

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

Decisions Issued Between January 1, 2005 and March 31, 2005

**Case No. 004223 – Gail Tuler Friedman, Hearing Officer
Failure to Prosecute Claim, Motion to Dismiss
Order Issued January 7, 2005**

The parent requested a due process in September 2004. In September and October, the hearing officer made repeated attempts to contact the parent without success. Finally, in response to a district motion to dismiss, the hearing officer made a final attempt, without success, to contact the parent. The hearing officer granted the district's motion.

The district was represented by an attorney.

Parent initiated the request.

**Case No. 004178 – James A. Wolter, Hearing Officer
Consent for Evaluation, Homebound Services, Summary Judgment
Decision and Order Issued January 10, 2005**

The district requested a due process hearing after the parent refused to furnish written consent for the district to conduct a tri-annual re-evaluation. In response, the parents raised the issue of whether the district's provision of homebound instruction at the rate of one hour per day was sufficient, given the student's needs, and requested extensive compensatory education. The hearing officer found that the district's need to conduct the re-evaluation was appropriate under IDEA and the School Code. The hearing officer further found that the homebound instruction offered to the student was appropriate. Based on the district's motion for summary judgment, the hearing officer authorized the district to proceed with the evaluation and dismissed the compensatory education claim.

Both parties were represented by attorneys.

District initiated the request.

**Case No. 004181 – Julia Quinn Dempsey, Hearing Officer
Evaluation, Placement
Decision and Order Issued January 15, 2005**

The parent requested due process to challenge the district's most recent evaluation, which found the student to have mental retardation (MR) (as opposed

to the parent's view that the student was learning disabled), and to challenge the district's placement of the student in a self-contained placement for (MR) students. The hearing officer found that the student's evaluation was of appropriate scope and that the findings were appropriate. In addition, the hearing officer found that, given the evaluation, placement in the self-contained program was appropriate. The hearing officer denied all claims of the parent.

The district was represented by an attorney.

Parent initiated the request.

**Case No. 003975 – Marian F. McElroy, Hearing Officer
Placement, Extended School Year
Decision and Order Issued January 24, 2005**

The parents requested due process claiming that the district's extended school year (ESY) program was inappropriate. The parents later amended the request to challenge the appropriateness of the student's overall placement for the previous two school years after unilaterally placing the student in a private therapeutic program for students with LD. The hearing officer found that the program offered during the previous two years was appropriate, but that the ESY program was insufficient based on the student's needs. The hearing officer upheld the district's overall program, but ordered the district to reimburse the parents for the student's placement in the private program during the previous summer only.

The parties were represented by attorneys.

Parent initiated the request.

**Case No. 004293 – Kathleen Dillon Narko, Hearing Officer
Standing, Motion to Dismiss
Order Issued February 2, 2005**

The parent initiated the hearing request against the district where the student was attending a residential program. There was no dispute that the district of residence was the entity responsible for providing special education to the student. The hearing officer granted the district's motion to dismiss, finding that the district was not subject to the parent's due process request as it had no responsibility to provide the student with a free appropriate public education.

Both parties were represented by attorneys.

Parent initiated the request.

**Case No. 004246 – Carolyn Ann Smaron, Hearing Officer
Post-Secondary Transition, Compensatory Education
Decision and Order Issued February 9, 2005**

The parent requested due process, alleging that the district had failed to provide the student with an appropriate post-secondary transition plan and had graduated the student from high school inappropriately. The parent, as a result, was claiming compensatory education in the form of reimbursement and prospective placement in a two-year program for students with disabilities operated by a university in the area. The hearing officer found that the district's post-secondary transition plan was based upon incorrect assumptions regarding the student's functioning and that the IEP team's decision to graduate the student failed to account for the student's post-secondary transition needs. As a result, the hearing officer ordered reimbursement of the parent's education costs for the university program and ordered the district prospectively to fund the program until the student's completion of it.

Both parties were represented by attorneys.

Parent initiated the request.

