# Arkansas Department of Education

Special Education Unit

**IN RE:**

**XXXXXXXXXXXX**
as Parent in behalf of
**XXXXXXXXXX**, Student **PETITIONER**

**VS. NO. H-14-30**

**El Dorado School District** **RESPONDENT**

## HEARING OFFICER'S FINAL DECISION AND ORDER

**Issues and Statement of the Case**

**Issues:**

The Petitioner alleges that the Respondent denied the Student with a free and appropriate public education (FAPE) during school year 2013-14 by failing to include the Parent's input in dismissing the Student from speech therapy services and by failing to reevaluate the Student for special education services.

Issues raised by the Petitioner in the initial request for a hearing that were ordered by the hearing officer as non-judicable under IDEA included allegations that the Respondent engaged in actions in violation of Section 504 of the Rehabilitation Act of 1973 including retaliation and harassment of the Student and Parent.

**Procedural History:**

On March 31, 2014, a request to initiate due process hearing procedures was received by the Arkansas Department of Education (hereinafter referred to as the "Department") from XXXXXXXXXXXX (hereinafter referred to as "Parent"), the parent and legal guardian of XXXXXXXXXX Petitioner) (hereinafter referred to as "Student"). The Parent requested the hearing because she believes that the El Dorado School District (hereinafter referred to as "District") failed to comply with the Individuals with Disabilities Education Act of 2004 (20 U.S.C. §§ 1400 - 1485, as amended) (IDEA) (also referred to as the "Act" and "Public Law 108-446") and the regulations set forth by the Department by not providing the Student with appropriate special education services as noted above in the issues as stated.

The Department responded to the Petitioner's request by assigning the case to an impartial hearing officer and establishing the date of May 2, 2014, on which the hearing would commence should the parties fail to reach a resolution prior to that time. An order setting preliminary timelines with instructions for compliance with the order was issued on April 2, 2014. The District notified the hearing officer on April 30, 2014, that a resolution conference was conducted as ordered, but without resolving the issues contained in the Petitioner's complaint.

On April 8, 2014, the Petitioner submitted a motion asking that the District comply with the IDEA stay put provision and return the Student to his assigned classroom pending the outcome of the hearing. The motion was granted and an order was issued on April 9, 2014. The District responded to the Parent's complaints as ordered on April 8, 2014. On May 1, 2014, the day prior to the hearing, the Parent requested, without explanation, that the hearing be continued. The request was denied and the hearing proceeded as scheduled on May 2, 2014.

Having been given jurisdiction and authority to conduct the hearing pursuant to Public Law 108-446, as amended, and Arkansas Code Annotated 6-41-202 through 6-41-223, Robert B. Doyle, Ph.D., Hearing Officer for the Arkansas Department of Education, conducted a closed impartial hearing. The Parent was not represented by counsel and elected to proceeded pro se. The District was represented by Sharon Carden Streett of Little Rock, Arkansas.

At the time the hearing was requested the Student was a ten year-old, fourth grade, male enrolled in the District, having been previously identified as a child with a disability as defined in 20 U.S.C. §1401(3). The Student's disability as noted in the record was a fluency disorder (stuttering). The Parent alleged that the Student had been removed from special education services for his speech disorder without having been reevaluated and that her input was not included at the IEP conference when this decision was made.[1]

Prior to the current school year (2013-14) the Student was provided special education services for the speech disorder on first entering the District during school year 209-10 as a kindergarten student. He had previously been provided speech therapy services in Missouri as a pre-kindergarten student. The District concluded in November 2012 that the Student no longer

[1] Transcript, Page 25

needed speech services and dismissed him from special education.[2]

The District complied with the ADE regulations in providing the hearing officer with a binder of exhibits and a list of potential witnesses prior to the hearing; however, neither was provided by the Parent. The Parent insisted at the beginning of the hearing that she had requested a continuance; however, she was informed that she failed to state the cause of her request and as such the continuance was denied.

It was explained to both parties at the beginning and again at the conclusion of the hearing that the decision reached by the Hearing Officer would be based only on the testimony and evidence presented at the hearing. Both parties were offered the opportunity to provide post-hearing briefs in lieu of closing statements; however, the only brief received within the ten-day time frame for inclusion in the record was that of the District. It is included as an exhibit in the Hearing Officer Binder of Orders and Pleadings.

