

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

**Issued Between November 1, 2002 and August 31, 2003**

**Case #002084 – Marie Bracki, Hearing Officer  
Placement, LRE, Payment of Services, Compensatory Services, and FAPE**

The primary issue was whether the district placements provided the student with a free and appropriate public education. The parent requested relief in the way of reimbursement for various outside services she had contracted and prospective compensatory education as relief for violations of procedure and failure to provide FAPE. The order supported the district's procedures and its efforts to provide FAPE, including considering outside experts' opinions regarding the child's diagnosis.

Compensation was ordered to the parent for an examination and testing by a recognized expert in Fragile X syndrome. All other relief was denied.

Both parties were represented by legal counsel.

Parent initiated request

**Case #002101 – Stephen Rubin, Hearing Officer  
Payment of Services**

The issue concerned reimbursement regarding an outside evaluation. The district was ordered to reimburse the parents for the uninsured portion of a psychological examination and the uninsured portion of laboratory charges associated with that examination.

The district was represented by legal counsel.

Parent initiated request

**Case # 002336 – Carolyn Smaron, Hearing Officer  
Placement**

The parents unilaterally placed the student in an out-of-state facility and requested a hearing to determine whether they should be reimbursed for said placement. The Hearing Officer initially found the local school district identified and evaluated the nature and severity of the student's suspected or identified disability on a timely basis and that it offered a FAPE in the LRE to this student based on the facts available to the school district at the time of placement recommendations.

Based upon subsequent events, the Hearing Officer found the parents had met the requirements for unilateral placement and consequently, the Hearing Officer ordered the district to reimburse the parent for costs associated with an out-of-state placement.

Both parties were represented by legal counsel.

Parent initiated request

**Case #002420 – Richard Brimer, Hearing Officer  
Conduct of Case Study Evaluation, Payment of Services, and Individualized Educational Program**

Upon entering high school, the student was underachieving in the classroom. Since the student studied nightly and had the potential for higher performance, this dilemma distressed the parents. To understand the scope of the problem and to seek remedies, the parents met with the teachers who did not offer any suggestions except to monitor his performance more closely. After receiving the first semester grades, the parents again met with the teachers. Their only suggestion was to "Put him on Ritalin". The parents took the student to his pediatrician for a physical examination and sought the advice of an educational consultant. After testing the student, the consultant suggested to the parents they request a case study evaluation. From her findings, the consultant indicated the student qualified as a child with other health impairments and a learning disability. During the eligibility conference, the school district offered to develop a 504 plan on behalf of the student but refused to develop an IEP on behalf of the student. At that point, the parents requested a due process hearing.

The decision determined the student was deprived a FAPE and the teacher did not make a good faith effort to educate the student to fulfill the benchmarks and goals specified in the IEP. It was ordered the school district reimburse the parents for a pediatric evaluation, the educational evaluation conducted, and any additional direct educational services after the student entered high school.

Both parties were represented by legal counsel.

Parent initiated request

**Case #002468 – Julia Quinn Dempsey, Hearing Officer  
Placement, Dispute over Sufficiency of Services, Payment of Services, and Individualized Educational Program**

The district claimed the parents placed the student in a private facility unilaterally without a 10-day notice and without valid emergency. Placement was in a non-approved school in the Berkshires in Massachusetts. Facility was not approved or licensed by any agency. The student showed up after 4 weeks of school, stayed 9 days and was removed by parents to Massachusetts. The 2002-2003 IEP was finalized after 12.5 hours of meetings and the parents rejected it. The parents alleged IEP violations. The 2001-2002 IEP was never finished. The IEP was found appropriate and in compliance with LRE and the law. Reimbursement for the facility was denied.

Both parties were represented by legal counsel.

Parent initiated request

**Case #002647 – Nancy Hablutzel, Hearing Officer  
Dispute over Sufficiency of Services**

The parents objected to services provided and to the psychologist who tested child. They requested more speech services, a central language evaluation, and other changes to the IEP. Hearing Officer found the district had provided FAPE and child was doing well in current placement.

Both parties were represented by legal counsel.

Parent initiated request

**Case #002791 – Alan J. Cook, Hearing Officer  
Dispute over Sufficiency of Services, Inadequate Notice to parent, and  
Related Services**

The parents are divorced. The mother has custody of the student. In this role, she has the right to make educational decisions for the student, including special education decisions. Pursuant to the divorce decree, the father retains certain rights. The Federal Court has ruled these rights include the right to obtain school records and the right to receive notice of school meetings that address the student's disability. The father received pertinent notices of IEP meetings and he received copies of his son's school records. His request for year-round services and a certain teaching method for dyslexia are denied because those are decisions for the mother to make. The district and mother do not need the father's consent to schedule IEP meetings although they should try to accommodate his schedule.

The district was represented by legal counsel.

