

**BEFORE THE THREE-PERSON DUE PROCESS HEARING PANEL
EMPOWERED PURSUANT TO SECTION 162.961 RSMo.**

, by and through)
, his parent,)
)
 Petitioner,)
)
vs.)
)
Independence 30 School District,)
)
 Respondent.)

Decision

THE ISSUES

The fundamental issue before the panel is whether the IEP developed by the Independence School District (“District”) in May of 2012 was reasonably calculated to confer an educational benefit to the Student. Specifically, the Petitioners allege that the District denied the Student a free appropriate public education (“FAPE”) by refusing to include specialized instruction in reading comprehension and reading fluency in the IEP developed on May 17, 2012, and that the District denied the student a FAPE by refusing to include extended school year services (“ESY”) in the IEP developed on May 17, 2012. They also allege that the District improperly delayed providing them with a signature page for the IEP.

FINDINGS OF FACT

The Hearing Panel makes the following Findings of Fact:

1. At all times relevant to this due process proceeding, the Student resided with his biological father and stepmother (“Parents”) within the geographical boundaries of the Independence School District (“the District”) and has attended schools within the District. The primary mode of communication of the Student and his parents is written and spoken English.

2. The District is a public school district organized pursuant to Missouri law and is located in Jackson County, Missouri.

3. The Student and Parents were not represented by counsel at hearing.

4. The District was represented by Julia Walker and Shellie Guin, Guin Martin & Mundorf, LLC, 9237 Ward Parkway, Suite 240, Kansas City, Missouri, 64114.

5. The Hearing Panel for the due process proceeding was Mr. Patrick Boyle, Hearing Chairperson; Mr. George Wilson, Panel Member; and Dr. Jerry Wright, Panel Member.

6. During all times relevant to this proceeding the following persons were employed by the District, were involved in the evaluation of and the provision of special education and related services to student, or held other positions of responsibility with the District:

Janet Knapp, District Process Coordinator and Section 504 Coordinator;

Breanna Dykes, School Psychologist;

, Reading Specialist;

, Third Grade, Regular Education Teacher;

, Special Education Teacher;

Dr. Jon Pye, Principal, Bryant Elementary;

Dr. Terry Allee, Interim Director of Special Services.

All but Ms., Dr. Pye and Dr. Allee testified at hearing.

7. Exhibits were introduced and received into evidence at the hearing. The following were admitted and made a part of the record:

Petitioner's Exhibits: 1-7, 10, 12-20, 22-56, 62-65. (Tr. 110).

Respondent's Exhibits: 3-5, 7, 15 -23, 33, 34, 36-45, 49. (Tr. 263).

8. Student has been enrolled in the District since second grade, when he attended Fairmont Elementary. (Tr. 104.) Student was initially evaluated for special education eligibility in the areas of health, social/emotional/behavioral, and academic performance in 2011. (Resp. Ex. 3.)

9. The District utilizes the discrepancy model to determine eligibility for specific learning disabilities. Specifically, the discrepancy model compares a student's full-scale IQ ("FSIQ") to the student's standardized scores on achievement testing. If a student's scores on achievement testing are 1.5 standard deviations or more below the student's FSIQ, the discrepancy between IQ and achievement is significant and the student meets the eligibility criteria for specific learning disability in that area. (Tr. 122).

10. Student's FSIQ was 109, thus achievement test scores of 86 or below were 1.5 or more standard deviations from FSIQ and were considered significant by the multidisciplinary team. (Resp. Ex. 3; TR 125).

11. In its initial evaluation, the District utilized the Woodcock-Johnson III Test of Achievement, and it revealed discrepancies between the Student's FSIQ and achievement in the areas of passage comprehension and reading vocabulary. (Resp. Ex. 3). Specifically, Student's broad reading passage comprehension score was 84. He scored 79 in the reading comprehension cluster and 84 and 83 in the subtests of that cluster, passage comprehension and reading vocabulary. (Resp. Ex. 3).

12. The District also utilized the Gray Oral Reading Test (“GORT”) as part of its evaluation. A student’s oral reading ability is measured by an Oral Reading Quotient (“ORQ”), which, in the context of the discrepancy model, is then compared to the student’s FSIQ. (Resp. Ex. 3; Tr. 126-129).

13. The GORT was administered to the student on March 2, 2011 and rendered an ORQ of 79. Thus there was a significant discrepancy between the Student’s achievement as measured by the ORQ and his FSIQ. (Resp. Ex. 3; Tr. 128).

