

DECISION

Statement of Issue

An IEP team meeting in December 2010 changed the student's placement from 50% special education and 50% general education to 100% special education. Student is a 6 year old kindergarten student, and the IEP team decided on a change of location from the home school District to a State School. Parent's complaint challenged the placement as not being the least restrictive environment for student's education, and objected to the State School as the location for student's education.

Findings of Fact

1. Petitioner student is a six year old with disabilities who lives at home with his parents and four older siblings in a town with a population of approximately 100. (Tr. 227; 230; 249; 35; 383 and R-Ex 8.)

2. Student's parents filed the complaint herein on or about December 8, 2010 raising the issue of the least restrictive environment (L.R.E.) for student's education.

3. Student resides in a public school district (District) with an attendance of approximately 103 students. Ex. 43; Tr 626. The District does not operate a program for severely disabled children. Tr. 627. The District employs one full-time special education teacher, who provides specialized instruction to the District's approximately 25 IEP students in grades kindergarten through 12. Tr. 601. The teacher has the assistance of two paraprofessionals. Tr. 701. At any given time, the teacher serves 7-10 students from a variety of grades, ages and disabilities in her special education classroom. Tr. 601-02. The teacher is not certified to teach students with severe disabilities. Tr. 601.

4. The District also employs a part-time special education director/coordinator, who typically works one day a week at the District. Tr. 487, 574. The director also functions as the District's speech-language pathologist. Tr. 574-75; *see also* Tr. 488. The District does not have sufficient resources or student need to employ a full-time speech-language pathologist. Tr. 574-75. The District is part of a cooperative of six schools. Tr. 570

5. Student was born in March 2005 at the Kirksville, Missouri Northeast Regional Medical Center. Tr. 249, 254. Shortly after his birth, he was medically diagnosed with, *inter alia*, hyposic ischemia encephalopathy, infantile seizure disorder, and cerebral palsy. *See* Ex. R-1 at 2; *see also* Tr. 227. Per Student's mother, he has been diagnosed with hypoxic brain injury, cerebral palsy, a seizure disorder and some visual impairments. Tr. 228, 259. Student has an average of 10 seizures per day. Tr. 259-60. Student is non-verbal, non-ambulatory, uses a wheelchair and has a G-tube for feeding. Ex. R-1 at 8; R-3; Tr. 267-68. He requires total assistance for all of his daily living needs. Tr. 35.

6. From shortly after birth until approximately the age of three, student was enrolled in and received therapy and other services through the Missouri First Steps program. Ex. R-1, 2; R-6 at 118; Tr. 252-53, 299.

7. On or about February 11, 2008, the District determined that student was eligible, at age three, for special education services under the IDEA. Ex. R-3; *see also* Tr. 228, 488-89, 494. The District did not conduct its own evaluations, but instead used assessments prepared by student's First Steps providers. Ex. R-3; Tr. 489. The District's Special Services Coordinator, the District's K-12 special education teacher, the District's

Principal and student's First Steps speech-language pathologist, and student's mother were among the meeting participants. Ex. R-3 at 51; Tr. 302, 399. The District's 2008 evaluation report provided that student was unable to state his needs and wants verbally, had visual difficulties and was incontinent in bowel and bladder. Ex. R-3 at 46-50. At the conclusion of the meeting, the team determined that student met the state eligibility criteria to be identified as "multi-handicapped" and further concluded that student was significantly below his same aged peers in cognition, motor development, speech and language. Ex. R-3 at 50.

8. On that same date, the District's IEP team convened and developed an initial IEP for student. Ex. R-3 at 52; Tr. 229, 300, 494. Student's mother was among the participants in that meeting. Ex. R-3 at 52; *see also* Tr. 229, 437-38. The initial IEP reflected that student was incontinent in bowel and bladder, had vision concerns (but was not blind), was unable to express his wants and needs verbally, and required total care to meet his needs. Ex. R-3 at 53. Student's initial IEP included goals in upper body strength, gross motor skills, speech and language, and oral motor skills. Ex. R-3 at 63-64. The IEP also provided for student to have a paraprofessional for tube feeding. Ex. R-3 at 56. The IEP provided for 684 minutes in an early childhood classroom along with speech-language, occupational and physical therapies. Ex. R-3 at 56.

