

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

**Issued Between September 1, 2003 and December 31, 2003**

**Case # 2907 - Charles Aschenbrenner, Hearing Officer  
Dispute over Sufficiency of Services,**

The parents filed for a due process hearing but failed to participate in the rescheduled pre-hearing conference. The parents informed the school district that they were moving out of state and would be withdrawing their request for the hearing. The Hearing Officer and the school district never received the parent's request for withdrawal after the parents moved. Consequently, the school district filed a Motion to Dismiss with the Hearing Officer on July 28, 2003. The Motion to Dismiss was granted. Further, it was noted by the Hearing Officer that the parents were inconsiderate to the school district, the Hearing Officer, and the Illinois State Board of Education in not following through with their obligation to properly inform and bring closure to their request for a due process hearing.

The district was represented by legal counsel.

Parent initiated request

**Case #002992 – Charles Aschenbrenner, Hearing Officer  
Placement, Dispute over Sufficiency of Services, Independent Evaluation,  
LRE, Compensatory Services, Related Services, Individualized Educational  
Program, FAPE, Comparable Services**

The mother of twin girls with Rett Syndrome requested the due process hearing alleging the school district failed to provide a Free & Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE) for her daughters. She contended the school district failed to individualize the twins' IEPs, failed to include specific levels of performance, and failed to provide trained staff implement their IEPs. The mother claimed the school district did not provide a curriculum on a full-day basis equal to non-disabled children nor did it promote employment and independent living. She alleged the school district failed to provide adequate assistive technology appropriately at school and at home. Finally, the mother claimed the school district did not properly evaluate the twins for appropriate motorized wheelchairs and independent use of computers and other devices, nor did they provide financial assistance for the twins wheelchairs used at school.

The Hearing Officer ruled that the school district did provide the twins with FAPE in the Least Restrictive Environment. The relief requested by the parent was denied.

Both parties were represented by legal counsel.

Parent initiated request

**Case #003013 – Vivian Gordon, Hearing Officer  
Related Services, Transition Plan**

The major issue in this case was whether the school district was required to provide the student with transportation to a vocational school course that was noted on the student's IEP's transition plan. The course was modified to accommodate the student's disabilities. The course was offered to the general school population with the caveat that transportation would not be provided by the school district. The Hearing Officer determined that since the transition plan is a part of the IEP, the student's preferences and interests should be taken into account under the federal law. The vocational course, as part of the IEP's transition plan is a part of the student's special education. Since the student was unable to drive herself to the course, in part due to her disability, the school district was required to provide transportation as a related service to the vocational school. Since cosmetology was listed among other courses in the student's IEP and it was written into the student's transition plan as an employment goal, transportation is a required related service under the IDEA for this student.

Both parties were represented by legal counsel.

Parent initiated request

**Case #003306 – Stacey Stutzman, Hearing Officer  
Placement, Eligibility Criteria, Independent Evaluation**

The district requested a due process hearing to declare the student eligible under the emotional disturbance (ED) category and to place the student in a self-contained ED classroom absent parental consent. The district also requested that reimbursement for IEE be denied.

The district's request for ED eligibility and placement was denied. The student continued to be eligible for LD services and to be educated in regular classroom with LD resource and related services. The district was required to reimburse for IEE.

Both parties were represented by legal counsel.

District initiated request

**Case #003415 – James Wolter, Hearing Officer  
Placement**

The parents allege a change in placement from a partial-day to a full-day instructional placement occurred without benefit of an IEP. Further, the parents allege FAPE was denied when the school sent the student home when the teacher was absent. The Hearing Officer determined the alleged issues did not occur. The school offered additional school social work services and an extended school year, which was appropriate.

Both parties were represented by legal counsel.

Parent initiated request

**Case #003419 – Marie Bracki, Hearing Officer  
Placement and Eligibility Criteria**

The most significant matter to be considered was the appropriate placement of the student. The district proposed an instructional program for the student based on evaluations completed by the district and an area hospital to determine if the student fell under the definition of emotional disturbance. Concerns for the student's violent outbursts resulting in harm to staff precipitated the district's second evaluation and were ongoing to the time of the hearing. The mother requested the hearing but did not submit documents and did not attend the hearing. She had consulted counsel but no one contacted the Hearing Officer regarding representation or a request for continuance or any other consideration. The district demonstrated that it followed the procedural safeguards of IDEA and proposed an IEP and placement that met the student's needs. The district was ordered to implement its IEP.

The district was represented by legal counsel.

Parent initiated request

**Case #003428 – Carolyn Smaron, Hearing Officer  
Placement, Eligibility Criteria, and Payment of Services**

The parents alleged that the school district did not commence an evaluation of the student in a timely manner nor did the school district conduct an appropriate evaluation. Specifically, the parents contended the school district did not comply with its "child find" obligations under IDEA. As a consequence of the actions of the school district, the parents unilaterally placed the student at Elan School. The Hearing Officer ruled the evidence and testimony did not support the parents' contention that the school district did not comply with its "child find" obligations. However, in all other respects, the Hearing Officer ruled with the parents' contention that the student should have been eligible for special education as an emotionally disturbed child. Further, the evidence and testimony supported the parents' unilateral private placement and reimbursement was ordered.