14. On March 14, 2011, a group of qualified professionals and the Parents determined that the Student met Missouri’s eligibility criteria for specific learning disabilities in the areas of reading comprehension, reading fluency and written expression. (Resp. Ex. 3; Tr. 129-130).

The Student’s initial IEP, which was implemented on March 28, 2011, included 75 minutes per week of specialized instruction in reading fluency, 75 minutes per week of specialized instruction in reading comprehension, and 75 minutes per week of specialized instruction in written expression. Per the initial IEP, the Student participated in regular education 88% of the time. (Resp. Ex. 4).

15. The initial IEP also provided for accommodations with respect to tasks involving writing and reading skills, such as additional time on assignments. (Resp. Ex. 4).

16. The Student’s initial IEP was implemented on March 28, 2011, while Student was in the third grade at Fairmont Elementary, an elementary school within the District. (Resp. Ex. 4).

17. At the conclusion of third grade, the Student's Parents retained him and he repeated the third grade at Bryant Elementary School, a school within the District. (Tr. 64). The District did not support the Parents' decision to retain the Student. (Tr. 232).

18. On August 9, 2011, at the Parents' request, the District agreed to pay for an independent educational evaluation ("IEE") of the Student. (Tr. 232-33).

19. The IEE was conducted by Dr. Tracy Ochester between November 20, 2011 and January 2, 2012. The final IEE report is dated January 16, 2012. (Resp. Ex. 16).

20. Dr. Ochester administered the Wechsler Individual Achievement Test, Third Edition ("WIAT-III") and the GORT, 4th Edition, Form B to assess Student's reading. (Resp. Ex. 16, p.4). The GORT that Dr. Ochester administered was the same test administered to Student during his initial evaluation but was a different form. (Tr. 131-132).

21. Breanna Dykes, the District's school psychologist, testified that she is trained in administering and interpreting educational assessments. Her role includes routinely interpreting assessments administered by other people, including IEEs. (Tr. 131, 152).

22. The WIAT-III is comprised of several subtests. Of those components assessing reading—total reading, basic reading, and reading comprehension and fluency—all of Student's scores were in the average range. Student's individual scores in these areas, as assessed by Dr. Ochester, were 96, 99 and 97, respectively. (Resp. Ex. 16, p. 10). These scores do not reflect a significant discrepancy between Student's FSIQ and his achievement on reading measures as assessed by Dr. Ochester. (Resp. Ex. 16, p. 10; Tr. 133-134).

23. According to the GORT administered by Dr. Ochester, Student's ORQ was 91, placing him in the average range. (Resp. Ex. 16, p. 13). Ms. Dykes testified that the Student's ORQ of 91, as measured by Dr. Ochester, showed good improvement over the ORQ of 79 measured in the District's initial evaluation, indicating that the Student had moved from the "low average, borderline range" into the average range between his March 2011 initial evaluation and the IEE. (Tr. 136). Moreover, in applying the discrepancy model to the ORQ generated by Dr. Ochester, there was not a significant discrepancy between Student's achievement in reading and his FSIQ. (Resp. Ex. 16; Tr. 135).

24. Ms. Dykes testified that, had the District applied the discrepancy model to Student's scores on the GORT and WIAT-III as administered by Dr. Ochester, Student would not have met the eligibility criteria for specific learning disability in reading. (Tr. 134-135).

25. In her report, Dr. Ochester also made the following observations about Student's reading ability:

- a. "[Student's] Total reading score was in the Average range and at the 39th percentile. Basic reading skills were also in the Average range and at the 47th percentile. Finally, Reading Comprehension and Fluency was also in the Average range and at the 42nd percentile." (Resp. Ex. 16, p. 12).
- b. "[Student's] Early Reading Skills met or exceeded 82% of peers...his early reading skills are quite strong." (Resp. Ex. 16, p. 13).
- c. "[Student's] overall oral reading ability was in the Average range relative to peers, placing him in the 27th percentile. This is commensurate with what would be expected given his age." (Resp. Ex. 16, p. 13).

- d. “Although [student] showed consistent relative weakness across verbally mediated tasks.....his symptoms were not severe enough or distinct enough to warrant the additional diagnosis of a reading disorder at this time. Rather, his reading problems may have been impacted by his early environment as well as his problems with inattention and hyperactivity/impulsivity.” (Resp. Ex. 16, p. 20; Tr. 139).