9. Student's initial IEP proposed a placement for student at the Cainsville KEYS Early Childhood Special Education Cooperative. Ex. R-3 at 52, 56; *see also* Tr. 228. The Cainsville program was approximately 31 miles and 39 minutes from student's home. Ex. R-42 at 930. The IEP included transportation to Cainsville as a related service. Ex. R-3 at 56; Tr. 250-51, 302. Student's mother assumed that the IEP team

proposed the Cainsville program because the District did not think that it could handle student's needs or provide the resources he needed at the District's preschool. Tr. 229-30. During the initial IEP meeting, the parents never requested that student be placed at an early childhood special education program within the Kirksville School District. Tr. 316, 579.

10. Student began attending the Cainsville program on his third birthday in March 2008. Tr. 228, 230, 299-301, 578. He attended there from March 2008 through the 2008 summer program. Tr. 301-02. During the brief time that student attended the Cainsville program, student's mother expressed concerns about the program, particularly in relation to toilet training and staff communication. Tr. 231-34, 304-05, 491.

11. In or about August 2008, student transferred to the early childhood special education program at the Kirksville R-III School District even though the parents continued to reside in the District. Ex. R-4 at 66, 68, 69; Tr. 310, 491, 579. Student attended the Kirksville program during the 2008-09 and 2009-10 school years. Tr. 10, 11, 492-93.

12. Kirksville, Missouri is approximately 54 miles and an hour drive from student's home. Ex. R-42 at 931; Tr. 251. Student was transported to Kirksville with no complications. Tr. 252. Prior to student's enrollment at Kirksville, the parents never requested that the District's IEP team change his placement to the Kirksville program. Tr. 579. After the District became aware of student's transfer and enrollment at Kirksville, however, the District provided transportation for student to attend there. Tr. 491-92, 578.

13. The Kirksville School District has 2-3,000 students and over 100 children participate in the District's early childhood special education program. Tr. 22. The District operates its own program for severely disabled students. Tr. 23. The early childhood program employs 15-20 certified teachers and 30-40 paraprofessionals. Tr. 22. The early childhood program also employs a full-time speech-language pathologist. Tr. 23.

14. At hearing, the Kirksville special education teacher testified that student was non-verbal, nonambulatory and cognitively impaired. Tr. 24, 59. Although she was unable to estimate student's IQ, she testified that he was one of the most severely disabled students she had taught. Tr. 24-25.

15. The teacher also testified that student's IEPs primarily were implemented by a paraprofessional and she only worked with him about 40-60 minutes daily. Tr. 13-14, 25-26. The paraprofessional also worked with student on toilet training. Tr. 28. Student's toilet training goal was added to his IEP at his parents' request. Tr. 28. Approximately 15 minutes of every hour at the Kirksville program was spent on toilet training. Tr. 28. The teacher confirmed that a standard kindergarten curriculum does not include toilet training. Tr. 59.

16. On or about August 29, 2008, the Kirksville School District referred student for an assistive technology evaluation. Ex. R-5 at 75; Tr. 34. The report reflected that student presented with "severe expressive language deficits" as well as poor fine and gross motor skills, the combination of which made accessing a communication device "very difficult." Ex. R-5 at 75. The report also reflected that student required "total assistance for all of his daily living needs." Ex. R-5 at 75. During the evaluation, the

examiners presented student with a DynaVox communication device for “communication choices,” but the device did not hold his attention and the examiners “did not know whether this device would be an accurate fit for him.” Ex. R-5 at 77.