**Findings of Fact:**

**Did the District deny the Student with FAPE by during school year 2013-14 by failing to include parental input in dismissing the Student from speech therapy and by failing to reevaluate the Student for special education services?**

1. On entering the District to attend kindergarten in August 2009, the Student had been receiving pre–school services at the Howard Park Center in Ellisville, Missouri, for a dysfluent speech disorder (stuttering).[3]

2. The Parent requested, and a referral form was completed by the Student's counselor on September 1, 2009, stating that which prompted the referral was "speech concerns."[4]

3. A referral conference was conducted on September 15, 2009, with the Parent present where it was decided to conduct a comprehensive evaluation of the Student's disabilities.[5]

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[2] District Binder, Tab 10, Page 1

[3] District Binder, Tab 20, Page 20-25

[4] Ibid, Page 45

[5] Ibid, Page 36

4. Following the evaluation an evaluation/programming conference was conducted on November 9, 2009, at which time it was determined that the evaluation data did not substantiate the existence of a disability consistent with state and federal regulations implementing IDEA.[6]

5. The Parent did not attend the evaluation/programming conference; however, the record indicates that she was provided appropriate notices.[7]

6. On September 16, 2010, the Parent once again requested and a referral form was completed by the District for a referral conference to consider an evaluation obtained by the Parent from Hope Landing which indicated that the Student had a fluency delay and a mild articulation delay.[8]

7. The referral conference was conducted on October 7, 2010, at which time it was decided to conduct a specialized speech evaluation by the District's speech pathologist with the Parent's informed consent.[9]

8. An evaluation/programming conference was conducted on November 23, 2010, with the Parent present at which time it was determined that the evaluation data substantiated the existence of a disability consistent with state and federal regulations implementing the IDEA. It was determined that the Student's disability for which he was eligible for special education services was "speech/language impairment."[10]

9. A separate programming conference was conducted on May 26, 2011, to determine if the Student needed extended year services. Although the record reflects that the Parent was notified of the conference the record does not show that she was in attendance. In the Parent's absence the committee decided that "from the data collected during the school year" extended school year services were not appropriate.[11]

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[6] Ibid, Page 8-9

[7] Ibid, Page 1-7

[8] Ibid, Tab 19, Page 10

[9] Ibid, Page 16

[10] Ibid, Tab 18, Page 11

[11] Ibid, Tab 17, Page 1-6

10. On November 29, 2011, a separate programming conference was conducted with the Parent present. At that time the Student's IEP team developed an IEP providing him with forty (40) minutes of speech therapy, twice weekly, and recommended that he remain in the regular education classroom setting. At the same conference the Parent stated that "she would like to have a comprehensive evaluation conducted to address (his) educational needs."[12]

11. Following the November 29, 2011, separate programming conference a notice of conference was provided the Parent selecting the date of December 5, 2011, at which time the Parent provided informed consent for the Student to be reevaluated as well as an informed consent for the District to obtain the speech/language evaluations and therapy notes/goals from Hope Landing.[13] The Parent also provided a social-developmental/medical history.[14]

12. On January 31, 2013, the evaluation/programming conference was conducted in the absence of the Parent. At that time the IEP team concluded that the Student continued to need speech therapy services for his "mild fluency disorder."[15]

13. On February 13, 2012, at the request of the Student's teacher a separate programming conference was conducted in order to consider the Student's disability and its impact on his education. The Student's subject grades included no failing grades; however, his math grade was 62.5 (D).[16] The Parent did not attend the conference.[17]

14. His teacher reported that he "does not pay attention in math during the group lesson." The IEP team's decision was for his teacher to modify his math work, to work one-on-one with him when possible and to redirect him to stay on task. No change in his IEP was made and he continued to receive forty (40) minutes of speech therapy twice weekly.[18]

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[12] Ibid, Tab 16, Page 4

[13] Ibid, Tab 15, Page 11-12

[14] Ibid, Page 17-19

[15] Ibid, Tab 14, Page 8-9

[16] Ibid13, Page 5

[17] Ibid, Tab 13, Page 1-3

[18] Ibid, Page 4

15. On April 26, 2012, again at the request of the Student's teacher, a separate programming conference was conducted, with the Parent present, to consider the Student's failing grades.[19] His math grade had decreased to 58.5 (F), with all other subject grades being average or above.[20]

16. His teacher reported that he "does not focus during the lesson and she has to redirect him to stay on task." The IEP team's decision was for his teacher to continue to redirect him on task during math lessons and that she would continue to monitor and adjust modifications as needed to help him be successful in the regular classroom. Again there was no change in his IEP with him continuing to receive forty (40) minutes of speech therapy twice weekly.[21]