26. The District scheduled an IEP meeting to consider the IEE results. In order to facilitate the meeting, Janet Knapp, a District process coordinator, sent the IEP team an email with a draft copy of the IEP attached. The draft IEP made several references to Dr. Ochester’s report. (Resp. Ex. 18; Tr. 233-235).

27. The IEP meeting took place on February 23, 2012. At the Parents’ request, a District reading specialist, , attended the meeting. Also in attendance were Parents, Ms. Knapp, Ms. Dykes, , Student’s special education teacher, , Student’s general education teacher, and Dr. Jon Pye, Bryant Elementary School Principal. (Resp. Ex. 19; Tr. 236).

28. During the meeting, the IEP team discussed the recommendations made at the conclusion of Dr. Ochester’s report. The team also discussed areas of education that were impacted by Student’s learning disability as stated in the Present Level of Academic Achievement and Functional Performance report of his March 28, 2011 IEP. (Resp. Ex. 4, p. 3; Resp. Ex. 19; Tr. 236-238).

29. The issues identified in the prior IEP were:

Reading comprehension:

Unable to use context clues to facilitate comprehension

Has difficulty understanding the meaning of words when reading

Has difficulty understanding the meaning of phrases or sentences when reading

Seems unable to recall facts or details from a passage the has been read

Has limited vocabulary at his instructional level

Reading fluency:
Loses place or skips words when reading
Makes frequent errors when reading (omission, substitutions, mispronunciations)
Reads orally at a slow rate.
Reads orally in a word-by-word manner.

(Resp. Ex. 4, p. 3; Resp. Ex. 19).

30. During the meeting, Ms. Knapp read the areas of educational impact previously identified by the IEP team and solicited responses from team members. (Tr. 237).

31. , Student's general education teacher, and his special education teacher, reported that they were not observing reading comprehension or reading fluency concerns. (Resp. Ex. 19; Tr. 238).

32. During the same meeting, , District reading specialist, discussed Student's performance on the AIMSweb ("AIMS") and the STAR, which are District-wide reading assessments. (Resp. 19; Tr. 207, 240).

33. The AIMS is utilized to gauge a student's performance both in reading comprehension and reading fluency. The District administered this assessment to the Student a total of 11 times since January of his second grade year (2009-2010). (Resp. Ex. 38 and 36; Tr. 197).

34. There are two components to the AIMS assessment: Reading-Curriculum-Based measures (R-CBM) and MAZE. R-CBM utilizes passages that are read aloud to assess reading fluency. As the student reads a passage out loud, the number of words read correctly is recorded, as is the number of errors. These two figures are then used to generate a percentage, which reflects the accuracy of the student's reading. Three passages are given, and the median scores are utilized. (Resp. Ex. 34, 36 and 38; Tr. 197-198).

35. The MAZE portion of the AIMS measures comprehension using the cloze procedure. Cloze is a reading assessment method in which words are omitted from a passage and the student is required to select an appropriate word from a list to fill in the blank. (Tr. 204).

36. testified that the R-CBM and the MAZE assessments are considered together and that one does not necessarily carry more weight than the other. (Tr. 205).

37. A student's results from both portions of the assessment are then plotted as a data point on a graph. The performance of the student's grade level peers is plotted on the same chart with a "box and whisker" graphic. The box indicates the average range of performance and the whiskers, which extend above and below the box, indicate above and below average range, respectively. If the student's data point falls within the box, his performance is in the average range. The center of the box is average and the areas above and below that are still within the box are low and high average. If a student's data point falls on one of the "whiskers" extending from the box, then performance is in the above or below average range relative to the student's peers. (Tr. 198).

38. The AIMS was administered to the Student in September and January of his third grade year at Bryant, and these data were reviewed and considered during the February 23, 2012 IEP meeting. (Resp. Ex. 19 and 38; Tr. 199).

39. testified that "ideally," students would score in the 90% range on reading accuracy measures. (Tr. 203).

40. On the September 2011 AIMS R-CBM assessment, Student read 109 words correctly with one error for an accuracy rate of 99.1%. His September 2011 performance was in the above average range relative to his peers. (Resp. Ex 38).

41. On the AIMS R-CBM given in January of 2012, Student read 126 words with 0 errors for an accuracy rate of 100%. This placed Student in the above average range relative to his peers. (Resp. Ex. 38; Tr. 200).

42. While in the third grade, the Student's reading fluency, as measured by the AIMS, demonstrated an upward trend. (Tr. 202). testified that assessment results such as the Student's are cause for celebration. (Tr. 200-201).