17. Kirksville School District prepared an IEP for student on September 5, 2008. Ex. R-5 at 93-107. The IEP provided for 1160 minutes per week of special education in an early childhood special education program with the related services of language, occupational and physical therapy. Ex. R-5 at 101. The IEP provided for student to be 100% of the time in special education due to his need for “intensive individualized instruction.” Ex. R-5 at 102-03. As noted in the IEP, “[s]pecial education and related services were reported as unavailable through student’s home school district. Student was previously being bused to the Cainsville Special Education Cooperative. ***Parent, in conjunction with the Kirksville Regional Center, contacted special education director to provide special education and related services through the Kirksville Early Childhood Learning Center, due to equal distance from student’s home district and services offered.***” Ex. R-5 at 103 (emphasis added); Tr. 308-09.

18. The Kirksville IEP also provided transportation as a related service. Ex. R-5 at 101. The home school district provided that transportation during the time that student attended the Kirksville program. Tr. 579-81.

19. On or about November 3, 2008, the Kirksville multidisciplinary team convened to discuss the results of the recently completed reevaluation. Ex. R-6 at 114-130; Tr. 581. Student’s mother participated in that meeting. Ex. R-6 at 130; *see also* Tr. 442-43. No one from the home school district was invited to or did participate in the reevaluation or meeting. Tr. 581. During the meeting, student’s mother expressed

concern about student crying at school and, in response, staff agreed to chart student's crying. Ex. R-6 at 114. The team further discussed that student was missing morning circle time due to tube feeding. Ex. R-6 at 114. Additionally, the evaluation report reflected that student had not received any early childhood services through the home School District "*due to the fact that the services he required through his IEP were not available.*" Ex. R-6 at 118 (emphasis added). The report further noted that "*[a]fter many disagreements with the Cainsville Cooperative and discussions with outside agency therapists in Kirksville, student's parents determined that student would benefit more from services at the Kirksville Early Childhood Program.*" Ex. R-6 at 118 (emphasis added). The Kirksville multidisciplinary team continued student's educational diagnosis of Multiple Disabilities. Ex. R-6 at 129.

20. In the fall of 2009, the home School District determined that, because student remained a resident in the District, the District was required to develop his IEPs and participate in his IEP meetings. Tr. 582. Accordingly, in the fall of 2009, the District took from Kirksville the responsibility for the development of student's IEPs and his special education program. Tr. 582.

21. On or about September 29, 2009, the Home School District sent the parents a notification for an IEP meeting for October 16, 2009 to be held at Kirksville. Ex. R-7 at 131; Tr. 583. The proposed meeting was the first time after student began attending Kirksville that the District initiated an IEP meeting for student. Tr. 582.

22. On or about October 16, 2009, the District's IEP team convened to prepare an IEP for the 2009-10 school year. Ex. R-7 at 132-147; Tr. 494, 583. The meeting was held at Kirksville. Tr. 494. The IEP continued student's placement at the Kirksville

early childhood program and provided for 100% of his services to be in a special education environment. Ex. R-7 at 139-140; Tr. 583, 648-49. Student's placement was not at his home school due to his need for "intensive individualized instruction and specialized equipment for therapies." Ex. R-7 at 141. The IEP also provided for student to attend extended school year services at Kirksville during the summer of 2010. Ex. R-7 at 142.

23. The October 2009 IEP also indicated that student was not eating orally at school per his mother's request and because he was aspirating. Ex. R-7 at 135. The IEP also reflected student's periodic crying. Ex. R-7 at 135.

24. On or about January 19, 2010, student's mother served as the informant with respect to a Vineland adaptive behavior scale. Ex. R-8 at 148. Based on the information provided by parent, student achieved a composite adaptive behavior score of 45. Ex. R-8 at 148.

25. In or around February 2010, the parents requested that the District temporarily change student's IEP placement to homebound due to an upcoming surgery. Ex. R-9 at 152-59; Tr. 583. Student's IEP team convened on February 26, 2010 to consider and effectuate that change. Ex. R-9 at 155; Tr. 583.