17. On September 21, 2012, notice of another request by the District for a separate programming conference was provided to the Parent; however, she again was not in attendance on September 28, 2012, when the conference was conducted.[22] The purpose was again to ask the IEP team to consider his failing grade in science. The math grade had improved.[23]

18. The IEP committee determined that the classroom teacher would consider modifications as needed for math, science, and language arts. They also noted that a tutor had been assigned for his science and that the IEP as written continued to be appropriate to address his disability.[24]

19. On November 7, 2012, the District notified the Parent of the annual review conference to discuss the Student's progress in the general curriculum, progress toward the achievement of his IEP goals, reports from both teachers and the Parent, and his need for educational services; with the focus on his IEP for the next school year.[25]

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[19] Ibid, Tab 12, Page 1-3

[20] Ibid, Page 5

[21] Ibid, Page 4

[22] Ibid, Tab 11, Page 1-3

[23] Ibid, Page 5

[24] Ibid, Page 4

[25] Ibid, Tab 10, Page 2

20. The Parent acknowledged in testimony, and the record reflects, that she did not attend the conference.[26]

21. The Parent claimed that she was not notified of the conference; however, the District's LEA supervisor testified that she notified the Parent by "exactly what the federal and Arkansas state law requires, a seven-day Notice of Conference...by U.S. Mail."[27]

22. The IEP committee's decision was that the Student had mastered his long range speech therapy goals of fluency in connected speech. It was reported that he exhibited one-hundred percent when reading as well as when answering common knowledge questions and that he exhibited eighty percent towards his goals when answering "why" questions regarding a topic and having to defend his answer.[28]

23. His speech therapist testified that when she began working with the Student for school year 2012-13 that she "had a hard time perceiving that he had a problem." She went on to state that in conversing with the previous speech therapist that "she was seeing adequate skills the last time she had seen him."[29] She further testified that she recommended dismissing him from speech therapy after she received feedback from his classroom teacher as well as from her observations of him in non-instructional activities with his peers. The criteria that she used in deciding to dismiss him from speech therapy was criteria two of the speech/language guidelines which was that his "goals had been attained and there was no adverse effect on (his) educational performance."[30]

24. The final decision of the IEP committee on November 14, 2012, was to dismiss the Student from special education services since it had been determined that his speech fluency problem no longer was having an adverse effect on his education.[31]

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[26] Transcript, Page 85 and District Binder, Tab 10, Page 1

[27] Transcript, Page 86

[28] District Binder, Tab 10, Page 1

[29] Transcript, Page 108

[30] Ibid, Page 109-111

[31] District Exhibit, Tab 10, Page 1

25. On August 23, 2013, the District completed a referral form at the request of the Parent for him to be once again considered eligible to receive special education services.[32]

26. The Parent acknowledged receipt of the conference notice on August 30, 2013, stating that she was "requesting a re-evaluation for my child to receive special education services again" rather than an initial evaluation.[33]

27. The referral conference decision was to conduct a speech evaluation; however, the Parent did not give her consent for the District to conduct the evaluation. She noted on the record that she "refused to sign because I have been left out of the re-evaluation done 1/23/12 and I asked for another re eval and was given an initial assessment."[34] The record also indicated that the Parent intended to obtain a speech evaluation from another agency.[35]

28. On September 9, 2013, the Parent submitted a due process complaint with the Department stating that she was requesting a reevaluation of the Student "by private dr. at the public's expense and properly place him back in Speech Therapy and to negotiate any pain or suffering, lack of services there of, make right what has been lost at the hands of vicious/racist or incompetence fraudulent acts of and from or by trained school officials. Jobs lost and accountability taken for everyone's actions involved."[36]

29. A due process hearing was scheduled; however, because of actions and inactions by the Parent the hearing officer dismissed the hearing without prejudice on January 3, 2014.[37]

30. As noted previously the Parent requested the current due process hearing on March 31, 2014, which included not only the complaints involving the Student, but his brother. The hearing officer decided to bifurcate and hear each student's issues separately.

After a thorough review and assessment of the testimony and evidence presented in this

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[32] Ibid, Tab 9, Page 18

[33] Ibid, Page 14

[34] Ibid, Page 7

[35] Ibid, Page 3

[36] Ibid, Tab 8, Page 37

[37] Ibid, Tab 6, Page 4-6

case it is clear that they do not support the Parent's IDEA complaint that the District denied the Student with a free and appropriate education by not conducting a reevaluation of his disability nor by excluding parental participation in the decision making process.

