



POTASHNICK LAW OFFICE

David Potashnick
Attorney at law

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February 27, 2009

Chantel L. Alberhasky
Attorney at Law
419 Boonville Ave.
Springfield, MO 65806

Ernest G. Trakas
Attorney at Law
34 North Meramec Ave., Ste. 600
St. Louis, MO 63105

Ms. Victoria Teson
10 Twin Oaks Drive
St. Peters, MO 63376

Ms. Christine Montgomery
1318 Woodfield Manor Court
Kirkwood, MO 63122

RE: [REDACTED] v. Republic R-III District Due Process

Dear Folks:

The hearing of this matter concluded shortly after 1:00 PM, Tuesday, February 24, 2009, at the School Board Meeting room at the Republic R-III School District. Having given the parties sufficient time to organize and conduct mediation, which to my knowledge they have not attempted, the mediation opportunity will be deemed waived. In correspondence from Mr. Trakas, the resolution period was waived, on or about, 9/16/08.

The parents' attorney, Ms. Chantell Albershasky, was allowed, pursuant to pretrial scheduling order, to marshal her evidence to prove that the District's decision that the student did not qualify for services under IDEA was incorrect. She used the first day of hearing explaining separate psychological examinations of the student. The District attorney fully utilized his right to cross examine the witnesses thoroughly.

Shortly after lunch break on the second day of hearing, the Petitioners rested their case, at which time the District attorney moved for dismissal. This Motion was based on the theory that the Petitioners had not met their burden of proof that the student qualifies for

services under IDEA. In a pretrial scheduling order requested by the attorneys, the order of proof was to be a showing by the petitioners that the district's decision that the student did not qualify for services under IDEA was incorrect. This was not found to be the case. It was, therefore, ORDERED, DECIDED AND ADJUDGED that the Motion for Dismissal, verbally made at the close of the Petitioners' case, was GRANTED.

The Panel was unanimous in its decision that the Petitioners had failed to meet the burden of proof that the student qualified for IDEA services

THEREFORE, IN THE MATTER OF ██████████ V. REPUBLIC R-III SCHOOL DISTRICT, IT IS THE DECISION OF THIS PANEL THAT THE REPUBLIC R-III SCHOOL DISTRICT UNDERTOOK PROPER TESTING OF THE STUDENT IN QUESTION, AND THEN ARRIVED AT THE PROPER CONCLUSION, TO WIT, THE STUDENT DOES NOT QUALIFY FOR IDEA SERVICES UNDER THE FACTS THAT WERE PRESENTED TO US AS AN ASIDE. NO EXHIBITS WHATSOEVER WERE ENTERED INTO THE RECORD OF THIS MATTER, AND THE TRANSCRIPT OF THE PROCEEDINGS WILL BE THE SOLE RECORD OF THE SAME.



Chairperson	date	Panel Member	date	Panel Member	date
David Potashnick	2/27/08	Victoria Teson		Christine Montgomery	