26. On or about March 2, 2010, the District provided the parents with a notice of action proposing a change of placement to homebound to begin on March 2, 2010. Ex, R-10 at 168.

27. The District provided student with homebound services from approximately March 2, 2010 through March 10, 2010. Ex. R-10 at 169-87. The parents did not request that the Kirksville District provide those services. Tr. 584.

28. On or about March 10, 2010, student's IEP team convened and changed student's placement from homebound back to the early childhood special education program in Kirksville. Ex. R-10 at 188-89; Tr. 584.

29. On or about March 18, 2010, student's mother corresponded with the Kirksville Early Childhood Learning Center. Ex. R-11 at 190; Tr. 52-53, 335-338, 589. The home District was copied on the letter. Ex. R-11 at 190; Tr. 589. Parent wrote "***I would like to request a placement IEP meeting for my son before the end of the regular school year, since I have concerns about his placement for the upcoming fall with the Home District.. I feel that his current IEP team within the Kirksville school district would benefit my son more than his home district in this matter.***" Ex. R-11 at 190 (emphasis added); Tr. 104-05, 237, 589.

30. In April 2010, student had surgery for his seizure disorder. Tr. 61-62.

31. On or about April 14, 2010, student's teacher prepared a progress report with respect to student's IEP goals. Ex. R-14 at 197; Tr. 43-45. In that report, the teacher noted that student's toileting skills had decreased. Ex. R-14 at 197. The teacher also stated that "[i]n my personal opinion student needs to be placed in a learning environment with same age peers who are disabled and non-disabled. He is motivated by others around him and enjoys playing with them. I would personally recommend that student be placed in a kindergarten classroom in his home school district." Ex. R-14 at 197; Tr. 17-18; *see also* Tr. 45. At that time, the teacher had never been to and had no knowledge of the home School District and was unfamiliar with the Chillicothe State School. Tr. 46.

32. On or about April 19, 2010, the home District provided the parents with notification for an IEP meeting to be held on May 3, 2010. Ex. R-15 at 205. One of the

stated purposes for that meeting was to determine student's educational placement for the 2010-11 school year. Ex. R-15 at 205. At that time, the District had not yet initiated the State School eligibility process. *See* Tr. 495-96, 506-09.

33. In the spring of 2010 and in response to parent's March 18 letter, the Superintendent of the home District inquired as to whether the Kirksville District would contract to provide the student's kindergarten services but Kirksville declined. Tr. 590-91.

34. The home District made a blind referral to preliminarily determine student's eligibility for a State School placement sometime after April 14, 2010. Tr. 495-96, 506-09. A blind referral is not a formal application to determine a student's State School eligibility. Tr. 509.

35. In or around June 2010, the Kirksville teacher referred student for a functional vision assessment even though the home District had resumed the IDEA responsibility for student. Ex. R-16 at 209; Tr. 197-98, 209-16. The examiner, Anthony Blades, noted that student did not visually attend to his augmentative communication device during the assessment nor did he make observable choices. Ex. R-16 at 203-04, 206, 210-11. Mr. Blades also observed that student did not demonstrate any purposeful movement toward an object nor did he respond to verbal requests to release objects. Tr. 209; Ex. R-16 at 213.

36. Petitioners called the examiner to testify at hearing. Tr. 170. Mr. Blades is employed as a blind skills specialist by Truman State University and, in that capacity, provides professional development to schools, including the State Schools. Tr. 171, 194. Mr. Blades knew student from the functional vision assessment that he performed. Tr.

173. Mr. Blades testified that student has a cortical vision impairment which means that he performs visually but his brain does not interpret the visual stimuli received. Tr. 174. Although student visually attends to moving objects, he showed no preference for colors during the functional vision assessment. Tr. 175, 205-06.

37. During the functional vision assessment, Mr. Blades did not observe student to engage in a lot of purposeful exploration of his environment. Tr. 181. Mr. Blades had no opinion as to whether student had the ability to learn or understand what is asked of him. Tr. 182-83.