**Conclusions of Law and Discussion**

Part B of the Individuals with Disabilities Education Act (IDEA) requires states to provide a free, appropriate public education (FAPE) for all children with disabilities between the ages of 3 and 21.[38] The IDEA establishes that the term "child with a disability" means a child with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, and who by reason of their disability, need special education and related services.[39] The term "special education" means specially designed instruction.[40] "Specially designed instruction" means adapting, as appropriate, to the needs of an eligible child under this part, the content, methodology, or delivery of instruction.[41]

In the current case the question involved whether or not the Student's speech dysfluency (stuttering) continued to have an adverse effect on his education, thus making him eligible to receive special education services. The Parent in this case believed that the Student had been dismissed from special education services for the dysfluency without her input and without appropriate testing and that in her opinion a reevaluation was necessary from an outside agency.

The Department has outlined the responsibilities of each local education agency with regard to addressing the needs of all children with disabilities such as the Student in it's regulations at Section 2.00 of Special Education and Related Services: Procedural Requirements and Program Standards, Arkansas Department of Education, 2008.

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[38] 20 U.S.C. § 1412(a) and 34 C.F.R. § 300.300(a)

[39] 20 U.S.C. § 1401(3)(A)

[40] 20 U.S.C. § 1402(29)

[41] 34 CFR § 300.26(b)(3)

In 1982, the Supreme Court was asked and in so doing provided courts and hearing officers with their interpretation of Congress' intent and meaning in using the term "free appropriate public education" or FAPE. Given that this is the crux of the Parent's contention in this case it is critical to understand in making a decision about her allegations as to whether or not the District failed to provide the Student with FAPE. The Court noted that the following twofold analysis must be made by a court or hearing officer with regard to FAPE:

> (1). Whether the State (or local educational agency (i.e., the District)) has complied with the procedures set forth in the Act (IDEA)? and
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> (2). Whether the IEP developed through the Act's procedures was reasonably calculated to enable the student to receive educational benefits?[42]

In 1988 the Supreme Court once again addressed the issue of FAPE by emphasizing the importance of addressing the unique needs of a child with disabilities in an educational setting by addressing the importance of a district's responsibility in developing and implementing specifically designed instruction and related services to enable a disabled child to meet his or her educational goals and objectives.[43] In this case the Parent has alleged that the District did not test the Student prior to deciding to dismiss him from special education services and thus denying him FAPE. She also contends that the District violated the Student's opportunity for FAPE by not including her input in the IEP committee's decision to dismiss the Student from speech services.

Under the IDEA, an IEP committee must "evaluate" a child with a disability before determining that the child is no longer a child with a disability that qualifies him or her for special education services.[44] The evidence in this case indicates that the District did in fact consider the evaluation data obtained by the Student's speech therapist and his classroom teachers prior to deciding that his speech dysfluency no longer was having an adverse effect on his education. In so doing they were not concentrating on the Student's disability classification,

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[42] *Board of Education of the Hendrick Hudson Central School District v. Rowley,* 458 U.S. 176, 206-207 (1982)

[43] *Honig v. Doe,* 484 U.S. 305 (1988)

[44] 34 CFR 30.304-311

but on his unique academic needs.

Congress established and the courts have consistently agreed that FAPE must be based on the child's unique needs and not on the child's disability.[45] As is true in this case, too often this hearing officer has found that parents, school administrators and the legal counselors representing them, typically agree on the basis, but do not make this distinction in their arguments on the complaints or the differences they've encountered. The charge to education professionals is to concentrate on the unique needs of the child rather than on a specific disability such as the Parent has in this case. The District correctly addressed the Student's academic difficulties associated with his eligibility criteria of speech dysfluency with having conducted three separate programming conferences due to failing grades.

In reviewing the elicited testimony and the evidence in this case it is quite clear that the District attempted to focus on the unique needs of the Student. They developed and implemented an IEP to address the Student's speech disability as well as programming strategies to assist him in attending and progressing in his academics. The record shows that the plan was appropriately and successfully implemented during the course of the school year in question as well as previous school years.

