained privately. The hearing officer found that there was no evidence to support the student's eligibility for placement in the gifted program, nor evidence to support the parent's claims for vision therapy and occupational therapy. The hearing officer therefore held the district's placement to be appropriate.

The district was represented by legal counsel.

Parent initiated the hearing request.

**Case No. 003821 – Marie A. Bracki, Hearing Officer
Placement
Decision and Order Issued June 24, 2005**

The parent requested a due process hearing claiming that the district had failed to implement the student's IEP as written. The student was a high-school student identified under the categories of ED and LD. The parent did not challenge the contents of the IEP but claimed that the IEP was not being implemented. At hearing, the hearing officer found that the evidence supported the view that IEPs were in fact being implemented and were appropriate to meet

the student's needs. Accordingly, the hearing officer determined that the district should continue to implement the IEP as written.

The district was represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004412 – Carolyn Ann Smaron, Hearing Officer
Dismissal of Hearing Request
Order Issued July 5, 2005**

The parent requested a due process hearing for undetermined reasons. At the pre-hearing conference, the parent stated a desire to withdraw the hearing request but several attempts to secure a formal withdrawal failed. The hearing officer decided to dismiss the request for lack of prosecution.

The district was represented by legal counsel.

Parent initiated the hearing request.

**Case No. 003849 – Marie A. Bracki, Hearing Officer
Dismissal of Hearing Request
Order Issued July 30, 2005**

The parent requested a hearing over concerns about the educational program of the student. After several conferences in which it was stated that the parties were resolving their differences, the hearing officer informed the parties to set a hearing date or the case would be dismissed. No hearing date forthcoming from either party, the hearing officer dismissed the matter for lack of prosecution.

The district was represented by legal counsel. The parent was represented by an advocate.

Parent initiated the hearing request.

**Case No. 004554 – Gail Tuler Friedman, Hearing Officer
Manifestation Determination Review
Decision and Order Issued August 22, 2005**

The parent requested an expedited hearing to challenge the district's determination that the student's conduct was not related to the student's disability. The student was a ninth-grader identified under the category of OHI. A manifestation determination review (MDR) was conducted following an incident

in which the student inappropriately touched another student then made verbal threats to a teacher. The district, based on the MDR, decided to suspend the student for the balance of the school year. At hearing, the hearing officer found that the evidence indicated that the all prongs of the Federal test for determining the MDR supported the district's conclusion. The hearing officer therefore upheld the district's disciplinary decision.

The district was represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004461 – Carolyn Ann Smaron, Hearing Officer
Dismissal of Hearing Request
Order Issued May 9, 2005**

The parent requested a due process hearing for undetermined reasons. At the pre-hearing conference, counsel for the district reported that the parties has reached a tentative resolution. The parent did not appear at the prehearing conference. After several unsuccessful attempts were made to contact the parent as to the status of the case, the hearing officer decided to dismiss the request for lack of prosecution.

The district was represented by legal counsel.

Parent initiated the hearing request.

**Case No. 003830 – Julia Quinn Dempsey, Hearing Officer
Least Restrictive Environment
Decision and Order Issued April 1, 2005**

The parent initiated a due process hearing to challenge the district's recommendations of student placement in self-contained hearing impaired program in the local high school. The student, who was eligible under the categories of Hearing Impairment (HI) and Emotional Disturbance (ED), had a history of explosive behaviors and psychiatric hospitalization. After a period of time spent in a public residential program for students with HI, the district recommended placement in a self-contained HI program within the local high school due to concerns that the residential program was not the least restrictive environment appropriate for the student. During the period of placement in the self-contained program, the student displayed further behavioral issues punctuated by further psychiatric hospitalization. The hearing officer found that the placements of the district since the student's return to the local area were consistently inappropriate for the student's needs. Consequently, the hearing

officer order the student's placement in a private residential program serving students with both HI and ED.

Both sides were represented by legal counsel.

Parent initiated the hearing request.