

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

**Decisions Issued Between January 1, 2009 and March 31, 2009**

**Case No. 2008-0496 – Sheana Hermann, Hearing Officer  
Placement, Evaluation, Compensatory Education  
Decision and Order Issued February 17, 2009**

The parent filed a due process complaint requesting that additional services and independent evaluations should be made available to the student following several attempts by the school district to develop IEPs appropriate to the student's needs. The student, who was identified under the eligibility categories of learning disability and emotional disturbance, was ultimately placed in a therapeutic setting by the district prior to the request for due process. The hearing officer found that the district had not sufficiently evaluated the student's array of educational needs and that, as a result, the student's IEP failed to prescribe adequate services to meet those needs. The hearing officer ordered the district to obtain an independent evaluation of the student to assess the full extent of the student's speech and language needs, as well as to conduct an assistive technology assessment. In addition, the hearing officer ordered the district to provide extensive speech and language services, individual tutoring and extended school year services.

Both parties were represented by attorneys.

Parent initiated the hearing request.

**Case No. 2009-0232 – Sheana Hermann, Hearing Officer  
Evaluation, Eligibility, Placement  
Decision and Order Issued February 19, 2009**

The parent's due process complaint challenged the district's decision to place the student in a therapeutic day school, as well as challenging the district's decision to add the eligibility category of emotional disturbance to the student's already-existing eligibilities of learning disability and other health impaired. The parent claimed that the district failed to adequately involve the parent in the IEP process, failed to provide an adequate evaluation of the student's needs and failed to develop an appropriate IEP. Despite finding that the district did not comply with relevant procedures concerning the involvement of the parent in the IEP process, the hearing officer did not find that such procedural violations resulted in a violation of FAPE. Given evidence that the student behavior was escalating, the hearing officer determined that the district was justified in

recommending a therapeutic placement. The hearing officer accordingly directed the district to implement the placement.

The school district was represented by an attorney.

Parent initiated the hearing request.

**Case No. 2009-0133 – Julia Quinn Dempsey, Hearing Officer  
Placement, Compensatory Education  
Decision and Order Issued February 22, 2009**

The parent requested due process to challenge the district's efforts to educate the student in a public high school program, arguing that a private day placement for students with learning disabilities was the appropriate placement. The hearing officer found that the district had developed a series of inadequate IEPs to address the full extent of the student's needs for at least the last three school years. Moreover, the hearing officer found that the district could not articulate a placement that could provide the level of support found in the private program and, at the same time, be appropriate to the student's needs. As a result, the hearing officer ordered the student, who was 18 at the time of the hearing, to be placed in the private program for the balance of the 2008-09 school year and the entirety of the 2009-10 school year.

Both parties were represented by attorneys.

Parents initiated the hearing request.

**Case No. 2009-0110 – Mary Schwartz, Hearing Officer  
Transportation, Assistive Technology, Compensatory Education  
Decision and Order Issued February 23, 2009**

The parent filed for due process contending that the district had effectively excluded the student from placement at a private therapeutic day school by failing to provide adequate support for the student while on the school bus. The student, who had extensive health service needs, required an aide appropriately trained to address these needs on the school bus. In addition, the parent claimed that the IEP failed to provide adequate assistive technology support for the student while attending the therapeutic program. Finally, the parent claimed that the district violated the "stay-put" requirement by its on-going refusal to provide the transportation aide, which was provided in the IEP at the time of the hearing request.

The hearing officer held that the district was required to provide the transportation aide after finding that the district had failed to provide notice to the

parent of a decision to end the practice of allowing the parent's privately-hired aide to accompany the student (which was provided in the IEP). In addition, the hearing officer found that the district failed to monitor the student's on-going assistive technology needs resulting in a deprivation of FAPE to the student. The hearing officer ordered the district to provide the student with an array of assistive technology support including a laptop computer. Finally, the hearing officer ordered additional compensatory education in the form of additional speech language therapy and occupational therapy.

Both parties were represented by attorneys.

Parent initiated the hearing request.