It is necessary for this hearing officer to look only at the facts in this case as to whether or not the District, in cooperation with the Parent, developed an IEP which concentrated on the unique needs of the Student and not specifically at his disability and that the IEP team considered his unique needs in deciding on an appropriate educational placement to implement his education program in the least restrictive environment. The testimony by District personnel elicited in the course of the hearing suggests that they truly believed that the unique needs of the Student as indicated in the IEP with regard to his speech difficulty could best be implemented in the regular classroom with forty minutes of speech therapy twice weekly until his IEP goals were met.

The issues addressed in this case have been presented by the Parent as being such egregious violations of procedural requirements of the Act that they have denied the Student with FAPE. Keeping in mind, as noted above, FAPE is defined as special education and related services that are provided at public expense, under public supervision and direction, and without

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[45] 20 U.S.C. § 1400(d)(1)(A); § 1401(14); and 34 C.F.R. § 300.300(a)(3) (emphasis added)

charge, which meet the standards set forth by the Department. Thus the question boils down to: (1) looking at each individual issue to determine whether or not the District has been in compliance with that definition, and (2) whether or not any single violation, or the accumulation of violations, is severe enough to constitute a denial of FAPE.

The Court of Appeals for the Eight Circuit in *Zumwalt v Clynes*[46] agreed with the Supreme Court's decision in *Rowley* in stating that the IDEA requires that a disabled child be provided with access to a free appropriate public education and that parents who believe that their child's education falls short of the federal standard may obtain a state administrative due process hearing.[47] Further, Rowley recognized that FAPE must be tailored to the individual child's capabilities. The Court of Appeals for the Eighth Circuit has also outlined the procedural process by which a parent and student may pursue their rights under the IDEA:

> "Under the IDEA, parents are entitled to notice of proposed changes in their child's educational program and, where disagreements arise, to an 'impartial due process hearing.' [20 U.S.C. § 1415(b)(2).] Once the available avenues of administrative review have been exhausted, aggrieved parties to the dispute may file a civil action in state or federal court. Id. § 1415(e)(2)."[48]

The Eighth Circuit Court of Appeals has addressed the issue of the adequacy of an IEP in meeting the standards established in IDEA in order to provide FAPE. In *Fort Zumwalt School District v. Clynes*, the majority is quoted as stating that the IDEA does not require the best possible education or superior results. The court further states that the statutory goal is to make sure that every affected student receive a publicly funded education that benefits the student.[49] In their decision the court relied on the previously cited Rowley case by quoting Rowley at 203 (grades and advancement from grade to grade "an important factor[s] in determining educational

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[46] *Zumwalt v Clynes,* (96-2503/2504, U.S. Court of Appeals, Eight Circuit, July 10, 1997)

[47] *Board of Education v. Rowley,* (458 U.S. 176-203, 1982)

[48] *Light v. Parkway C-2 School District*, 41 F.3d 1223, 1227 (8th Cir. 1994), cert. denied, 515 U.S. 1132 (1995)

[49] *Fort Zumult School Dist. v. Clynes*, 96-2503,2504, (8th Cir. 1997)

benefit").[50]

A major question with regard to the current case, and whether or not FAPE was denied, is whether or not the Parent received adequate notice of IEP conferences and whether or not her input was given due consideration in the decision making process. Most importantly was her claim that she was not notified of the conference wherein it was decided that the Student no longer qualified for or needed speech services and as such was being dismissed from special education.

It was the intent of the IDEA to encourage parental participation in the development of a disabled student's IEP. The value of parental participation in the development of an IEP has been consistently emphasized in the IDEA.[51] As the Supreme Court stated in the previously cited Rowley case "It seems to us no exaggeration to say that Congress placed every bit as much emphasis upon compliance with procedures giving parents and guardians a large measure of participation at every stage of the administrative process ... as it did upon the measurement of the resulting IEP against a substantive standard."[52] The previously cited Eighth Circuit case regarding the necessity of there needing to be serious procedural violations in order to declare a violation of FAPE, on the other hand, takes a strong opinion in the other direction when it comes to the requirement of parental participation: "An IEP should be set aside only if 'procedural inadequacies compromised the pupil's right to an appropriate education, seriously hampered the parents' opportunity to participate in the formulation process, or caused a deprivation of educational benefits."[53] In this case there is no doubt that the Parent had participated in the development of the Student's initial IEP and that she was given proper notice of all subsequent conferences including the conference where it was decided that the Student had reached his IEP goals and that he no longer needed services. There is a preponderance of evidence in the record showing that she was provided with sufficient notices and opportunity to participate. The

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[50] Ibid, at 26 IDELR 172

[51] 20 U.S.C. §§ 1400(c); 1401(20); 1412(7); 1415(b)(1)(A), (C)-(E); 1415(b)(2)

[52] *Bd. of Educ. of Henrick Hudson Cent. Sch. Dist. v. Rowley*,458 U.S. 176, 189, 205 (1982)

[53] *Independent School District No. 283 v. S.D. by J.D.*, 88 F.3d 556 (8th Cir. 1996) and *J.P. v. Enid Public School*, No. CIV-08-0937-HE (W.D. Okla. 9-23-2009)

degree of frustration she believes she has experienced most likely led to the filing for not just one, but two due process hearings.

