

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

Decisions Issued Between October 1, 2008 and December 31, 2008

**Case No. 2009-0039 – Joseph P. Selbka, Hearing Officer
Placement, Remedies
Decision and Order Issued November 2, 2008**

The parents filed a due process complaint requesting that student be placed in the home school. The parents also requested that the hearing officer: (1) end harassment of the student; (2) enforce a mediation agreement; (3) punish the school district for making unreasonable settlement offers; (4) ensure that district staff were properly qualified. The parents also claimed that the procedural aspects of placing the student were tainted by animus against the parents and that the parents did not give informed consent to the placement. The hearing officer found that the student's placement in a public therapeutic school was the least restrictive environment, that the parents gave informed consent to the placement, that the district was not animated by animus against the parents in placing student, and that, to the extent the other issues did not relate to the placement or provision of services, the hearing officer had no authority to adjudicate the parents' grievances.

The district was represented by an attorney.

Parents initiated the hearing request.

**Case No. 2008-0247 – James Wolter, Hearing Officer
Placement, Related Services
Decision and Order Issued November 6, 2008**

The parent's due process complaint sought to obtain a private special education day school placement, additional related services and additional assessments. The parties were able to agree to a private day school placement but other issues remained and the parent amended the due process complaint. By the time the due process hearing was conducted, the district had provided the assessments sought and a majority of the services sought, with the exception of a one-on-one aide, by the parent. The parent also sought compensatory services.

The hearing officer found that the district prevailed on all issues concerning the placement, with the sole exception of one related service. The hearing officer found that the district had reason to know that the student should have been eligible for occupational therapy services, but failed to provide them. Accordingly, the hearing officer ordered the district to provide the student with

occupational therapy consultation services and to develop strategies for addressing the student's writing and organizational skills.

Both parties were represented by attorneys.

Parent initiated the hearing request.

**Case No. 2009-0013 – Kristine L. Anderson, Hearing Officer
Evaluation, Related Services, Compensatory Education
Decision and Order Issued November 6, 2008**

The parents asserted that the district failed to provide their daughter with an appropriate education in numerous ways relating to assessments, providing adequate services to address the student's deficits, identifying the need for, and providing appropriate related services; utilizing appropriate instructional methodology and providing the student with access to an appropriate curriculum. The Hearing Officer ruled that the district had met the requirements of FAPE except that the district failed to appropriately address the students reading deficits; failed to provide the student with a timely social emotional assessment, and failed to provide the student with adequate social work services.

Both parties were represented by attorneys.

Parents initiated the hearing request.

**Case No. 2008-0356 – Ann Breen-Greco, Hearing Officer
Placement, Resolution Process, Dismissal
Decision and Order Issued November 11, 2008**

The parent requested a hearing to challenge the district's decision to place the student in a private therapeutic setting, contending that a public high school setting was more appropriate. After numerous extensions of time were granted to afford the parent an opportunity to clarify issues and to work with the district to reach a resolution and after the parent failed to be available for scheduled pre-hearing conferences, the hearing officer dismissed the hearing request.

The district was represented by an attorney.

Parent initiated the hearing request.

**Case No. 2008-0325 – Sheana Hermann, Hearing Officer
Eligibility, Placement, Related Services
Decision and Order Issued November 14, 2008**

The parents requested a hearing on behalf of a pre-school child with a significant feeding disorder, claiming that the district failed to make an appropriate initial eligibility determination and failed to offer appropriate placement based on the child's needs. The district, which determined that the child eventually was eligible for special education after an initial determination of ineligibility, stated that the services the parents were seeking were medical in nature and thus not entitled to be provided under IDEA. The hearing officer ruled in favor of the district, finding that the student was not initially eligible for special education services as his disability did not impact his ability to learn, and that the parents were seeking only related services. Furthermore, when the district did eventually find the student eligible for special education services under IDEA, the district's IEP was found appropriate. Nutrition or speech feeding therapy was found to be outside of the scope of what is educationally required.

Both parties were represented by attorneys.

Parent initiated the hearing request.

**Case No. 2009-0064 – D. Michael Risen, Hearing Officer
Revocation of Consent, Placement
Decision and Order Issued November 18, 2008**

The school district filed a hearing request when the parents sought to return the student to his local school. The student had previously been determined eligible as a student under IDEA under the categories of other health impaired and attention deficit hyperactivity disorder and the parents had previously supported placement in a program designed for the student. At the start of the 2008-2009 school year, the parents demanded placement in a general education classroom in the student's home school in opposition to the district's placement of the student in a public therapeutic day school. The parents had objected to the programming at the public therapeutic day school and then notified the district that they were revoking permission for placement in special education and the accompanying services and supports that were specified in the IEP for the 2008-2009 school year. Further, the parents demanded a change in placement back to the general education classroom of the student's home school with absolutely no special education support for the 2008-2009 school year. The district requested a hearing to determine whether or not the school district's identification of the student as a student eligible for special education and the accompanying services and supports created for the district an obligation to provide the student with a free appropriate public education during the 2008-2009 school year.