Parent initiated request

**Case #002832 – Marian F. McElroy, Hearing Officer  
Placement**

The parent filed a due process hearing request stating the school district had denied the student FAPE by not implementing the student's IEP for the student's 7th and 8th grades, failing to implement Assistive Technology, failing to implement social services and the Behavior Plan, failing to properly identify the student's disability, failing to provide transition plan to High School and change of placement without parent notification and denial of meetings requested for review of IEP.

The Hearing Officer held the student derived minimal educational benefit from his instruction and the school district failed to implement the student's IEP. The parent requested placement in a private day school. The Hearing Officer denied placement at the private school because the school district had a program that could duplicate the services at the private school. The Hearing Officer ordered the student receive Extended Year Services and Assistive Technology.

Both parties were represented by legal counsel.

Parent initiated request

**Case #002841 – Robert Ladenson, Hearing Officer  
Conduct of Case Study Evaluation**

The school district requested consent to re-evaluate the student in order to determine whether processing deficits and /or other conditions that would qualify him to receive special services may be interfering with his ability to advance in the area of Reading. Based upon the evidence and testimony presented by the school district in connection with the due process hearing, the Hearing Officer ruled the school district proceed with its plan to reevaluate the student.

The district was represented by legal counsel.

District initiated request

**Case #002844 – Ann Breen-Greco, Hearing Officer  
Compensatory Services, Individualized Educational Program, FAPE, and  
Other Services**

The issues are whether the district's IEP denied the student a free, appropriate public education (FAPE) for the sixth grade year of 2001-2002 and if so, is the student entitled to compensatory education and whether the extended school year (ESY) program the district offered for summer 2002 violated the Individuals with Disabilities Education Act (IDEA) and constituted a denial of FAPE and if so is the student entitled to reimbursement for his unilateral placement and/or provision of services. The student is a fourteen-year-old boy with Down Syndrome and cognitive and verbal limitations. He was in a full inclusion program at an elementary school in his home school from kindergarten through fifth grade. In third grade, the student's IEP team recommended that he attend SED Educational and Life Skills (ELS) program. The parents, however, wanted him to remain in the neighborhood school and did so. By the student's fifth grade year, parents agreed that he needed the ELS program for sixth grade. Data are collected regularly as part of the program to assess goals.

Some staff changes occurred when the student was in sixth grade but other team members were consistent. During this time, the student had his required services. Data from a number of sources shows the student has made progress each year since third grade, with more progress being made once he was placed in the ELS program in sixth grade. For the summer of 2002, the IEP team recommended the student attend the SED ELS ESY program, which runs for six weeks, five days a week, half-days in the mornings, and ending four weeks before the beginning of the next school year. For a number of summers, including 2002 and 2003, the student's parents enrolled the student in a private religious school as they had in previous summers. The student did not receive any of his related therapies. Data taken after summer, winter, and spring breaks reflect no regression for the student in nearly all of his skill areas with very slight exception, showing improvement in some areas or the ability to recoup any lost ground very quickly. Summer regression/recoupment data showed little or no regression after a three-month absence from the ELS program. The parents filed for a hearing when the district refused to pay for the private camp. The issues are whether the district's IEP denied the student a free,

appropriate, public education (FAPE) for the sixth grade year of 2001-2002 and if so, is the student entitled to compensatory education and whether the extended school year (ESY) program the district offered for summer 2002 violated the Individuals with Disabilities Education Act (IDEA) and constituted a denial of FAPE and if so is the student entitled to reimbursement for his unilateral placement and/or provision of services. The parties stipulated as follows with respect to the issue of extended school year for the summer of 2003: Whatever the Hearing Officer decides with respect to the appropriate extended school year program for the student for summer 2002 would also apply to summer 2003. The hearing officer, after a review of all evidence, has made findings the district properly identified the student's needs and the district provided services to address his needs in the ELS program and offered an appropriate ESY program. The Hearing Officer concluded the IEP and its implementation comported with the requirements for a FAPE in accordance with IDEA and parents request for relief was rejected.

Both parties were represented by legal counsel.

Parent initiated request

### **Case #002848 – Carolyn Smaron, Hearing Officer Placement**

The parents allege the school district inappropriately concluded the student was no longer eligible for special education at the conclusion of a three-year re-evaluation. In support of their position, the parents introduced the testimony and evaluations of various independent evaluators, none of whom had observed the student in his classroom prior to reaching the conclusion the student was disabled and none of whom could provide any evidence the student suffered any adverse educational benefit from his alleged disabilities. The school district successfully met its burden that it had evaluated the student in a proper manner and that its evaluation conclusion was correct.

The district was represented by legal counsel.

Parent initiated request

### **Case #002851 – Francis Nowik, Hearing Officer Independent Evaluation**

The district requested a due process hearing after denying the parent's request for an independent educational evaluation at public expense. The parents claimed the IEP developed did not address the child's emotional needs that were the result of being bullied at school. The Hearing Officer found the district's evaluations were appropriate and had considered and addressed the child's needs.

