

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

Decisions Issued Between September 1, 2005 and December 31, 2005

**Case No. 004526 – Kathleen Plesko, Hearing Officer
Homebound Services, Implementation of IEP
Decision and Order Issued September 9, 2005**

The parent initiated a due process request, claiming that the district failed to consistently provide homebound services and educational and related services of sufficient intensity to result in an educational benefit. The student, who was 15 years old and identified with a specific learning disability and related nurse services for asthma, began to regress academically over the course of the 2002-2003 and 2003-2004 school years. The student also began to experience stress and anxiety, which increased his asthma, as a result of the school environment, despite the parent's efforts to secure homebound instruction services. The hearing officer found that the district denied the student a free, appropriate public education and ordered the district to pay for placement in a private therapeutic day school, as well as pay for cognitive, psychosocial, speech/language, and assistive technology assessments either administered by the therapeutic day school or by independent evaluators.

Both parties were represented by legal counsel.

Parent initiated the request.

**Case No. 004486 – Julia Quinn Dempsey, Hearing Officer
Failure to Prosecute Claim, Motion to Dismiss
Order Issued September 16, 2005**

The parent requested a due process hearing, seeking an individual aide to escort her child to, from, and throughout the school. All parties agreed to a continuance of the pre-hearing conference, pending the outcome of the student's court appearance. The hearing officer made numerous attempts between June and August to secure the parent's participation, but the parent did not attend the continued pre-hearing conference. In August 2005, the district filed a motion to dismiss the pending due process hearing due to the parent's failure to pursue the request. In the absence of any further contact from the parent, the hearing officer dismissed the matter.

Both parties were represented by legal counsel.

Parent initiated the request.

**Case No. 004514 – Kathleen Plesko, Hearing Officer
Evaluation, Placement, Compensatory Education
Decision and Order Issued September 16, 2005**

The parents initiated a due process request, seeking placement in a private therapeutic day school, payment for a neuropsychological evaluation obtained by the parents, and compensatory services. The student, who was eligible for services due to a specific learning disability, did demonstrate educational benefit despite concerns regarding his reading ability. The hearing officer found that the district met its obligation to provide FAPE in the LRE, but inadequacies in the student's previous IEP merited compensatory services. The hearing officer denied the parents' request for placement in a therapeutic day school, but ordered the district to pay for the neuropsychological evaluation and convene an IEP Team meeting to discuss compensatory services.

Both parties were represented by legal counsel.

Parent initiated the request.

**Case No. 004562 – Alfred Spitzzeri, Hearing Officer
Eligibility, Placement, Supplementary Aids and Services
Decision and Order Issued September 16, 2005**

The parent initiated a due process request, claiming that the student's placement was not appropriate and that the district failed to provide reasonable accommodations. The hearing officer found that the last IEP provided a free appropriate public education and was reasonably calculated to provide the student with an educational benefit. The hearing officer also found that homebound tutoring would not meet the district's obligation to educate the student in the LRE. The hearing officer denied the parent's request for "medical incompletes" instead of failing grades, as well as the parent's request for homebound tutoring. The hearing officer ordered the district to convene an IEP Team meeting to determine eligibility and offer services and accommodations appropriate to the student's eligibility.

Both parties were represented by legal counsel.

Parent initiated the hearing request.

**Case No. 004468 – Robert Ladenson, Hearing Officer
Eligibility
Decision and Order Issued September 17, 2005**

The parent initiated the due process request to challenge the district's determination that the student was eligible for special education and related services under the emotional disturbance category. As a result of testimony from the student's former teachers regarding his aggressive and defiant behavior, the hearing officer upheld the position of the school district that it properly determined the student to be eligible for receipt of special education and related services under the category of emotional disturbance.

The district was represented by legal counsel.

Parent initiated the request.

**Case No. 004056 – Marie Bracki, Hearing Officer
Evaluation, Eligibility, Placement
Decision and Order Issued September 17, 2005**

The parent initiated the due process request to challenge the district's identification and placement of the student, as well as the services provided by the district. As a result, the parent requested reimbursement for tutoring services and monetary compensation for the suffering which the child endured. The hearing officer found that the district did not err in its identification of the student, but failed to fully explain the impact that variability in scores has on special education designation. The hearing officer denied the parent's request for monetary compensation and payment of tuition for tutoring services, but ordered the district to evaluate the student's adaptive behavior and social/emotional functioning and to conduct another IEP meeting.

The district was represented by legal counsel.

Parent initiated the request.

**Case No. 004423 – Gail Friedman, Hearing Officer
Supplementary Aids and Services, Methodology
Decision and Order Issued September 26, 2005**

The parents initiated the due process request, claiming that the district discriminated against their child because of his disability and did not provide needed accommodations. The student, an 11 year old with autism, was tested for the academically talented math program, but was not placed in the program because, according to the parents, the test coordinator did not allow for

additional time. The parents also claim that the student was discriminated against in math and should have received an "A" for the first quarter instead of a "B". The hearing officer found that the parents failed to raise any problems with the student's IEP or the district's implementation of the IEP that would result in a denial of a free appropriate public education. The hearing officer dismissed all of the parent's claims.

The district was represented by legal counsel.

Parent initiated the request.

**Case No. 004699 – Mary Schwartz, Hearing Officer
Failure to Prosecute Claim, Motion to Dismiss
Order Issued October 3, 2005**

The parent initiated the due process request in August 2005. In September 2005, the district's attorney filed a motion to dismiss alleging that the mother's request was insufficient. The hearing officer informed the parent that she would need to amend her request by including her concerns and suggested proposals in writing. Because the parent failed to amend her request for a due process hearing, the hearing officer granted the district's motion to dismiss.