38. Mr. Blades made numerous recommendations for student's educational program. Ex. R16 at 209-16. Each of the things he recommended could be accomplished at a State School. Tr. 217. After student began attending kindergarten at the Home District in August 2010, the District implemented many of Mr. Blades' suggestions, including the attempted employment of a certified teacher of the visually impaired. Tr. 181-82, 188-89.

39. During the spring or summer of 2010, the District began the formal process of determining student's eligibility for a State School placement. Tr. 495-96, 506-09.

40. On or about July 12, 2010, an Assistant Director for Program Services for the Missouri Schools for the Severely Disabled, corresponded with the part time Special Education Director/Coordinator regarding the District's application for an eligibility determination. Ex. R-18; Tr. 576-78. The part time special education director/coordinator did not receive that letter until August 20, 2010. Tr. 568. In that correspondence, the assistant director for program services indicated that the need for the state to have additional information, including information with respect to why the

District could not educate student. Ex. R-18 at 266; Tr. 567-68. Requested, inter alia, was a current adaptive behavior assessment of student rated by student's teacher from the 2009-2010 school year using, preferably, the same instrument used with the student's mother (the Vineland). Ex. R-18; Tr. 611. District subsequently provided the requested additional information. Tr. 568.

41. On or about August 17, 2010 and before the 2010-11 school year began, student's IEP team convened at the home District to prepare an IEP for student's kindergarten year and to discuss and determine his placement for the 2010-11 school year. Ex. R-19 at 267-95; Tr. 238, 495, 600. At that time, the District had made application for an eligibility determination to the Missouri State School for the Severely Disabled but had not yet received an eligibility determination. Ex. R-19 at 275; Tr. 49, 600. The team was informed of that pending application. Tr. 507. In addition, at the time, neighboring school districts, including the Kirksville District, had declined to serve student on a tuition basis and, accordingly, the District was the only available option for student's placement. Tr. 600. Therefore, the team focused its discussion on serving student at the home district for his kindergarten year even though the part time special education director/coordinator had concerns about the District's ability to serve him. Tr. 600.

42. The IEP developed on August 17 noted that, based on the State School requested Vineland adaptive scales, the teacher rated student as having an overall adaptive behavior composite score of 32 which is more than four standard deviations below the mean. Ex. R-19 at 283; Tr. 49-51, 611.

43. On August 17, the team discussed student's goals, related services and other needed services, accommodations and modifications. Ex. R-19 at 268-69, 292-94. Relying heavily on information provided by Kirksville and after discussion of the placement continuum options, the team decided to provide student with specialized instruction in a special education setting for 50% of his day and services for 50% of the time in a regular education setting. Ex. R-19 at 269, 281, 286-88; Tr. 239, 398, 495-97, 499, 508, 603; *see also* Tr. 19, 49. State School was not considered as an option. Tr. 49.

44. On or about August 17, 2010, the District provided the parents with a notice of action proposing to change student's placement from 100% of the time in special education at the Kirksville Early Childhood Special Education program to 50% of the time in special education and 50% of the time in regular education at the home School District. Ex. R-19 at 273.

45. As of March 2011, the part time special education director/coordinator no longer believed that student's least restrictive environment included 50% of his day in regular education because his needs cannot be met in that setting. Tr. 603. As of March 2011, she had observed student in the regular education setting and concluded that he received no academic benefit in a regular education kindergarten classroom because his needs were considerably different from those of his non-disabled peers and the general education curriculum was not appropriate for him. Tr. 603-04.

46. Student began attending the home School District as a kindergarten student pursuant to the August 17, 2010 IEP on August 18, 2010. Tr. 238, 243, 394.

47. Student's mother expressed mixed feelings about student's attendance at District and his progress there. Tr. 243-44. She also is concerned about staff communication and the District's ability to provide what student needs. Tr. 244.

