

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

**Issued Between January 1, 2004 and March 31, 2004**

**Case 003719 – Carolyn Ann Smaron, Hearing Officer  
Eligibility, Consent for Case Study Evaluation  
Decision and Order Issued January 8, 2004**

The due process hearing was initiated by the school district to obtain authorization to proceed with an initial case study evaluation of the student. The district presented evidence to show that it had employed a number of interventions during the prior school year without success. The parents refused to provide consent for an initial case study evaluation and did not attend either the pre-hearing conference or the due process hearing. Based on the evidence presented by the district, the Hearing Officer ordered the district to proceed with the case study evaluation.

The district was represented by legal counsel.

District initiated request.

**Case 002996 – Stacey L. Stutzman, Hearing Officer  
Placement, LRE, Payment of Services, Compensatory Services, and FAPE  
Decision and Order Issued January 10, 2004**

The primary issues concerned private placement at an out-of-state residential school and eligibility for IDEA services beyond the student's 21<sup>st</sup> birthday. The eighteen-year-old female was found eligible for special education and related services following parents' unilateral placement of the student in a private day-school for students with learning disabilities. Following a change in placement to a private day school for students with emotional disorders, the parents unilaterally placed the student in an out-of-state residential facility in June of 2003.

The Hearing Officer ordered the district to pay for the student's out-of-state placement and to reimburse the parents for their costs in placing the student in the school. The Hearing Officer found that the district has failed to provide the student with FAPE due to its failure to consider private evaluations of the student, provide appropriate social work and speech services, and to provide an IEP and program designed to meet the student's needs.

The district was ordered to reimburse the parents \$67,802.70 from June 2, 2003 through January 2004 for services provided. The district was ordered to provide special education and related services until the student reaches her 22<sup>nd</sup> birthday on October 31, 2007 as compensatory education.

Both parties were represented by legal counsel.

Parent initiated request.

**Case 003603 – Julie Quinn Dempsey, Hearing Officer  
Summary Judgment, Attorneys Fees  
Decision and Order Issued January 12, 2004**

The parent requested due process to implement an IEP that required the provision of a classroom aide to the student. The parent then motioned for summary judgment, arguing that no issue of fact existed. The Hearing Officer found that the parties were in agreement that the student's IEP required the provision of a classroom aide, and granted the parent's motion. The school district was therefore ordered to provide a classroom aide to the student within 10 days of the order. The Hearing Officer also denied the parent's motion for an award of attorney fees, finding that the Hearing Officer had no jurisdiction to make such an award.

The district was represented by legal counsel.

Parent initiated request.

**Case 003725 – James A. Wolter, Hearing Officer  
Placement, FAPE  
Decision and Order Issued January 12, 2004**

The issue involved the parent's request for the district to provide the student with a special education placement in a separate special education day school. Following a mediation, the school district conducted a case study evaluation but opted to maintain the student's placement in a general education high school building. The Hearing Officer found that the school had complied with both prongs of the two-part test devised by the US Supreme Court in the *Rowley* case. The Hearing Officer found that the district followed all necessary procedures in developing the student's IEP. In addition, the Hearing Officer found that although the student passed five of seven classes, the district had provided an IEP that was calculated to confer educational benefit.

Both parties were represented by legal counsel.

Parent initiated request.

**Case 003550 – Kathleen Dillon Narko, Hearing Officer  
Cost of Placement, Residential Placement  
Decision and Order Issued February 5, 2004**

The issue in this case was whether the school district was obligated to pay the non-educational component of a residential placement initiated by the Juvenile Court. The student had a long history of receiving special education services, including placement in a separate day school, but had been placed in a residential facility after becoming involved in the juvenile court system. The district had agreed to fund the educational component of the placement, but refused to pay the non-educational component, believing that the student was "socially maladjusted" rather than an Emotionally Disordered student requiring a residential placement to meet his educational needs.

The Hearing Officer found that the student's long history of emotional issues necessitated placement in a residential facility for educational reasons and ordered the district to pay for the non-educational component of the student's placement.