The district was represented by legal counsel.

District initiated request

**Case #002870 – Richard Brimer, Hearing Officer  
Eligibility Criteria**

The parent requested a due process hearing to determine whether the school district should be required to provide at public expense an independent educational evaluation (IEE). After reviewing the student's records, discussing his academic skills with his previous and current teachers and after reviewing a previous eligibility determination, a multidisciplinary team recommended the student did not warrant another eligibility determination. After the rejection by the multidisciplinary team (which included the parent, a representative and other relatives), the parent requested an independent educational evaluation and compensatory educational services for the time the student missed from school because of problems associated with an automobile accident. It was the order of this Hearing Officer that the student did not warrant another eligibility determination and the parent did not justify a request for an independent educational evaluation. Compensatory education was not granted.

The district was represented by legal counsel.

District initiated request

**Case #002886 – Richard Brimer, Hearing Officer  
Placement and FAPE**

The student attended an early childhood special education program in his home school district. In his final year in the early childhood program, the school district proposed placing the student in a neighboring school district's self-contained special education program. Enrolled in this program are students who are achieving at approximately the same level as this student. The parents challenged this proposed placement and instead recommended the student remain in his home school district and spend part of the school day in a special education and related services program and part of the school day in an inclusion general education program. The parent requested a due process hearing to resolve the placement dispute. The court decisions of *Rowley*, *Daniel R. R.*, *Greer*, and *Oberti* were used to discern the appropriate placement for the student. It was determined the school district had met the standards specified in these cases and ordered the student be placed in the special education program in a neighboring school district for the 2002-2003 school year.

Both parties were represented by legal counsel.

Parent initiated request

**Case #002896 – Alan J. Cook, Hearing Officer  
Placement, Eligibility Criteria, Independent Evaluation, and LRE**

The issue involved the parent's request the student be placed in a self-contained learning disability (LD) class, undergo an independent evaluation and received compensatory education. The district's eligibility determinations of LD, BD, OHI, and S/L are proper. The student's BMP was designed and revised to respond to serious misbehavior. His suspensions from school did not constitute a change in placement. The parent's request the district pay for an independent evaluation is denied. The district's

request the student be placed in a therapeutic day program is denied. The parent's request for eight days of compensatory education is denied.

Both parties were represented by legal counsel.

Parent initiated request

**Case #002914 – Gail Friedman, Hearing Officer  
Placement**

The parent requested the hearing asserting the district's proposed placement of student in a therapeutic day school was inappropriate. After hearing evidence and reviewing documents, it was concluded the district's proposed placement of the student in a therapeutic day school was appropriate.

The parent appeared *pro se* on the first day of the hearing and failed to appear on the second day of hearing.

The district was represented by legal counsel.

Parent initiated request

**Case #002926 – Richard Brimer, Hearing Officer  
Conduct of Case Study Evaluation**

The district requested a due process hearing to determine whether the student should be re-evaluated in an effort to provide the student with an appropriate education. Since enrolling in school, the student exhibited academic and behavioral problems. While in the first grade, the student failed language arts and mathematics and was required to repeat the first grade. At that point, the student was referred for an eligibility determination. He was found eligible for special education and related services and he was classified as learning disabled. Subsequently, the student was placed in a learning disabilities program. In that program, the student began to exhibit several unacceptable and severe behaviors some of which involved a female student in his classroom. The school district became increasingly concerned with the nature and frequency of the student's behaviors, and requested permission from the parents to re-evaluate the student. The parents did not respond to the school district's request. After several attempts, the school district requested a due process hearing. The Hearing Officer granted permission for the school district to re-evaluate the student.

The district was represented by legal counsel.

District initiated request

**Case #002937 – Francis Nowik, Hearing Officer  
Placement, Dispute over Sufficiency of Services, Inadequate Notice to  
parent, Independent Evaluation, and Payment of Services.**

The parents requested a hearing seeking reimbursement for an independent evaluation and vision therapy services for their son. They also alleged the district failed to inform properly them of their procedural rights and the IEP developed did not contain measurable goals. The Hearing Officer found the district had provided the appropriate services to the student and denied the parents requests for reimbursement. The parents were given notice of all IEP meetings and provided with the opportunity to have those rights explained to them. The IEP's goals were measurable. The Hearing Officer found the district had provided the appropriate services to the student and denied the parent's requests for reimbursement.

Both parties were represented by legal counsel.