Also, as noted earlier, the courts have agreed that an IEP must be designed to provide the possibility for a student to obtain an educational benefit from the proposed instruction. What constitutes an educational benefit or meaningful benefit has also been the discussion of multiple court decisions. Again, going back to the Rowley standard, progress according to the courts should be measured in terms of educational needs of the disabled child and should be more than "trivial" or "de minimis."[54] In evaluating whether FAPE was furnished the courts have demanded an individual inquiry into a child's potential and educational needs. In this case the Student's academic progress was shown by testimony and in the record to be more than trivial or de minimis.

The Supreme Court supported Congress' emphasis on the importance of procedural compliance; however the accusation that a student has been denied FAPE has not been supported by the court when the alleged violation has been based solely on procedural violations.[55] Case law attempting to interpret both Congress and comply with the findings of the Supreme Court have stated that procedural errors are sufficient to deny FAPE if such errors "[1] compromise the pupil's right to an appropriate education, [2] seriously hampered the parents' opportunity to participate in the formulation process, or [3] caused a deprivation of educational

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[54] *Polk v. Central Susquehanna Intermed. Unit 16*, 853 F.2d 171 (3rd Cir. 1988); *Ridgewood B. of Educ. v. N.E.*, 172 F.3d 238 (3rd Cir. 1999); and *Houston Indep. Sch. Dist. v. Bobby R.,* 200 F.3d 341 (5th Cir. 2000)

[55] *Board of Education of the Hendrick Hudson Central School District v. Rowley,* 458 U.S. 176, 206-207 (1982). See also *Evans v. District No. 17 of Douglas Cou*nty, 841 F.2d 824 (8th Cir.1988). (See also *Independent School District No. 283 v. S.D. by J.D.*, 88 F.3d 556 (8th Cir. 1996). More recently see: *Hiller v. Board of Education*, (16 IDELR 1246) (N.D. N.Y. 1990); *Bangor School Department* (36 IDELR 192) (SEA ME 2002); *Jefferson Country Board of Education*, (28 IDELR 951) (SEA AL 1998); *Adam J. v. Keller Independent School District*, 328 F.3d 804 (5th Cir. 2003); *School Board of Collier County v. K.C.*., 285 F. 3d 977 (11th Cir. 2002), 36 IDELR 122, *aff'g* 34 IDELR 89 (M.D. Fla. 2001); and *Costello v. Mitchell Public School District 79,* 35 IDELR 159 (8th Cir. 2001).

benefits."[56] The alleged violations of not following the IDEA's due process procedures such as not providing the Parent with sufficient notice of meetings or not providing her the opportunity to participate in the IEP team decisions was not shown by the evidence or testimony to warrant a judgement that the District failed to follow due process procedures in regard to these allegations.

**Order**

The results of the testimony and evidence warrant a finding for the District. All issues as noted above and as alleged by the Parent as a denial of FAPE are hereby dismissed with prejudice.

**Finality of Order and Right to Appeal**

The decision of this Hearing Officer is final and shall be implemented unless a party aggrieved by it shall file a civil action in either federal district court or a state court of competent jurisdiction pursuant to the Individuals with Disabilities Education Act within ninety (90) days after the date on which the Hearing Officer's Decision is filed with the Arkansas Department of Education.

Pursuant to Section 10.01.36.5, *Special Education and Related Services: Procedural Requirements and Program Standards*, Arkansas Department of Education 2008, the Hearing Officer has no further jurisdiction over the parties to the hearing.

It is so ordered.

Robert B. Doyle, Ph.D.
Hearing Officer

May 19, 2014
Date

[56] Roland M. V. Concord Sch. Comm. 910 F.2d 994 (1st Cir 1990); accord Amanda J. ex rel. Annette J. V. Clark Cnty. Sch. Dist., 267 F.3d 877,892 (9th Cir. 2001).