The district was represented by legal counsel and the parent's were represented by an advocate.

Parent initiated request.

**Case 003532 – Julia Quinn Dempsey, Hearing Officer  
Dismissal of Hearing Request, Section 504  
Order Issued February 6, 2004**

The issue was to determine if an individual with a Section 504 plan only could request a due process hearing. The parent requested the due process hearing, believing that the student's Section 504 plan was not beneficial to the student. The parent agreed that the student was not eligible for services pursuant to IDEA. Following a motion by the district and response from the parent, the Hearing Officer dismissed the case, finding that there was no jurisdiction to pursue the parent's hearing request.

The district was represented by legal counsel.

Parent initiated request.

**Case 003739 - Ann Breen-Greco, Hearing Officer  
Motion to Dismiss  
Order Issued February 10, 2004**

The parent filed for a due process request on the basis the student "has on several occasions been left in pull-up pampers for half the school day and this has resulted in her developing a rash several times and she has developed urinary tract infections..." The school district filed a Motion to Dismiss indicating such action was not an issue connected with the identification, evaluation, or placement of, or provision of services to a student, pursuant to 23 Illinois Administrative Code Section 226.605. The Hearing Officer granted the district's motion and the case was dismissed.

The district was represented by legal counsel.

Parent initiated request.

**Case 003842 – Ann Breen-Greco, Hearing Officer  
Expedited Hearing, Interim Alternate Educational Setting  
Decision and Order Issued March 7, 2004**

The parent requested the expedited due process hearing to challenge the district's decision to move the student to a separate day school setting following an incident in

which the student stabbed another student with a metal-tipped marker. The parent asserted that the removal was not warranted because the student had been provoked by another student and because, in the parent's view, the facts surrounding the incident had been exaggerated by the District. The Hearing Officer found that the district had presented substantial evidence that the student's continued placement in a general education setting would be substantially likely to result in harm to the student or others, that the student's current placement was inappropriate, that the district had made reasonable efforts to minimize the risk of harm, and that the district's choice alternate setting would be able to implement the student's IEP. Finally, the Hearing Officer found that the marker the student used to injure the victim was a weapon within the definition provided under 105 ILCS 5/10-22.6. Accordingly, the Hearing Officer ordered the district to proceed with placement of the student in a separate day setting for a period of 45 days.

Both parties were represented by legal counsel.

Parent initiated request.

**Case 003682 – Gail Friedman, Hearing Officer  
Standing, Retroactive Reimbursement, Motion to Dismiss  
Order Issued March 10, 2004**

The parents requested the due process hearing seeking retroactive reimbursement for all expenses related to an 18-year-old student's unilateral placement in a private facility including the parents' travel expenses. The parents did not request any current or prospective special education program or services for the student since the student had moved to California at the time of the hearing. The district filed a Motion to Dismiss alleging that the student had reached the age of majority, and that the parents lacked standing to request a due process because they no longer enjoyed guardianship over the student. In addition, the district alleged that the student lacked standing as she was no longer a resident of the state of Illinois. The Motion to Dismiss was granted by the Hearing Officer, finding that both the parents and the student lacked standing to request due process against the district.

Both parties were represented by legal counsel.

Parent initiated request.

**Case 003820 – James A. Wolter, Hearing Officer  
Standing, Pre-Hearing Conference, Motion to Dismiss  
Order Issued March 15, 2004**

The parent initiated the request for a due process hearing on behalf of a 20-year-old student. The parent did not present evidence of guardianship over the student, nor participated in the scheduled pre-hearing conference. The school district filed a Motion to Dismiss the case based on lack of guardianship and failure to participate in the pre-hearing. The Hearing Officer found that the parent lacked standing to file the due process request due to lack of guardianship and held that the parent's failure to

participate in the pre-hearing conference was grounds for dismissal of the hearing request. Accordingly, the parent's request was dismissed.

Parent initiated request

The district was represented by legal counsel.