Parent initiated request

**Case #002954 – Marie Bracki, Hearing Officer  
Placement, Compensatory Services**

The main dispute was whether the IEP developed and placement offered by the school district provided a FAPE. There was no dispute about the identification and diagnoses or the need for services and placement. The parents had been providing a home-based ABA program since September 2002 because they did not believe the district could provide an adequate placement. The order noted the most recent IEP was designed to provide meaningful educational benefit for the child, but for a child with the array of problems with which this one presents it is difficult to determine what is appropriate, best, or ideal. Compensatory education was ordered for the homebound program for the duration of the academic year and retroactively based on significant gaps in the child's previous educational programming.

Both parties were represented by legal counsel.

Parent initiated request

**Case #002964 – Francis Nowik, Hearing Officer  
Placement, Dispute over Sufficiency of Services, Payment of Services,  
Compensatory Services, Related Services, Individualized Educational  
Program and FAPE**

The parents requested a due process hearing alleging the placement of their son in a regular classroom with 200 minutes per week of pullout resource and 40 minutes per week of speech and language services would not provide FAPE. They sought reimbursement for the cost of their placement of son in a private school. The Hearing Officer found the services offered by the district were not reasonably calculated to confer an educational benefit to the student. The district was ordered to reimburse the parents the cost of the private placement.



Both parties were represented by legal counsel.

Parent initiated request

**Case #002997 – Richard Brimer, Hearing Officer  
Independent Evaluation**

On May 31, 2002, the parent requested an independent education evaluation (IEE) at public expense on behalf of the student. The request for an IEE was based on a 30-point lower intelligence quotient obtained from a recent testing session compared to a similar test given three years earlier. Even though the school district believes their testing was accurate and appropriate it agreed to pay for the IEE. The parent selected an evaluator who did not satisfy the criteria established by the school district. Instead, the school district submitted the names of three acceptable examiners to the parent. The parent objected to the recommended examiners and requested a due process hearing to resolve the dispute. Even though the independent examiner exceeded the cost criteria established by the school district, the needs of the student required a more extensive evaluation than what the school district proposed. The Hearing Officer ordered the evaluation be conducted and expenses paid by the district for the evaluation.

The district was represented by legal counsel.

Parent initiated request

**Case #003012 – Stacey Stutzman, Hearing Officer  
Placement, LRE, and Other**

In the case where the parents were divorced, the mother requested due process hearing on issue of LRE. The father agreed with the district's recommendation of self-contained cross-categorical classroom with mainstreaming for lunch only with third grade students labeled "EBD" by the district. Mother wanted inclusion 100% of school day with a full-time aide under the direction of a behavior therapist.

The district submitted a pre-hearing motion to dismiss mother's request for lack of standing. That motion was denied based on orders from Domestic Relations Judge in the divorce case and on a recent 7<sup>th</sup> circuit decision.

Mother submitted her witness list past the disclosure deadline and did not ask for subpoena forms until 5 days before the hearing. She was allowed to testify herself, but not to call a witness. The mother was allowed to cross-examine witnesses presented by the district. The parties referred to mother's 28 pages of documents and to the district's 526 pages which mother adopted.

The custody agreement and subsequent order from Domestic Relations Court created ambiguities as to mother's status on making educational decisions and challenging district's special education plan for student. Mother was given a hearing on the merits.

Mother's request for placement of student in a regular classroom 100% of the school day with full-time aid working under the direction of the behavioral therapist was denied.

There was no question of fact as to the additional issue presented for the first time at the pre-hearing conference by the mother. She alleged the district failed to provide FAPE by not using regular 3<sup>rd</sup> grade curriculum to educate the student. The district's teacher testified that she did use the regular curriculum for the student. There was no evidence to refute her testimony.

The district was represented by legal counsel.

Parent initiated request

**Case #003034 – Marian F. McElroy, Hearing Officer  
Placement**

The parents of a nine-year-old student diagnosed with autism requested the hearing. The parents were seeking placement for their child at a private therapeutic day school. At an IEP meeting convened on September 4, 2002, it was the consensus of the team to place the student at the private day school. The principal disagreed and notified the parents of a second IEP meeting to revisit the placement decision.

The parents alleged the IEP developed at the second meeting denied the student a FAPE and there were procedural violations that resulted in a denial of FAPE.

The Hearing Officer found the IEP developed for the student denied him a FAPE and the appropriate placement for the student was the private therapeutic day school.

The district was represented by legal counsel.

Parent initiated request

**Case #3042 – Robert Ladenson, Hearing Officer  
Placement**

The parent contended the current educational placement of the student, who is severely autistic, does not provide him a free appropriate public education in the least restrictive environment. The parent sought an order from the Hearing Officer directing the school district to develop and implement an appropriate program for the student at his neighborhood school for at least a portion of the school day. Upon a full review of the evidence and testimony presented, the Hearing Officer found the student's current placement educationally appropriate and in the least restrictive environment for him.

The district was represented by legal counsel.

Parent initiated request

**Case #003061 – Stephen Rubin, Hearing Officer  
Conduct of Case Study Evaluation**

The issue presented was regarding whether the district may conduct a triennial re-evaluation of the student without parental consent. The parents were duly notified about the need for the tri-annual evaluation but failed to respond as requested by the district.

