

**THE STATE BOARD OF EDUCATION
BEFORE THE HEARING PANEL
(Pursuant to Section 162.961 RSMO)**

In the Matter of:

, by and through her parent, ,

Petitioner,

and

Special School District of St. Louis County et al.,

Respondents.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION HEARING
INFORMATION**

The above-entitled matter came on for hearing before the Due Process Hearing Panel consisting of Robert K. Angstead, Esq., Chairman, and Trudy Fulmer and Jerry Wright, pursuant to RSMo, §162.961 on June 28-30, 2000, at the Special School District of St. Louis County's Central Office, 12110 Clayton Road, Town and Country, Missouri. The hearing was closed in accordance with the provisions of Missouri regulations and parental request.

TIME-LINE INFORMATION

Petitioner's Notice of Request for Expedited Due Process hearing was received by the Missouri Department of Elementary and Secondary Education on November 2, 1999 (Ex. H-1, H-2 and H-3). By letter from Petitioner's attorney dated December 13, 1999 (Ex. H-6), the hearing was continued from the original forty-five day time-line and set for hearing on March 14-17, 2000 (Ex. H-7 and H-8). Pursuant to a Joint Request for an extension of the timelines dated March 13, 2000 (Ex. H-16), the Hearing Panel again extended the timelines such that the decision was to be

mailed to the parties on or before July 15, 2000 (Ex. H-17). The Hearing Panel set the matter for hearing on June 28-30, 2000 (Ex. H-18). At the conclusion of the hearing, the parties stipulated to the fact that they each had until July 26, 2000, to submit proposed findings of fact and conclusions of law to the Panel (Tr.-843-845). The parties agreed that the Panel's decision and order would be completed and placed in the mail to them no later than August 31, 2000 (Tr.-845).

ISSUES

Whether Parkway School District ("Parkway") or the Special School District of St. Louis County ("SSD") failed in its duty to identify Petitioner (or "Student") as a child with disabilities and then failed to provide Petitioner with a free appropriate public education during the 1997-98, 1998-99 and 1999-00 school years.

FINDINGS OF FACT

A. Procedural Facts

1. Student is a thirteen-year-old female child who resides with her parent, , in the Parkway School District in St. Louis County, Missouri.
2. Parent is Student's father and natural guardian. [Tr. 52,]
3. The Parkway School District is a public school district located in St. Louis County, Missouri. It is organized and operates pursuant to the laws of the State of Missouri.
4. The Special School District of St. Louis County is a special school district organized and operating pursuant to the laws of the State of Missouri.
5. Student is a student with a disability for purposes of the IDEA, having been diagnosed at various times with Other Health Impaired, a learning disability in math and a language impairment. [Ex. P-15].

6. The hearing in this matter commenced at approximately 10:00 a.m. on Wednesday, June 28, 2000, and continued thereafter, from day to day, until it was completed, at or about 3:00 p.m. on Friday, June 30, 2000. Both parties appeared. Parent was ably represented by Mr. Ramon J. Morganstern and Mr. Charles Wiest. After the hearing, but prior to when the parties submitted proposed findings of fact and conclusions of law to this Panel, both Mr. Morganstern and Mr. Wiest withdrew from representing Student and her Parent in this matter. The Special School District of St. Louis County was ably represented by Mr. James G. Thomeczek and Mr. Robert J. Thomeczek.

7. Parkway, which was permitted to participate pursuant to the Merry settlement agreement and Appendix F to the Missouri State Plan, was not represented at the hearing by separate counsel. Counsel for the SSD defended Parkway's interests in this matter where appropriate.

B. Student's Educational History

8. Student attended Kindergarten through second grade in Texas. [Tr. 110,]

9. Student was identified as a student with a disability (Attention-deficit Hyperactivity Disorder and Developmental Articulation Disorder) [Ex. P-4] during her Kindergarten year (the 1992-93 school year) in Texas [Tr. 111,]. There, she was evaluated and received special education and related services. [Tr. 104; Ex. P1-P5].

10. Parent and Student subsequently moved to Normal, Illinois, where she enrolled in the Colene Hoose Elementary School and participated in the Mackinaw Valley Special Education Association. [Ex. R-2]

11. The Mackinaw Valley Special Education Association wrote an interim IEP dated September 5, 1995 and requested and obtained Parent's consent for a reevaluation. [Ex. R-3]

12. The Mackinaw Valley Special Education Association reconvened Student's IEP team on November 21, 1995 to consider the multidisciplinary evaluation report dated November 21, 1995 and wrote a new IEP based on that evaluation. [Ex. R-5]

13. Student attended most of her third grade (the 1995-96 school year) in Illinois. Parent removed Student from the Illinois school with approximately one month remaining in her third grade year and placed her in Apprende School in St. Louis County. [Tr. 126,]

14. Student attended fourth grade (the 1996-97 school year) at Apprende School, a private school in St. Louis County. [Tr. 52, ; Ex. R-7]

15. No evidence exists in the record before this Panel indicating that Apprende is an approved provider of special education services to students with disabilities.