43. With respect to comprehension as measured by the AIMS MAZE, the Student identified the correct word 18 times with one error during the September 2011 assessment, for an accuracy rate of 94.7%. This placed him in the above-average range relative to his peers. (Resp. Ex. 38).

44. Similarly, during the January 2012 MAZE assessment, the Student selected the appropriate word 24 times with 2 errors for an accuracy rate of 92.3%. Again, this placed him in the above average range relative to his peers. (Resp. Ex. 38; Tr. 206).

45. The Student's performance on the STAR reading assessments was also reviewed and considered at the February IEP meeting. (Resp. Ex. 22).

46. The STAR is a timed, computer-based reading assessment used to assess reading comprehension. The data gathered with the STAR assessment guides teachers on the grade level of books students are prepared to read. (Tr. 210).

47. The data gathered from the STAR assessment includes grade equivalent (“GE”), which indicates the grade level at which student is performing as compared to other students nationally; percentile rank (“PR”) which compares the student’s test performance with that of other students nationally in the same grade; and instructional reading level (“IRL”), which is the grade level at which the student is at least 80% proficient at recognizing words and comprehending material. (Resp. Ex. 49, p.5; Tr. 211). With respect to the STAR, the IRL is the main indicator relied on by the District to assess a student’s performance. (Tr. 211).

48. The STAR also generates a zone of proximal development (“ZPD”), which is the reading level range from which the student should select books for optimal growth in reading. (Resp. Ex. 49, p.5; Tr. 226). The ZPD is then used in the general curriculum as a guide to help the student and teacher in selecting appropriate reading materials. (Resp. Ex. 45).

49. In addition, the STAR score sheet indicates the student’s grade level placement (“GP”) at the time of testing. (Resp. Ex. 36).

50. On his September 7, 2011 STAR assessment, the Student’s grade placement was 3.02 and his grade equivalent was 5.1, meaning that as compared to students nationally, he read at the level of a fifth grader who had just started fifth grade. (Resp. Ex. 36). His instructional reading level was 4.4 indicating that he could read books written at a fourth grade, fourth month reading level with 80% proficiency in word recognition and comprehension. An IRL of 4.4 also placed the Student in the above average range as compared to his peers. (Resp. 36; Tr. 212).

51. On his November 30, 2011 STAR assessment, the Student’s grade placement was 3.29 and his grade equivalent was 4.6, meaning that as compared to students nationally, he read

at level of a fourth grader in the sixth month of fourth grade. His instructional reading level was 4.1 indicating that he could read books written at a fourth grade, first month, reading level with 80% proficiency in word recognition and comprehension. An IRL of 4.1 also placed the Student in the above average range as compared to his peers. (Resp. 36; Tr. 212).

52. testified that Student was performing at or above the level of his peers on reading comprehension and fluency measures. (Tr. 200, 206, 208).

53. Based on the general and special education teacher's observations of the Student's present level of performance and his performance on District-wide reading assessments, the IEP team determined that the Student no longer required specialized instruction in reading. (Tr. 237-239).

54. The District issued a Notice of Action ("NOA") on February 23, 2012, which stated:

- 1) The IEP team proposes deletion of reading comprehension goal and related 100 min per week for reading comprehension services because [Student] has demonstrated average or above average reading comprehension skills.
- 2) The IEP team proposes deletion of reading fluency goal and related 100 min per week for reading fluency services because [Student] has demonstrated average or above average reading fluency skills.

(Resp. Ex. 22).

55. Under "Basis for the Action," the NOA states:

Parent request for an independent educational evaluation, Dr. Ochester's 1/16/2012 independent educational evaluation conclusions, district reading assessments (AIMSweb & STAR), District Reading Specialist input, state reading assessment (2011

proficient performance on the Missouri Assessment Program), 3/22/11 IEP regular education impact of disability, current impact of disability, Parents' input, Regular Education Teacher input, Special Education Teacher input, 2/23/2012 IEP team review and recommendations.

(Resp. Ex. 22).

56. Following the meeting, Student's father emailed Ms. Knapp requesting information about the IEP team's decision including, "What tests had determined he has been completely remediated?" Ms. Knapp responded the next day stating, in pertinent part:

The review of Dr. Ochester's IEE conclusions prompted discussion of reading remediation. provided reading data from last year and this year including January "cold" reading data indicating that [Student] was performing at or above his peers' reading abilities. To be safe, we systematically addressed each adverse academic concern from the 2010-11 Fairmont IEP (pasted below). Neither the Regular or Special Education teachers shared these concerns—concluding no adverse educational impact at this time.