The district was ordered to conduct the tri-annual re-evaluation and to make placement accordingly.

The district was represented by legal counsel.

Parent initiated request

**Case #003065 – Julia Quinn Dempsey, Hearing Officer  
Conduct of Case Study Evaluation, Independent Evaluation, Payment of  
Services, Revocation of Consent, and Other**

Three issues were presented. The first issue was to determine whether a parent could request an independent evaluation for a student found non-special education eligible nineteen months prior to the request for an independent evaluation. A second issue was to determine whether a parent could file for due process alleging the district has failed to provide an appropriate case study evaluation nineteen months earlier while at the same time withholding consent for a new case study evaluation by the district and requesting only an independent evaluation. The final issue was to determine whether the district could do a new case study evaluation without the mother's consent.

The CSE and MDC conducted by the district in March 2001 found the student ineligible for special education services. In the summer of 2002, the district tried to get consent for re-evaluation and the mother refused. On October 10, 2002, the mother requested an independent evaluation. Mother had three doctors and a lawyer at some point in the proceedings. The mother waited too long (nineteen months) from the first case study MDC to disagree and request an independent evaluation. The mother tried to withdraw on the eve of the hearing and request mediation but it was denied. The district also requested several months before to do an re-evaluation on the student with a different school evaluation team. The student's report card and failing grades were found to justify a re-evaluation and the district was ordered to do so. The mother's consent for a re-evaluation was not required.

The district was represented by legal counsel.

Parent initiated request

**Case #003113 – Nancy Hablutzel, Hearing Officer  
Payment of Services**

The parents requested reimbursement expenses for therapy and schooling at a park district program they sent their child to during 2002-2003 school year.

The Hearing Officer found the district had offered FAPE, but the parents chose another program. The district is to reimburse parents for speech services from a private provider for services between August 2002–February 2003 per agreement. The parents had not consented to services, so district could not implement them.

The district was represented by legal counsel.

Parent initiated request

**Case # 003131 – James Wolter, Hearing Officer  
Placement**

The parents request a due process hearing to collect reimbursement for the private special education day school they sent their child to without district agreement. The district claimed their proposed special education placement in a self-contained special education program in a regular school setting was appropriate to the student's needs. Neither the facts of this case nor the law supported the parent's request for reimbursement of their unilateral private school placement.

The district was represented by legal counsel.

Parent initiated request

**Case #003137 Richard Brimer, Hearing Officer  
Placement of student**

The issue in question involved whether a due process hearing requested involving an Junior High school student was relevant since the student was now a high school student. An order of dismissal was issued by the Hearing Officer since the student was no longer in Junior High school.

The district was represented by legal counsel.

Parent initiated request

**Case #003138 Gail Friedman, Hearing Officer  
Conduct of Case Study Evaluation, Discipline, Payment of Services,  
Related Services, and Other**

The parents requested a due process hearing alleging the district failed to observe state intervention guidelines in implementing discipline techniques, staff training, and restraint procedures; failed to provide an appropriate functional analysis of the student's behavior; failed to provide an appropriate behavior intervention plan with positive reinforcement; failed to provide the speech language services; failed to provide an occupational therapy evaluation; failed to notify the parents when removing the student from school and of school suspensions; failed to conduct a proper evaluation, taking into consideration the student's disabilities, to adequately consider the suggestions of Northwest Special Education Co-op, and to consider hiring a private consultant to assist with student's individual education plan needs, and failure to provide adequate education services to the student from December 20, 2001, and until May 20, 2002. The parent has requested reimbursement for private psychological services, compensatory services equal to the number of school days missed in whole or part, speech/language and occupational therapy evaluations by school personnel, and comprehensive training in students with ADHD and behavior intervention programs for all staff who have contact with special education students.

The Hearing Officer determined the student was progressing well in his present placement and there was no evidence that the student's improvement was the result of private therapy. Therefore, reimbursement was not warranted. It was found that the

student was not in need of speech/language and occupational therapy evaluations, that he had maintained his level of performance in school with after school and homebound tutoring. As a result, the student was not entitled to compensatory services. Finally, the Hearing Officer ruled the staff had undergone training and were continuing to participate in training dealing with appropriate behavior interventions.

Both parties were represented by legal counsel.

Parent initiated request

**Case #003158 – Alan J. Cook, Hearing Officer  
Residency**

The district requested a due process hearing be dismissed for a student who no longer resided in the district. The district's Motion to Dismiss was granted. The district did not have educational responsibility for a student who was not a resident.

The district was represented by legal counsel.

Parent initiated request

**Case #003161 – James Wolter, Hearing Officer  
Placement, Conduct of Case Study Evaluation, Other**

The parents disagreed with a Hearing Officer's decision. They requested a second due process hearing by another Hearing Officer.