Both parties were represented by legal counsel.

Parent initiated request

**Case #003459 – Ann Breen-Greco, Hearing Officer  
Free Appropriate Public Education (FAPE)**

The due process hearing request was made by the mother asserting a lack of FAPE and requesting compensatory education, extended school year, and services. The 20 1/2 year old student was multiply impaired, diagnosed with microcephaly resulting in mental retardation, with a low IQ and limited verbal ability. In 1999, despite the district's recommendation of the district high school, the mother successfully advocated for placement of the student in a public, separate school in another district, serving students with moderate to severe cognitive disabilities and behavior issues, from pre school through twelfth grade, up to age twenty-one. The program was structured, with behavioral supports and procedures in place. The student has remained at the School for five years. In March 2004, the student turns 21 and will graduate at the end of the

current school year. Mother never objected to goals and objectives in the IEP. The Hearing Officer concluded that the IEP and its implementation comported with the requirements for a FAPE in accordance with IDEA and provided the student with educational benefit. Mother's request for relief was rejected.

The district was represented by legal counsel.

Parent initiated request

**Case #003465 – Kathleen Dillon Narko, Hearing Officer Services**

The parents requested a due process hearing. The parents requested a 40 hour-per-week home-based Applied Behavioral Analysis Program (ABA), revised speech goals, an ABA consultant, and parent training in ABA. The request for a homebound ABA program was denied. The district was ordered to provide ABA training through a consultant to classroom teachers.

Both parties were represented by legal counsel.

Parent initiated request

**Case #003542 – Alan Cook, Hearing Officer Graduation**

The student with "ED" eligibility disputed the appropriateness of his graduation from high school. The district's Motion to Dismiss was denied due to a finding that the student could contest the validity of his graduation. The Hearing Officer found the student met the criteria for receiving a regular high school diploma. The student's request for a stay-put order was denied since he did not have a current educational placement when the request for a due process hearing was filed.

The district was represented by legal counsel.

Parent initiated request

**Case #003568 – Julie Quinn Dempsey, Hearing Officer Graduation, Termination of Services**

An 8<sup>th</sup> grade student was found ineligible for special education services after a case study evaluation and MDS/IEP conference. Four months later the student graduated from 8<sup>th</sup> grade. Mother requested a due process hearing 3 weeks later, stating that she was not satisfied with the meeting, that it was unprofessional, and that they did not test for everything they should have. She then enrolled the student in the high school district and after a preliminary pre-hearing conference with the Hearing Officer and the school attorney, refused any further cooperation with the process. The school district filed a Motion to Dismiss on grounds the Hearing Officer lacked jurisdiction because of the graduation and failure of parent to state any grounds for a hearing. The motion was allowed since the due process request was not timely and no grounds were stated.

The district was represented by legal counsel.

Parent initiated request

**Case #003570 – Carolyn Smaron, Hearing Officer  
Compensatory Services, Placement, FAPE**

The parents requested the due process indicating a disagreement as to the level and location of the services to be provided. The parents of an autistic child alleged the current school placement as inappropriate to meet the needs of the student and indicated a private placement as appropriate. The Hearing Officer determined the current school placement was appropriate but required modification of the student's IEP plan to address the needs of the student.

Both parties were represented by legal counsel.

Parent initiated request

**Case #003582 – Stacey Stutzman, Hearing Officer  
Placement, Discipline, and Compensatory Services**

The student's temporary guardian requested a due process hearing to consider continued education at his current residential placement at district expense, and compensatory education due to illegal school suspensions beyond 10 days without provision of services for the 15-year-old boy labeled ED and LD. The student was placed in Eau Claire Academy by the juvenile court system. The Hearing Officer ordered the student remain in his current residential placement at the district's expense and found the need for compensatory services.

The district was represented by legal counsel.

Guardian initiated request

**Case #003596 – Julia Quinn Dempsey, Hearing Officer  
Other (Non-Special Education student)**

The mother requested a due process hearing and then was never reachable and never communicated with Hearing Officer or district. The attorney for the district filed Motion to Dismiss stating the student was not special education eligible. After numerous contact attempts, the Motion to Dismiss without prejudice was granted.

The district was represented by legal counsel.

Parent initiated request

**Case #003613 – Vivian Gordon, Hearing Officer  
Placement**

The mother requested a due process hearing. The student was identified as an Attention Deficit Disorder (ADD) student and mother had requested the student attend another

high school in the district other than the school assigned by residence. After hearing testimony, the Hearing Officer ruled that a transfer to another high school in the district was not necessary but did require the IEP team to reconvene to review what additional services were necessary for the student to benefit from his education.

The district was represented by legal counsel.