The district was represented by legal counsel.

Parent initiated the request.

**Case No. 004331 – Marie Bracki, Hearing Officer
Placement, Compensatory Education
Decision and Order Issued September 17, 2005**

The parent initiated the due process request, claiming that the district failed to provide an appropriate placement with on-going services. The hearing officer found that the district failed to obtain records from the student's previous school in order to determine appropriate placement and, due to issues with appropriately certified staff, the student was not in school for several weeks. The hearing officer denied the parent's request for payment for outside evaluations and parent training, but ordered the district to develop a more appropriate placement for the current year, consider compensatory services, and reimburse the parent for tuition expenses for Fall 2004.

Both parties were represented by legal counsel.

Parent initiated the request.

**Case No. 004568 – James Wolter, Hearing Officer
Placement, LRE, FAPE
Decision and Order Issued October 28, 2005**

The parent initiated the due process request to challenge the district's proposed placement and the provision of supplementary aids and services and related services. The hearing officer found that the student's placement in the Read 180 program and the Interactive PE program would provide a free appropriate public education in the least restrictive environment. The hearing officer ordered the district to correct the 2005-2006 IEP to include consultative services with the identifying number of minutes per week, provide a copy of the IEP to the parents, and implement the corrected IEP. Further the district was ordered to complete a functional behavioral assessment and develop a behavioral intervention plan with parental consent.

Both parties were represented by legal counsel.

Parent initiated the request.

**Case No. 003772 – Gail Friedman, Hearing Officer
Independent Educational Evaluation
Decision and Order Issued October 31, 2005**

The district initiated the due process request to determine whether the parents were entitled to an independent educational evaluation. The hearing officer found that the district's IEPs were reasonably calculated to confer educational benefit upon the student in the least restrictive environment and that the school district's evaluations were appropriate in nature and degree. The parents were denied their request for an independent evaluation.

The district was represented by legal counsel. Parents did not attend.

The district initiated the request.

**Case No. 004479 – Gail Friedman, Hearing Officer
Related Services
Decision and Order Issued October 31, 2005**

The parents initiated the due process request seeking payment for Applied Behavior Analysis (ABA) therapy and private speech/language therapy for the current school year, as well as reimbursement for private speech/language therapy the student received over the past year. One or both parents were present at each IEP Team meeting and many of their concerns were considered

and integrated into the IEPs. The hearing officer found that the district developed an educational program which conferred educational benefit to the student in the least restrictive environment. The hearing officer denied the parents request for reimbursement and payment of therapies.

Both parties were represented by legal counsel.

Parents initiated the request.

**Case No. 004577 – Venita Hervey, Hearing Officer
Evaluation, Development of IEP, Placement
Decision and Order Issued November 11, 2005**

The parents initiated the due process request, claiming that the district failed to appropriately evaluate and provide special education, related services, and accommodations and modifications to their child. The hearing officer found that the district's procedural errors and omissions in the student's evaluations significantly contributed to the district's failure to provide FAPE. As a result of the district's failure to conduct a valid evaluation of the student, there is little possibility that the student's IEPs were developed to meet the needs of the student or provide educational benefit. The hearing officer ordered the district to conduct necessary evaluations and convene an IEP meeting to develop an educational program and determine placement for the 2005-2006 school year. The hearing officer also ordered the district to reimburse the parents for the cost of tuition and transportation costs for the student's unilateral private placement, as well as reimbursement for the independent educational evaluation obtained by the parents.

Both parties were represented by legal counsel.

The parents initiated the request.

**Case No. 004561 – Alan Cook, Hearing Officer
Placement
Decision and Order Issued November 20, 2005**

The parent initiated the due process request disputing the student's placement in a program at the student's home school for the 2005-2006 school year. The student, whose primary eligibility was a cognitive disability, made educational progress while placed in a therapeutic day program. The hearing officer upheld the position of the parent and ordered the district to place the student in the therapeutic day program for the 2005-2006 school year and pay the cost of transportation.

Both parties were represented by legal counsel.

The parent initiated the request.

**Case No. 004612 – James Wolter, Hearing Officer
Implementation of IEP
Decision and Order Issued November 21, 2005**

The parent initiated the due process request seeking supplemental tutoring and occupational therapy as a result of the district's failure to provide adequate instruction in science, social studies, and occupational therapy. The student was removed from the regular education setting and placed in a special education setting for science and social studies. In addition, the student's occupational therapy minutes were cut from 30 minutes per week of direct service to 30 minutes per month of consultative service. The hearing officer found that the student had achieved his IEP goals and that 30 minutes per month of occupational therapy was sufficient for the student to improve his abilities in independent functioning. All claims against the district were dismissed.

The district was represented by legal counsel.

The parent initiated the request.

**Case No. 004041 – Marie Bracki, Hearing Officer
Eligibility, Placement, Related Services, Implementation of IEP
Decision and Order Issued December 30, 2005**

The parent initiated the due process request disputing the identification, placement, and services provided to the student. The parent sought the assistance of outside professionals to assist in determining the student's deficits by obtaining independent educational evaluations. The hearing officer found that the district failed to adequately identify the student's disabilities and, therefore, the student could not benefit from the district's recommended placements without regard for the student's academic needs. The hearing officer ordered the district to provide speech and language services and tutoring, as well as transportation for these services, if required. The district was also ordered to coordinate services and document consultations with the classroom teacher and aide, reconvene an IEP meeting to consider the results of an outside evaluation, and reimburse the parent for the independent evaluation. Further, the district was required to provide a behavioral specialist to direct the student's current placement in submitting necessary documentation of the need for an individual aide.

Both parties were represented by legal counsel.

The parent initiated the request.