A second due process hearing is not a "court of competent jurisdiction" to rehear a due process hearing that has been decided. A due process hearing decision and order is binding on all parties including a subsequent Hearing Officer unless overruled by a court of competent jurisdiction or the circumstances of the placement of the student substantively change. The second request for a due process hearing was dismissed with prejudice.

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

Parent initiated request

**Case #003165 – Robert Ladenson, Hearing Officer  
Placement, Conduct of Case Study Evaluation, Discipline, and Inadequate  
Notice to parent**

The parent requested a due process hearing alleging the school district violated the student's right to a free appropriate public education in the least restrictive environment on the following five grounds: failure to identify the student as a child with an educational disability; inappropriate discipline of the student; inappropriate and overly restrictive placement; failure to notify, and invite participation of parent in meetings to develop Interim Behavior Intervention Plan for the student; placement of defamatory statements in the student's school record.

The parent requested the Hearing Officer to order the school district to remove the statements to which she objected from the student's school record.

After full review of the evidence and testimony presented in the case, the Hearing Officer ruled the school district did not violate the right of the student to a free appropriate public education in the least restrictive environment for any of the reasons contended in grounds (1) through (4) immediately above. In regards to ground (5), the Hearing Officer concluded the parent's contentions did not concern the right of the student to a free appropriate public education in the least restrictive environment and he lacked the requisite jurisdictional authority to grant the relief the parent requested.

The district was represented by legal counsel.

Parent initiated request

**Case #003170 – Charles Aschenbrenner, Hearing Officer  
Placement, Conduct of Case Study Evaluation, Dispute over Sufficiency of  
Services, Compensatory Services, and a FAPE**

The parents' requested the due process hearing to determine whether the school district failed to train school personnel concerning the student's educational and behavioral needs and intervention process, whether the school district failed to provide a functional assessment and behavior management plan, whether the school district failed to provide FAPE during the period the student missed school in the fall and winter of the 2002-2003 school year resulting in a need for compensatory education.

The student was diagnosed with Down Syndrome. For special education purposes, the student's disabilities included mild to moderate retardation, speech and language impairment, and fine motor delays. The student also demonstrated defiant behavior resulting in transitioning difficulties and physical distractions in the school setting.

Because of a school incident where the student was injured, the parents unilaterally withdrew him from his public school placement and provided "home schooling" until a mediated school placement was determined. Mediation concerning this case continued up to the first day of the hearing resulting in the consideration of the following issues and relief sought.

The Hearing Officer ruled the preponderance of evidence demonstrated the school district provided the student with a FAPE utilizing trained personnel in a LRE setting.

Both parties were represented by legal counsel.

Parent initiated request

**Case #003172 – Carolyn Ann Smaron, Hearing Officer  
Conduct of Case Study Evaluation**

The school district requested a due process hearing to gain consent for evaluation of a student. The district alleged the student's disruptive behavior in the classroom suggested that he might suffer from a disabling condition which if properly evaluated would result in

a finding the student was eligible for special education and related services. As required by law the local school district sought the consent of the parent for said evaluation. The parents refused and persisted in that refusal at the hearing. The Hearing Officer found the documents submitted and the testimony offered by the local school district were credible and persuasive. There was enough evidence in the record to support an order overriding the refusal of the mother.

The district was represented by legal counsel.

District initiated request

**Case #003220 – Stacey Stutzman, Hearing Officer  
Eligibility Criteria, Independent Evaluation, Payment of Services,  
Compensatory Services, Related Services, Individualized Educational  
Program, and Other**

The parents requested a due process hearing alleging the district failed to provide FAPE to their child. They claimed the district resource teacher lacked sufficient training and improperly implemented the Wilson Reading curriculum while instructing their child with a learning disability and requested the district reimburse them for private Wilson tutors hired for the summer and during the school year. Additionally, they asked for reimbursement for the cost of private psychological and audiological evaluations. The Hearing Officer ruled the evidence demonstrated the district offered FAPE and tried to work with the parents regarding their desires and concerns. The actions taken by the parents were done unilaterally and not in accordance with regulations.

The parent's request for reimbursement and compensatory education was denied.

Both parties were represented by legal counsel.

Parent initiated request

**Case #003228 – Marie Bracki, Hearing Officer  
Independent Evaluation and Other**

The due process was requested by the parent. The matter that was proper for consideration was the issue of re-evaluation of the student. The district was ordered to arrange and pay for an independent neuropsychological evaluation of the student by a professional selected by the parent and a functional behavior analysis was to be completed within the same time frame. All other matters were dismissed since they had been raised in previous requests for due process and resolved through a mediation agreement. The parental concerns with enforcement were directed to ISBE for oversight.

The district was represented by legal counsel. The parent-attorney represented himself.