(Resp. Ex. 23; Tr. 239-240).

57. The IEP that was developed during the February 23, 2012 meeting did not include specialized instruction for reading and provided that the Student would participate in regular education 93% of the time. The IEP was implemented on March 5, 2012. (Resp. Ex. 20; Tr. 239).

58. The February 23, 2012 IEP deferred the question of extended school year ("ESY") stating, "The need for ESY services will be addressed at a later date." (Resp. Ex. 20, p. 10).

59. Student took the AIMS and the STAR again in May, after not receiving specialized instruction in reading since March 5, 2012. (Tr. 239). On the R-CBM, student read 167 words with two errors for an accuracy of 98.8%, which placed him in the above average range as compared to his peers. This score reflected a “continuing” upward trend. (Resp. Ex. 36; Tr. 201-202).

60. On the MAZE portion of the AIMS, student had 24 correct answers and three errors for 88.9% accuracy on the comprehension measure. This, too, placed student in the above average range as compared to his peers. (Resp. Ex. 36; Tr. 208-209).

61. On his May 1, 2012 STAR assessment, when his grade placement was 3.80, the Student’s grade equivalent was 4.6 as compared to students nationally. His instructional reading level was 4.1. (Resp. Ex. 36).

62. Another IEP meeting was held in May. It took place over two days, on May 14 and May 17, 2012. Janet Knapp, ,, Breanna Dykes, Jon Pye, and the Parents attended. (Resp. Ex. 40).

63. At the meeting, the May AIMS and STAR assessments were reviewed and considered. (Resp. Ex. 40). All of the Student’s reading data fell at the average or above average range. (Tr. 244). The Parents expressed concern that the reading data was not showing progress and that Student’s scores were trending downward. The team concluded that the data did not document reading concerns. (Resp. Ex. 40; Tr. 242-243). The team reached a consensus to change the Student’s general education participation to 100% and declined to reinstate the Student’s specialized instruction in reading. (Resp. Ex. 41).

64. During Student's third grade year at Bryant, Parents were repeatedly told that he was performing at grade level in reading. (Tr. 33, 70, 83).

65. The team also addressed ESY. The Parents were concerned that the Student would regress over the summer. Ms. Harris described ESY in the following way:

If you have a child who is currently on an IEP and they are exhibiting significant regression over short breaks during the year, for example, Christmas, spring break, and in some cases for some students over the weekends and you can show that they are showing significant regression, they do qualify for extended school year over the summer months. (Tr. 172).

66. With the exception of the Parents, none of the IEP team members observed regression to warrant ESY. (Resp. Ex. 40; Tr. 257). testified that she saw no regression in the Student that would cause concern. (Tr. 173).

67. On May 22, 2012, District issued a Notice of Action that stated, in pertinent part:

- 1) The district refuses parent request for specialized instruction for reading fluency and reading comprehension.
- 2) The district refuses parent request for extended school year for [Student].

* * *

The reasons why each option was rejected:

- 1) [Student] is performing at or above grade placement in reading.
- 2) [Student's] specific disability is not severe enough to warrant a concern. Special Education data before and after spring break does not suggest regression or recoupment concerns.

* * *

Basis for the Action []

Parent request and input, regular education teacher input, special education teacher input, present level of performance and IEP team decision.

(Resp. Ex. 43).

68. The IEP that was developed as a result of the May IEP meetings maintained Student's written expression services. (Resp. Ex 41).

69. The Parents filed a due process complaint, and the May 2012 IEP was not implemented. (Resp. Ex. 45).

70. A student's present level of academic achievement and functional performance as reported in his IEP drives the individualized programming. (Tr. 238). The Student's Present Level of Academic Achievement and Functional Performance as reported in his May IEP states:

Currently, [Student's] specific learning disabilities in Reading Fluency and Reading Comprehension have been remediated. He is currently successful reading grade level curriculum in the classroom and on building and state assessments.

(Resp. Ex. 41).

71. The Present Level report of the May 2012 IEP also cites the portion of Dr. Ochester's report stating that a diagnosis of reading disorder was not warranted. (Resp. Ex. 41).

72. At hearing, the Student's general education teacher, , testified about her observations of the Student in her class. has 33 years of teaching experience, both as a general education teacher and a special education teacher. (Tr. 158). She holds bachelor's degrees in regular education and special education with an emphasis in mental retardation. She

holds a master's degree in special education with an emphasis in emotionally disturbed and behaviorally disturbed children. She is also certified in special education-learning disabilities, mental retardation, emotional disturbances and behavior disorders. (Tr. 158).