48. During the school year, the kindergarten teacher had 10-11 students in her class. Tr. 679. Only one other student had an IEP. Tr. 679. During the 2010-11 school year, the teacher attempted to integrate student and he attended calendar and reading time with the class. Tr. 684-86. During calendar time, the teacher did not observe student reacting to other students' voices. Tr. 684. During reading, student occasionally looked at other students but generally he looked away and did not respond. Tr. 684-85. When asked if student benefited from the integration provided, she testified that student was unable to participate in the kindergarten curriculum and she had not seen improvement since the beginning of the school year. Tr. 686-87. She also observed little purposeful choice making. Tr. 687-88.

49. When student attends in the kindergarten classroom, he always has two paraprofessionals with him. Tr. 682. When student cries, the paraprofessionals remove him from the classroom. Tr. 682. They also take him elsewhere for toileting every 45 minutes. Tr. 682-83. During a typical day, student is taken in and out of the kindergarten room approximately 10-14 times. Tr. 683. The movement that results from these activities creates a distraction for the students in the room. Tr. 683.

50. The kindergarten teacher, is responsible for teaching her students the state's grade level expectations (GLEs). Tr. 679. Student's attendance in her classroom impacted her ability to instruct her students on those GLEs. Tr. 679. Student frequently cries in the classroom and the movement created when student comes in and out of the

room also creates a distraction. Tr. 679-80. As a result, the teacher's student were not able to learn as much as she had hoped. Tr. 680. Indeed, her students, at times, expressed frustration with respect to the student's crying. Tr. 681.

51. On or about October 12, 2010, the student's contracted occupational therapist prepared a quarterly progress with respect to goals 5-7 of his August 2010 IEP. Ex. R-26 at 344. In that report, the occupational therapist reported that student had not met goals 5 and 6 and had made no progress on goal 7. Ex. R-26 at 344. The therapist noted that student recently had been ill, absent from school, and needed to be on oxygen. Ex. R-26 at 344.

52. On or about November 10, 2010, the Missouri Schools for the Severely Disabled asked to conduct an observation of student at school to complete the eligibility determination. Ex. R-26 at 343.

53. On or about December 1, 2010, Mervin Blunt and Jackie McKim from the State Schools observed student at the District. Ex. P at 237-39; Tr. 661. December 1st was a particularly good day for student and and Mr. Blunt and Ms. McKim were, therefore, able to get a clear picture of him. Tr. 624-25. The report that Mr. Blunt and Ms. McKim prepared of their observations was consistent with the manner in which student typically presented except that he cried less on December 1. Tr. 625; *see also* Petitioners' Exhibit at pages 237-39. At the conclusion of the observation, Mr. Blunt informed the District that student qualified for the State School. Tr. 566-59.

54. When Mr. Blunt's department first received the District's application regarding student, he and Ms. McKim were unable to make an eligibility decision

because there was a discrepancy in the Vineland adaptive behavior scale that had been completed by the parents and the one completed by the District. Tr. 660. As a result, Mr. Blunt's department requested additional information. Tr. 660.

55. Because of the discrepancy in the Vineland scales and the other information submitted by the parents, Mr. Blunt and Ms. McKim went to the District to observe student and made notes of those observations. Tr. 660-61; Petitioners' Exhibit at 237-39. The notes are an accurate summary of what Mr. Blunt and Ms. McKim observed. Tr. 663.

56. At hearing, Mr. Blunt testified that his observation of student showed that he was functioning at below 12 months. Tr. 662. Although student appeared to like being around other children, his interaction with those students was "extremely limited." Tr. 662. As noted by Mr. Blunt, "Student didn't seem interested in a lot of different things that were going on, even though the students and the staff were very interactive with him." Tr. 662. Student's biggest response during the observation was to an Elmo doll. Tr. 662-63. Other than that, he "had little response to what was going on." Tr. 663.