Parent initiated request

**Case #003230 – Stacey Stutzman, Hearing Officer  
Placement and Eligibility Criteria**

The district requested a due process hearing on issues of eligibility and initial special education placement due to the guardian’s failure to consent to placement in a self-contained special education classroom with mainstreaming for P.E., lunch/recess, and music. The student was eligible to receive special education and related services due to specific learning disability and O.H.I. (for ADHD). The Hearing Officer ruled the student shall receive direct individual services outside the regular education second grade classroom for 90 minutes per day. The district’s request to place the student in a self-contained classroom for more than 60% of the day was denied.

The district was represented by legal counsel.

District initiated request

**Case #003249 - Alan Cook, Hearing Officer  
Eligibility Criteria and Independent Evaluation**

The parent requested a due process hearing alleging their child, who they claim is learning disabled, was inappropriately expelled from school. The parents requested an independent educational evaluation for their son. The district claimed they did not have knowledge the student was eligible for special education and related services before he was expelled on January 27, 2003. He was found, by the district, to be ineligible for special education services. Hearing Officer ruled the district properly denied the parents’ request for an independent educational evaluation.

The district was represented by legal counsel.

Parent initiated request

**Case #003273 - Julia Quinn Dempsey, Hearing Officer  
Placement, LRE, and Other**

The mother claimed her son needed a full-time self-contained autism placement in what she characterized “high functioning” autism. She refused cross-categorical placement and did not want him in a regular education class with a full time 1:1 aide. Reports from the University of Illinois regarding her son indicated his disability was not autism or PDD spectrum but rather severe expressive and receptive language disorder SLD. The mother disagreed claiming her son was autistic. She did not understand that “high functioning” autistic kids were generally in LRE placement of cross-category or mainstream not gathered in “high functioning” autistic classes.

The decision ordered the student into a cross-categorical placement for the next school year with an aide and increased speech/language and OT services plus more social work. The district was also to begin to mainstreaming the student by the second semester. No autism program was required.

The district was represented by legal counsel.



Parent initiated request

**Case #003275 - James Wolter, Hearing Officer  
Compensatory Services and Individualized Educational Program**

The issues involved were whether the district failed to provide the student with the special education services; he was entitled after he transferred schools. The parent sought compensatory education and the implementation of the student's IEP.

The district acknowledged that it failed to provide the student with special education services per his IEP for a period of approximately four months. An IEP team meeting was held at which the district made provision for compensatory education. The district provided the student with computer software, a talking dictionary, and a Reading pen. The district agreed to provide the student with books on tape but had to order them.

The district was ordered to provide ISBE with evidence that it ordered books on tape for the student and provide evidence the high school the student will be attending next school year was informed of his need for books on tape.

The district was represented by legal counsel.

Parent initiated request

**Case #003282 – Stephen Rubin, Hearing Officer  
Placement, Graduation, Termination of Services, Related Services, and  
Individualized Educational Program**

The parents requested a due process hearing to determine whether the student should be allowed to graduate from high school. The student completed credits for graduation and the IEP in place was complied. The proposed IEP was appropriate with no procedural impediments. The student graduated from high school.

The district was represented by legal counsel.

Parent initiated request

**Case #003295 – Gail Friedman, Hearing Officer  
Conduct of Case Study Evaluation**

The district requested the due process hearing after the parent refused to consent to an initial case study evaluation of the student. When the parent refused to participate in a pre-hearing conference and the documents regarding the procedure sent by the district to the parent by certified mail to their last known address were returned unclaimed, the district filed a Motion for Summary Judgment requesting that it be allowed to conduct the case study evaluation. The district was ordered to conduct a case study evaluation.

The district was represented by legal counsel.

District initiated request

**Case #003318 – Marie Bracki, Hearing Officer  
Discipline and Other (Expedited)**

The hearing was requested to determine whether the behavior in question was a manifestation of the student's disability because of a pending expulsion hearing. Two bags of cocaine were found in the student's locker. The student had been diagnosed with a learning disability and had average intellectual and verbal ability. The parent's position was the student was verbally impulsive and allowed another student to place the substance in his locker. The order rendered indicated the behavior was not a manifestation of the student's disability.

Both parties were represented by legal counsel.

District initiated request

**Case #003343 – Vivian Gordon, Hearing Officer  
Conduct of Case Study Evaluation and Other**

The parent refused consent for the school district's re-evaluation. The school district requested a due process hearing on the issue. The school district presented sufficient evidence to determine a re-evaluation is necessary to provide the student with a free appropriate public education and will help the school district identify appropriate services for the student. Due to the fact the parent failed to attend the hearing after numerous attempts at requesting her attendance, an ancillary issue was whether the due process hearing could be held without the mother's attendance or representation. It was found that a party's attendance at a due process hearing is not required to proceed with a due process hearing so long as sufficient notice and opportunity were provided to the party in advance of the hearing.

The district was represented by legal counsel.