73. stated that the Student was bright and enthusiastic, eager and interactive. (Tr. 159). She characterized him as a leader with a great sense of humor. (Tr. 160). In class, she observed him to be a grade-level reader and observed that he comprehended the material he read. (Tr. 160-161). Student was particularly fond of reading about historical figures. (Tr. 160). She testified that he did not require specialized instruction in reading in order to advance in the general education curriculum. (Tr. 159-160).

74. also testified about the District's use of the Accelerated Reader program ("AR") in its general education curriculum. (Tr. 161, 168). AR is a guided reading program in which teacher and student collaborate on reading goals. (Tr. 179, 182-183, 188). After reading books from the zone of proximal development determined by STAR testing, the teacher and student discuss reading level appropriate book choices. (Tr. 169).

75. After reading the books twice, students in the AR program complete computer-based quizzes to assess comprehension. (Tr. 184). While in the third grade at Bryant, the Student's average reading level for AR books was 4.6, meaning that he was reading successfully at the level of a fourth grader in the sixth month of fourth grade. (Tr. 169). His average percentage on AR quizzes was 98% correct. (Tr. 169). This placed him at above grade level in reading performance. (Tr. 170).

76. Students were permitted to read books for the AR program both in school and at home. testified that Student's Parents instructed her to not allow the Student to take books home to read. (Tr. 188-189).

77. Bryant has a Student Action Team ("SAT") that provides support for general education students that are struggling academically, behaviorally or emotionally. (Tr. 164). As a general education teacher, has referred students to the SAT in the past. (Tr. 165). testified that the Student did not have the characteristics that would compel her to refer him to the school's SAT, nor did she refer him to the SAT. (Tr. 165).

78. Student's progress report for the third grade indicates that he was proficient in all areas of reading the district routinely assesses, including reading level, reading fluency, and phonics. (Resp. Ex. 7). testified that the "proficient" indicates that the student is "demonstrating grade level objectives presented each quarter on a general consistent basis." (Tr. 166).

79. testified that she did not see any issues with his performance in reading that would cause the Student to need specialized instruction in reading. (Tr. 171).

DECISION AND RATIONALE

As the party seeking relief, the parent bears the burden of proof. The evidence presented to the panel does not sustain the parent's position that the IEP developed on May 17, 2012 fails to provide a free appropriate public education to the student at this time. Respondent's Motion for Judgment in its favor filed at the close of Petitioner's case in chief is sustained.

TIME LINE

Petitioners filed the complaint herein on June 6, 2012. The hearing was tentatively scheduled for July 19 and 20, 2012. By mutual request, the decision deadline was extended to October 31, 2012. The hearing was rescheduled for October 8 and 9, 2012 and was held on those dates. At the conclusion of Petitioners' case, the District moved for judgment, and the Panel took the motion under advisement. After the District rested its case, it moved to extend the decision deadline until December 3, 2012 to allow the parties to submit proposed Findings of Fact and Conclusions of Law. The Petitioners consented to the extension and it was granted by Order dated October 11, 2012. This decision is rendered within the timeline as extended by Orders dated July 13, 2012 and October 11, 2012.

APPEAL PROCEDURE

PLEASE TAKE NOTICE that these Findings of Fact, Conclusions of Law, Decision and Order constitute the final decision of the Department of Elementary and Secondary Education in this matter and you have a right to request review of this decision. Specifically, you may request review as follows:

1. Proceedings for review may be instituted by filing a Petition in the Circuit Court of the county of proper venue within forty-five days after the mailing or delivery of the notice of the agency's final decision.
2. The venue of such cases shall, at the option of the plaintiff, be in the circuit court of Cole County or in the county of the plaintiff or of one of the plaintiff's residence.

PLEASE TAKE NOTICE that you also have a right to file a civil action in Federal or State Court pursuant to the IDEA. See 34 C.F.R. Section 300.512.

So Ordered:

Dated this ____ day of _____, 2012.

Patrick O. Boyle, Chairperson

George Wilson

Gerald D. Wright

Certificate of Service

I hereby certify that a copy of the foregoing Decision was mailed by certified mail to Mr. , 527 S. Evanston Avenue, Independence, Missouri 64053 and Shellie L. Guin and Julia Walker, Attorneys at Law, Guin, Martin & Mundorf, LLC., 9237 Ward Parkway, Suite 240, Kansas City, MO 64114 this ____ day of _____, 2012.

Patrick O. Boyle