16. Student attended fifth grade (the 1997-98 school year) at Henry Elementary School, an elementary school in Parkway. The intake form that was completed upon Student's entry into the Parkway district was not available for this Panel to review.

17. Henry Elementary was on a trimester schedule in the 1997-98 school year. [Tr. 795, Shari Nalick]

18. At a meeting with Parent prior to the beginning of the 1997-98 school year, Parent claims he provided Student's teacher, Shari Nalick, or the school's counselor, Barbara Goldman, with documentation regarding Student's previous IEP and evaluations. [Tr. _____] Both Ms. Nalick and Ms. Goldman deny having ever received such paperwork. [Tr. 795, Shari Nalick, Ex. R-100, affidavit of Barbara Goldman]

19. Ms. Nalick testified that Parent never mentioned that Student had an IEP or a disability at a November 1997 parent-teacher conference. [Tr. 796, Shari Nalick]

20. Ms. Nalick testified that Parent never requested an evaluation for special education services. [Tr. 796, Shari Nalick]

21. Ms. Nalick testified that Parent did not complain to her about the timing of the eventual February 20, 1998, IEP meeting as untimely. [Tr. 801, Shari Nalick]

22. Student was scheduled to attend sixth grade at Parkway West Middle School ["PWMS"]. However, prior to her entering PWMS, Parent enrolled Student at Metropolitan School ["Metropolitan"].

23. Parent enrolled Student in Metropolitan and paid a \$50.00 non-refundable enrollment fee on or about November 24, 1997. [Tr. 145, ; Ex. R-8]

24. On or about December 2, 1997, Student visited Metropolitan. [Ex. R-9; Tr. 332, Rita Buckley; Ex. R-98, p.10 of Student's deposition]

25. In March, 1998, Parent paid a second sum of money between \$900.00 - \$ 1,000.00 to reserve a spot for the Student to attend Metropolitan in the 1998-99 school year. [Tr. 145, ; Tr. 305-306, Rita Buckley] According to Ms. Buckley, the Executive Director of Metropolitan, this amount was reimbursable up to the tenth day of the 1998-99 school year.

26. On or about June 1, 1998, Student made a second visit to Metropolitan "to get her pumped for next year" - as it had been determined that Student might be attending Metropolitan beginning with the 1998-99 school year. [Ex. R-15, Tr. 334 Rita Buckley; Ex. R-98, deposition of Student]

27. Metropolitan School, which is a private school for students with atypical learning styles that include learning disabilities, language impairment, attention deficit disorders, Asperger's syndrome, Tourette's syndrome and other disabling conditions, is located in St. Louis County, Missouri. [Tr. 272-273, Rita Buckley]

28. At Metropolitan, once a parent completes the admission application and pays the \$50.00 application fee, they can request financial aid. There is no additional fee to apply for financial aid. [Tr. 305, Rita Buckley]

29. After Metropolitan accepts a student, generally in March, and the parent is notified whether financial aid will be granted, the parent is asked to pay a reservation fee which is 10% of the tuition. [Tr. 306, Rita Buckley]

30. Student's 1997-98 tuition at Metropolitan was \$9,375.00 according to a pleading filed with the St. Louis County Circuit Court. [Ex. R-91]

31. It appears to this Panel that, before the June 3, 1998 IEP meeting, Student was planning on attending Metropolitan because Parent had completed a reservation form accepting financial aid and had paid the reservation fee. [Tr. 334, Rita Buckley]

32. Metropolitan has one learning strategist who is responsible for all 70 of Metropolitan's students. [Tr. 314, Rita Buckley]

33. Metropolitan's Executive Director, Rita Buckley, testified that Metropolitan has smaller class sizes, a token economy system, counseling and other accommodations for Student that allowed her to receive an appropriate education at Metropolitan.

34. Student attended sixth grade (the 1998-99 school year) and seventh grade (the 1999-00 school year) at Metropolitan.

35. Parkway referred Student to the Special School District of St. Louis County for special education services by completing a Transfer/Reactivation Information Form on January 22, 1998. [Ex. R-10; Tr. 826-829, Chris Waters]

36. The former IEPs, the November 21, 1995 evaluation of Student and a portion of a report dated August 4, 1992, were received by Chris Waters, a Parkway counselor at Henry Elementary School, on January 20, 1998, but no evidence exists in the record before this Panel explaining how or why these documents suddenly appeared in Ms. Waters' in-school mailbox. [Tr. 827, Chris Waters, Ex. R-10]

37. The SSD received the Transfer/Reactivation Information Form on January 26, 1999, and processed same on January 28, 1999. In that form, Ms. Waters expressly notified SSD that Student needed to be reevaluated as soon as possible by SSD's Evaluation Staff [Ex. R-10], but no evidence exists in the record in this matter showing that Parkway or SSD took steps to perform a reevaluation during the second or third trimesters that school year.