Further, the district requested in the hearing that the Hearing Officer determine if this student's placement in special education was warranted and if so, requested that the Hearing Officer override the parent's revocation of consent and order placement in the therapeutic public day school. The hearing officer found that the placement recommended for the 2008-2009 school year was warranted and indeed obligated the district to provide the student special education supports and services. As a consequence, the hearing officer approved the district's request to override the parent's revocation of consent and demand for placement in the student's home school and ordered the placement of the student in the therapeutic day school

The district was represented by an attorney.

District initiated the hearing request.

**Case No. 2007-0030 – Mary Schwartz, Hearing Officer
Discipline, Placement, Compensatory Education
Decision and Order Issued November 29, 2008**

The parent requested a hearing after the student had been suspended for ten (10) days for violations of the code of student conduct and prohibited from participation in extracurricular activities as a result. The parents made further claims that the district failed to offer an appropriate IEP and requested the hearing officer order compensatory education in the form of payment for a program at a local community college. The hearing officer raised several questions regarding the contents of the student's current IEP, yet determined that any inadequacies found in the IEP were not of a nature to deprive the student of a FAPE. As a result, the hearing officer found in a favor of the district on all claims raised by the parent.

Both parties were represented by attorneys.

Parent initiated the hearing request.

**Case No. 2009-0049 – Lynette Lewis, Hearing Officer
Least Restrictive Environment, Discipline
Decision and Order Issued December 1, 2008**

The parent requested a hearing to challenge the district's decision to place the student in a day therapeutic program and to challenge the district's decision to discipline the student with detentions in connection with the student's behavior. The hearing officer found that the district had provided the student with a FAPE in the least restrictive environment by recommending placement in a therapeutic program. The hearing officer also found that the district appropriately disciplined

the student in using detentions. The hearing officer rejected all claims raised by the parent.

The district was represented by an attorney.

Parent initiated the hearing request.

**Case No. 2008-0456 – Mary Schwartz, Hearing Officer
Evaluation, Placement, Compensatory Education
Decision and Order Issued December 13, 2008**

The parent brought a due process claim against the district asserting numerous violations of FAPE including inadequate assessments, development of an inappropriate IEP and inappropriate placement based upon the IEP. The student had been enrolled in several school districts over the previous several years. The hearing officer found that the district's evaluation of the student was comprehensive and sufficient to identify the student's needs. Moreover, the IEP was developed in an appropriate manner and, accordingly, recommended an appropriate placement. The parent's claims, including a claim for compensatory education based on the alleged inappropriateness of the IEP, were therefore rejected.

The district was represented by an attorney.

Parent initiated the hearing request.

**Case No. 2008-0216 – Mary Schwartz, Hearing Officer
Unilateral Placement
Decision and Order Issued December 22, 2008**

Parents filed a hearing request, contending that the IEP developed by the district required implementation in a particular environment that required a specific staff-to-student ratio. Parents assert that none of the placements offered by the district could be implemented in that manner and sought tuition reimbursement for a unilateral placement made by the parents. The hearing officer found that placements offered by district did not offer student a FAPE. One placement was inaccessible despite the IEP specifying an accessible building. Another placement required a very lengthy bus ride of at least 80 minutes each way, which the hearing officer determined inappropriate for this student. The hearing officer, however, also found that two subsequent placements offered by the district could offer student a FAPE. Accordingly, the hearing officer ordered the district to provide reimbursement to the parents from the approximate date of the parents' actual notice to the district of the unilateral placement through the date of the hearing decision.

Both parties were represented by attorneys.

Parents initiated the hearing request.

**Case No. 2009-0216 – D. Michael Risen, Hearing Officer
Personnel, Motion to Dismiss
Order Issued December 29, 2008**

The parent filed a hearing request alleging the district would not allow her to specify, at no cost to her, the service provider outside of the district who would provide counseling/mental health services to her son. The district filed a motion to dismiss claiming that the district was prepared to provide the service with its own personnel, and that the IDEA and case law do not provide such authority to parents. The hearing officer agreed with the district's motion and granted the motion to dismiss.

The district was represented by an attorney.

Parent initiated the hearing request.