Parent initiated request

**Case #003615 – Alan J. Cook, Hearing Officer  
Inadequate Notice to Parent, Compensatory Services, IEP**

The parent requested a due process hearing. The student is profoundly deaf. The district made a change in the student's IEP without involvement of the IEP team. The district changed her elective drama class to an art class the student would attend with four other hearing-impaired students for a cost savings to the district. The district's action denied the student an educational benefit. The district was directed to return student to her drama class with a sign language interpreter and to provide her with compensatory education.

Both parties were represented by legal counsel.

Parent initiated request

**Case #003633 – Marie Bracki, Hearing Officer  
Placement**

The request for a due process hearing was made by the district regarding the appropriate placement of the student. The district had previously proposed an instructional program based on his academic and behavioral needs in the fall of 2002. The parent opposed the placement. The district again proposed an instructional program and the parent continued to disagree. The district presented evidence and testimony that substantiated the need for the proposed placement. The parent attended the meeting but did not participate. She presented no materials or information to refute the district's position. An order was made to implement the most recently developed IEP, including placement in an instructional program and appropriate services.

The district was represented by legal counsel.

District initiated request

**Case #003651 – Carolyn Ann Smaron, Hearing Officer  
Conduct of Case Study Evaluation, Eligibility Criteria, Compensatory Services,  
Individualized Educational Program**

The parent alleged the student was hearing impaired and the school district failed to find that disability when it evaluated the student. The parents alleged the student did not receive the services set forth within his IEP. The evidence and testimony did not support a finding that the student was hearing impaired. The evidence and testimony did support

that the school district did not provide the services called for within the IEP. The district was ordered to provide the services as established by the IEP.

Both parties were represented by legal counsel.

Parent initiated request

**Case #003672 – Carolyn Ann Smaron, Hearing Officer  
Appropriate Placement**

The parent requested a due process hearing. The parent of the student objected to the school district's proposed placement for her son in a public day school. The evidence and testimony supported the proposed placement in the MAC program, a day treatment program.

The district was represented by counsel.

Parent initiated request

**Case #003677 – Julia Quinn Dempsey, Hearing Officer  
Placement, Discipline, Other (Expedited hearing)**

The district requested an expedited hearing for interim alternative placement while a regular due process was pending because of danger to self and others of behavior of 5½-year-old student. The student had already broken an arm and wrist of a fellow kindergarten student by pushing him off a piece of playground equipment. The district claimed the student was sexually precocious citing inappropriate touching, licking, exposing self, playing with self, grabbing at teacher, grabbing female students, spitting, poking, trying to cut another student with scissors, pushing and kissing other children, kicking teachers, using coarse and vulgar language and being generally out of control. The district provided substantial evidence of such behavior and their attempts to deal with it and the appropriateness of the requested interim 45-day placement services. Placement was allowed.

The district was represented by legal counsel.

District initiated request

**Case #003679 – James Wolter, Hearing Officer  
Conduct of Case Study Evaluation**

The district requested a due process hearing to allow it to provide the student with a triennial case study evaluation, as required by State and Federal statutes without parent written consent. The district claimed they were required to conduct a case study evaluation at least every three years as provided for by 23 Illinois Administrative Code 226.109a.

The Hearing Officer ordered the district to provide the parent with a Spanish translation of the order within five days of receiving this order. The district was to complete a triennial case study evaluation that consisted of but was not limited to an interview with the child, parent consultation, social development study, current academic functioning,

vision and hearing screening, learning processing and educational achievement level, learning environment assessment, psychological evaluation and speech/language evaluation within thirty school days of receipt of this order.

The district was represented by legal counsel.

District initiated request

**Case #003700 – Ann Breen-Greco, Hearing Officer  
Other (Expedited) Interim Alternative Placement**

The district requested an expedited due process hearing because the student was considered a danger to himself and other students in his current placement. The fifteen-year old student was diagnosed with mental impairment, speech/language disorder, and autism. Academically, he was at pre-school level. In spring of 2003, the student was in the eighth grade at Canton. On May 8, 2003, the team developed an IEP, including a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP), developed by a behavior/autism expert, to address the student's behaviors. The IEP placement for the school year 2003-2004 was the district's Exceptional Needs (EN) program, a self-contained setting with focus on functional life skills.

Despite further consultation with the behavior/autism expert and the use of rewards and various structures and techniques in class, the district was unable to modify the student's behavior in the EN setting. The student's behavior has caused injury to himself, other students, and staff. The staff was not able to work effectively with the student on his IEP goals regarding development of functional life skills.

The Hearing Officer concluded the district had proven beyond a preponderance of evidence that maintaining the current placement of the student resulted in injury to him and others; the district had made reasonable efforts to minimize the risk of harm in the current placement, including the use of supplemental aids and services. The Hearing Officer ruled the alternative educational setting, a therapeutic day school, would permit full implementation of the student's IEP and included services and modifications designed to prevent the undesired behavior from recurring.

The district was represented by legal counsel.

Parent initiated request