**Case No. 2009-0040 – Harry A. Blackburn, Hearing Officer  
Evaluation, Placement, Compensatory Education  
Decision and Order Issued March 2, 2009**

The parents requested a hearing on behalf of an elementary school student with significant learning disability. A series of IEP meetings were undertaken in the previous three school years with little progress in the student's reading skills. Eventually, after the parents obtained several private evaluations, the district placed the student in a self-contained program with a "multi-sensory" approach. The parent pursued due process to address claims for past deprivations of FAPE and the issue of the parent's expenses associated with the private evaluations. The hearing officer found that the parent had a right to reimbursement for the evaluations and ordered further independent evaluations to determine the extent of the student's learning disability. Finally, the hearing officer ordered two years of compensatory social work, occupational therapy and tutoring, finding that the district's prior IEPs failed to confer a FAPE upon the student.

Both parties were represented by attorneys.

Parent initiated the hearing request.

**Case No. 2009-0190 – Mary Schwartz, Hearing Officer  
Placement, Eligibility  
Decision and Order Issued March 6, 2009**

The parent filed for due process to challenge the district's recommended placement of the student in a special education classroom for language arts and math, with general education for other classes. The student had been eligible as a student with cognitive disabilities and emotional disturbance, but the emotional disturbance had been recently dropped. The hearing officer found that the student was receiving needed educational services to make meaningful progress

in reading and math, and that the district had not acted inappropriately by dropping the student's emotional disturbance label at the most recent eligibility conference.

The district was represented by an attorney.

District initiated the hearing request.

**Case No. 2009-0173 – Harry A. Blackburn, Hearing Officer  
Unilateral Placement, Statute of Limitations, Motion to Dismiss  
Decision and Order Issued March 7, 2009**

The parent withdrew the student from the school district in September 2006 due to dissatisfaction with the services being offered. The parent then placed the student in a private facility in February 2008, and filed a due process request in October 2008 seeking reimbursement for the private placement. On a motion to dismiss filed by the district, the hearing officer dismissed the claim, finding that the claim fell outside the two-year statute of limitations prescribed by IDEA 2004.

Both parties were represented by attorneys.

Parent initiated the hearing request.

**Case No. 2009-0076 – Stacey L. Stutzman, Hearing Officer  
Evaluation, Eligibility  
Decision and Order Issued March 13, 2009**

The parent requested a due process hearing, seeking an evaluation and eligibility in the areas of autism and learning disability due to clinical diagnoses of Asperger's Syndrome and a math disorder by a private evaluator. An evaluation had not been initiated as of the beginning of the current school year, even though a private evaluation was submitted to school personnel at a 504 meeting and the district case manager submitted a referral for an evaluation during the previous school year. Neither party could produce evidence of the parent's written consent for the evaluation, but testimony and documents by district personnel indicated that consent for the evaluation had been secured in Spring 2008. Testimony of the school psychologist confirmed the existence of a learning disability and recommended learning disability services. There was insufficient evidence at hearing to support a further eligibility determination due to the Asperger's Syndrome. The hearing officer ordered the district to conduct an IEP meeting to determine the student eligible for special education due to a specific learning disability and provide learning disability services.

The district was represented by an attorney.

Parent initiated the hearing request.

**Case No. 2009-0172 – James Wolter, Hearing Officer  
Sufficiency of Services, Compensatory Education  
Decision and Order Issued March 17, 2009**

The parent initiated a due process hearing claiming that the district had failed to provide learning disability services that were described in the student's IEP and claiming that the IEP failed to include sufficient transition services and assistive technology ("AT") support. At hearing, the hearing officer found that the evidence supported the parent's claim that the district had failed to provide the learning disability services, but that the district had done everything required under IDEA to provide an appropriate transition plan and assistive technology support. Accordingly, the hearing officer denied the parent's claims as to the transition plan and the assistive technology support, but ordered the district to provide 80 hours of compensatory education in the form of individual after-school tutoring to address the loss of the learning disability services.

The district was represented by an attorney.

Parent initiated the hearing request.

**Case No. 2009-0056 – Mary Schwartz, Hearing Officer  
Order of Dismissal  
Decision and Order Issued March 21, 2009**

The parent filed a hearing request to challenge the district's placement recommendations and the contents of the student's most recent IEP. On several occasions the hearing officer scheduled pre-hearing meetings at which time the parent, despite having notice, failed to appear. After eight weeks of attempts to conduct the pre-hearing conference, the district filed a motion to dismiss the matter for want of prosecution. Based on the continued failure of the parent to appear or to communicate with the hearing officer, the motion was granted.

The district was represented by an attorney.

Parent initiated the hearing request.