57. Mr. Blunt determined that student was state-school eligible "[w]ithin an hour of the beginning of the observation." Tr. 663. Mr. Blunt reached that conclusion because (1) student is functioning at the level of 12 months or below even though he was six years old at the time; (2) the areas of delay were pervasive; (3) his communication is limited to "infantile responses;" and (4) student did not appear to be cognitively aware of what was occurring in the classroom. Tr. 664.

58. On or about December 1, 2010, the District provided the parents with a notification for a meeting scheduled for December 7, 2010 to discuss student's placement. Ex. R-28 at 360.

59. On or about December 3, 2010, Jackie McKim corresponded with the District and informed the District that student was eligible for services provided by the State Board of Education if referred by the District and subject to the exhaustion of procedural safeguards available to student's parents. Ex. R-29 at 363-65. The Peniston State School in Chillicothe, Missouri is approximately 49 miles and about an hour drive from student's home. Ex. R-42 at 929; Tr. 250.

60. On or about December 7, 2010, student's IEP team convened to review and revise his IEP and to determine his placement subsequent to the State's decision regarding State School eligibility. Ex. R-31 at 372-74; Tr. 650.

61. When the team discussion turned to placement, the special education director read each of the options on the continuum of placements. Ex. R-31 at 373. The team then discussed what was available for student at the State School as compared to the District. Ex. R-31 at 373. The team also discussed that the State School location in Chillicothe was not quite an hour away, about the same distance as Kirksville. Ex. R-31 at 373.

62. Student's IEP team developed a new IEP for him on December 7, 2010. Ex. R-32 at 380. The IEP present level notes that student's cognitive abilities are at least four standard deviations below the mean. Ex. R-32 at 381. The present level further indicates that student has had no meaningful purposeful interaction with the DynaVox in either regular or special education. Ex. R-32 at 381. The services summary page of the IEP

provides for student to receive specialized instruction in toileting, self care, communication, pre-academics and social skills for 1800 minutes per week. Ex. R-32 at 391; Tr. 634. The IEP also provides for student to receive the related services of speech-language therapy, occupational therapy, physical therapy, GI feeding, and transportation. Ex. R-32 at 391. The IEP also calls for student to have a 1:1 personal paraprofessional. Ex. R-32 at 391. The team determined that all of the services should be provided at the Peniston State School in Chillicothe, Missouri. Ex. R-32 at 391; Tr. 614. The rationale for that placement is included within the IEP. Ex. R-32 at 393.

63. On or about December 7, 2010, the District provided the parents with a notice of action proposing a change of placement to the State School. Ex. R-33 at 402.

Decision and Rationale

Student suffers from multiple handicaps, and hinders the education of other student's in the general education setting. It has not been shown that the student benefits from the general education setting, and the home school District lacks the resources to provide an appropriate education to the student. The State plan provides that the State school is an optional placement for the student, and the resources of the state have been allocated to the state school for the education of students with severe disabilities.

Student's IEP of 12/10 provides a free appropriate public education in the least restrictive environment for this student.

Time Line

Complaint filed	12/08/10
Resolution meeting waived	12/15/10

Extensions of time for Decision:

01/12/11 Order extending time for Decision to 04/29/11 based upon District request and pre-hearing phone conference setting a hearing for March 15, 2011 by agreement of the parties.

03/21/11 Order extending time for Decision to 05/20/11 based upon consent of parties at hearing from 03/15/11 to 03/17/11. Parties granted time to 04/15/11 for filing briefs.

04/08/11 Order extending time for Decision to 06/10/11 based upon unopposed Motion of District. Parties granted additional time until 05/09/11 to file briefs based upon late delivery of transcript of hearing.

Date of Decision

Right to Appeal

This is a final Decision of the three member panel. Either party may appeal this decision to a U.S. District Court or to a State Court of competent jurisdiction within forty-five (45) days from the date of this Decision.

So ordered by the three member panel empowered pursuant to Section 162.961 Revised Statutes of Missouri.

Concur

Dissent

Patrick Boyle, Hearing Chair

George Wilson, Hearing Panel Member

Grace Cross, Hearing Panel Member

Dated: _____