Parent initiated request

**Case #003349 – Carolyn Smaron, Hearing Officer  
Placement**

The parents requested a due process hearing alleging the student has reached the goals and objectives set forth within the IEP and the student should be transitioned to a less restrictive placement that can meet the needs of a gifted student. The parties agreed the student was ready to transition from a therapeutic day school but disagreed as to the location of the regional gifted center where the student would be placed. The parents alleged the last regional gifted center attended by the student was his home school. The school district alleged the selection of a regional gifted center was an administrative function solely within the province of the school district. The Hearing Officer held that by law and by consideration of the facts specific to this student the school district's choice of regional gifted center was correct.

The district was represented by legal counsel. The parents were represented by an advocate.

Parent initiated request

**Case #003414 – Francis Nowik, Hearing Officer  
Placement, Discipline, and Individualized Educational Program**

A nineteen-year-old student filed a request for a due process hearing alleging the manifestation determination review was flawed since the IEP developed for him was inappropriate. The Hearing Officer found the IEP was appropriate and the manifestation determination review conclusion the student's misconduct of bringing drugs to school was not related to his disability was correct.

The district was represented by legal counsel and the student was represented by his mother.

Student initiated request

**Case #003435 – Kathleen Dillon Narko, Hearing Officer  
Conduct of Case Study Evaluation**

The school district requested a due process hearing. The school district evaluated the student and found him eligible for special education as learning disabled. The student's guardian refused consent to student's initial placement in special education. The school district requested the due process hearing to override the guardian's failure to consent to the initial placement in special education. The impartial Hearing Officer granted the guardian's request to dismiss for lack of jurisdiction. The Hearing Officer found the OSEP opinion *Letter to Cox* to be persuasive when it stated, "The IDEA does not permit public agencies to initiate a due process hearing if a parent refuses to consent to the initial provision of special education and related services." Related precedent further supports the OSEP letter.

The guardian filed a request for a due process hearing on the subject of retention. The Illinois State Board of Education joined the guardian's request with the pending due process request from the school district. The guardian, who is an attorney, stated the due process request did not involve any special education issues. The impartial Hearing Officer's jurisdiction is limited to resolving special education issues. Accordingly, the guardian's request for a due process hearing was dismissed. The school district's request for a due process hearing was dismissed.

The district was represented by legal counsel.

Guardian initiated request

**Case #003455 – Gail Friedman, Hearing Officer  
Placement, Conduct of Case Study Evaluation**

The district requested the due process hearing after parent refused to consent to further evaluations of the student. When the parent continued to refuse to participate in the prehearing conference and again refused to consent to further evaluations, the district filed a motion for summary judgment requesting that it be allowed to conduct further

assessments in the areas of social/emotional status, general intelligence, and academic performance. The district was instructed to conduct a re-evaluation of the student.

The district was represented by legal counsel.

District initiated request

**Case #003474 – Stacey Stutzman, Hearing Officer  
Conduct of Case Study Evaluation, Dispute over Sufficiency of Services,  
Independent Evaluation, Payment of Services, Compensatory Services,  
Related Services, Individualized Educational Program, FAPE, and Other**

The parents requested a due process hearing to reimburse them for a private neurocognitive assessment that they had done before signing consent for triennial evaluation. They allege the school psychologist who learned of the private evaluation when she was about to begin her intelligence testing, decided to accept the private evaluators WISC-III scores, and chose not to do further I.Q. testing. No paid bills were introduced regarding the private testing. The IEP team provided notice and conducted a meeting to consider the private evaluation. The parents wanted the student's classroom assistant to be an "1:1 inclusion aide." They wanted another student removed from the class list for the upcoming school year so he would not be in the same class with the student. The parents requested 90 minutes with the LD Resource teacher instead of 60, and compensatory speech / language therapy, and reimbursement for summer tutoring from a person they hired instead of accepting the district's ESY. That person was not a teacher, but a nurse. The Hearing Officer ruled for the district for all issues except the district was ordered to provide seven - 60 minutes speech and language therapy sessions to compensate for therapy not provided when school speech and language therapist was on maternity leave.

The district was represented by legal counsel.

Parent initiated request

**Case # 003488 – Francis Nowik, Hearing Officer  
Residency**

The parents filed a request for a due process hearing on behalf of the 18-year-old student. The school district in which the parents and student reside tuition the student into the school district named in the request. The attempt to substitute the student for the parents as the party making the request for the due process hearing was meaningless since neither the parents nor the student resided in the school district named. The Hearing Officer found that neither the parents nor the student had standing to request a hearing from the non-residency district. The reasons given for the request related to the unfairness of the student's suspensions, grading, threats, and lack of availability of school staff to discuss the matter with the parents. The Hearing Officer found the reasons for the requested hearing was outside the scope of his authority.

The district was represented by legal counsel.

Parent initiated request