**Case No. 004213 – Venita Hervey, Hearing Officer
Failure to Prosecute Claim, Order of Dismissal
Order Issued February 11, 2005**

The parent initiated the hearing request in September 2004, but failed to provide documentation in preparation for the prehearing conference. Following one contact in which the parent requested a continuance of the prehearing conference, the hearing officer made numerous attempts between October and December to secure the parent's participation, finally warning the parent in a letter that the matter would be dismissed. In the absence of any further contact from the parent, the hearing officer dismissed the matter for the parent's failure to proceed on the hearing request.

The district was represented by an attorney.

Parent initiated the request.

**Case No. 004020 – Gail Tuler Friedman, Hearing Officer
Evaluation, Related Services, Extended School Year
Decision and Order Issued February 22, 2005**

The parent requested a hearing to challenge the district's most recent evaluation and IEP for the student, who was found eligible under the disability category of

mental retardation (MR). Using the analysis of the US Supreme Court decision in *Board of Education v. Rowley*, the hearing officer found that the district had provided a sound evaluation and that the district's IEP was appropriate, despite not providing the student with speech-language services or extended school year (ESY). As a result, the hearing officer dismissed all the parent's claims.

The district was represented by an attorney.

Parent initiated the request.

**Case No. 003705 – James A. Wolter, Hearing Officer
Placement, Related Services, Unilateral Placement
Decision and Order Issued March 6, 2005**

The parents initiated the request seeking reimbursement of their costs associated with providing a full-time home-based program for the student who was identified under the disability category of autism. The hearing officer found that the district had provided the student with an IEP that furnished appropriate related services and instruction in a setting that would provide the student with a free appropriate public education. Moreover, the hearing officer found no basis to require the district to employ a methodology of the parents' choosing in this matter. Accordingly, the hearing officer dismissed all the parents' claims against the district.

Both parties were represented by attorneys.

Parent initiated the request.

**Case No. 004308 – Gail Tuler Friedman, Hearing Officer
Placement
Decision and Order Issued March 10, 2005**

The parents initiated the request to challenge the district's decision to change the student's placement from special education in a general education high school building to a private therapeutic setting. The student, who was eligible for special education under the category of ED, had a history of psychiatric diagnoses and difficulties in the special education programs offered in the public high school. The hearing officer found that the district was unable to provide the support the student required and ruled in favor of the private therapeutic placement.

The district was represented by an attorney.

Parent initiated the request.

**Case No. 004225 – Marian F. McElroy, Hearing Officer
Related Services
Decision and Order Issued March 14, 2005**

The parent initiated the request seeking the provision of a one-on-one aide for the student, who was attending an elementary charter school building with the disability category of autism. The student, who was placed in a self-contained room, had been provided with a one-to-one aide by the student's previous district of attendance. The hearing officer found that student required the aide given the student's history and evidence which showed that the student struggled in the absence of the aide. The hearing officer therefore ordered the district to convene an IEP meeting and to provide the individual aide requested by the parent.

The district was represented by an attorney.

Parent initiated the request.

**Case No. 003992 – Julia Quinn Dempsey, Hearing Officer
Standing, Motion to Dismiss
Order Issued March 15, 2005**

The parent initiated the request to require the district to re-enroll the student after the student dropped out of school and unsuccessfully completed a GED program. The student, who had previously been a special education student, was 18 years old and under no order of guardianship at the time the hearing was initiated. Upon the motion of the district, the hearing officer dismissed the claim as the parent lacked standing to initiate the hearing request.

The district was represented by an attorney.

Parent initiated the request.

**Case No. 004342 – Carolyn Ann Smaron, Hearing Officer
Failure to Prosecute Claim, Order of Dismissal
Order Issued March 15, 2005**

The parent initiated a hearing request, shortly after which the matter had been tentatively settled. After the parent failed to provide a written withdrawal of the hearing request, the hearing officer scheduled the matter for a prehearing conference. After several failed attempts to contact the parent, followed by the parent's failure to appear at the prehearing conference, the hearing officer dismissed the matter for lack of prosecution.

The district was represented by an attorney.

Parent initiated the request.