38. The SSD determined that Student was eligible to receive services and that a new IEP needed to be developed.

39. The SSD provided Parent with a notice of Student's eligibility to receive services by correspondence dated February 2, 1998. [Ex. R-11]

40. The initial IEP of Student with the SSD was held on February 20, 1998. Student was placed in the general education with resource services. The nature and level of special education services were based upon the previous IEP, Parkway's progress reports and the November 21, 1995, evaluation [Ex. R-5] from the Mackinaw Valley Special Education Association in Normal, Illinois. [Ex. R-12]

41. Dr. Probber's report [Ex. R-1] identifies Student as having a behavioral disorder and the multidisciplinary evaluation [Ex. R-5] identifies her as other health impaired and learning disabled. [Tr.210,]

42. The multidisciplinary evaluation dated November 21, 1995, provided to the District was considered by the District to be current in that it was less than three (3) years old when received by the District in January, 1998. [Tr. 209,]

43. Parent received a copy of the IDEA procedural safeguards available to parents of a child with a disability at the February 20, 1998 IEP meeting. [Tr. 255, , Ex. R-12]

44. Parent acknowledges that the procedural safeguards state that if a parent is intending to withdraw their child from school and put her into a private school placement, the parent must give ten days written notice. [Tr. 263,]

45. Parkway had notice that Parent intended to withdraw Student and place her in Metropolitan during the fall of 1997. Student's teacher, Shari Nalick, testified that Parent asked Ms. Nalick to call Metropolitan for him, which she did, and she also testified that Parent had asked her to write a letter to Metropolitan for him.

[Tr.796-797, Shari Nalick]

46. This Panel acknowledges the written notice requirement found in the IDEA and acknowledges the IDEA's provisions that allow this panel the discretion to reduce any reimbursement award due to the absence of such a written notice; however, this Panel finds that representatives of Parkway had ample verbal notice of Parent's intent to withdraw Student and place her at Metropolitan such that the technical violation of the written notice provision did not prejudice Parkway's ability to comply with its duties under the IDEA.

47. The February 20, 1998 IEP called for a total of 615 minutes of special education services to be implemented from February 20, 1998 to June 10, 1998. The same IEP called for a total of 795 minutes of special education services to be implemented from June 10, 1998 to February 20, 1999.

48. Parent signed the Consent for Initial Placement form on February 20, 1998.

[Ex. R-12]

49. Barbara Eckhard, who is a special education teacher at PWMS, has been employed by the Special School District of St. Louis County for thirteen years and has a Bachelor's Degree in Special Education and a Master's Degree in Learning Disabilities. [Tr. 450, 456, Barbara Eckhard]

50. After she spoke with Patty Cusack, the SSD teacher at Henry Elementary School, regarding the proposed math programming for the Student at PWMS, Ms. Eckhard recommended that the Student begin her sixth grade in a resource math class in a special education classroom. [Tr. 453, Barbara Eckhard] No teacher from Parkway participated in the June 3, 1998, IEP meeting, and the discussions between Ms. Cusack and Ms. Eckhard occurred outside the formal IEP meeting without Parent participating in those discussions.

51. The IEP was to have been reconvened in August 1998, to consider Ms. Eckhard's resource math class recommendation, and if necessary, to amend Student's program. [Tr. 456, 458, 461, 464, 505, Barbara Eckhard]

52. Ms. Eckhard's recommendation that the Student be placed in a resource math class would have provided more special education services than she would have received in the regular math class or in a class within a class setting. [Tr. 47 1, Barbara Eckhard]

53. The resource math class recommended by Ms. Eckhard has between seven to nine students. [Tr. 474, Barbara Eckhard]

54. Ms. Eckard testified that Parent never informed her that he planned to withdraw Student and place Student at Metropolitan. [Tr. 476, Barbara Eckhard]

55. In the February 20, 1998 IEP, Student had goals for completing daily assignments sheets, organizing materials, and initiating and maintaining attention to her assigned tasks [Ex. R-12, Tr. 483, Barbara Eckhard]. Ms. Eckard testified that these goals could have been implemented at PWMS. [Tr. 483-486, Barbara Eckhard] The February 20, 1998 IEP contained no math goals.

56. Student's IEP team reconvened on April 7, 1998 for testing accommodations. [Ex. R- 1 4; Tr. 834-835, Chris Waters]

57. Student's IEP team reconvened on June 3, 1998 to review programming options at PWMS. [Ex. R-16]

58. On February 2, 1999, Parent requested that a resolution conference be scheduled as soon as feasible. [Ex. P-26]

59. A resolution conference was held on February 9, 1999. The Parkway School District, through Dr. Stephen Colombo, and the Special School District of St. Louis County, through Dr. Joseph "Chip" Jones, jointly issued its findings and recommendations regarding the issues raised at the resolution conference. The

resolution conference recommended that the District not reimburse tuition for Metropolitan; that an IEP be written to address the Student's general and special education needs; that a comprehensive multidisciplinary evaluation take place; and that the District obtain releases from Parent so that school staff could communicate fully with any private professionals providing treatment/services to Student. [Tr. 520, Natalie Thomas; Tr. 719, Stephen Colombo; Ex. R-331]

60. On March 8, 1999, Parent re-enrolled Student at Metropolitan and paid a \$50.00 application fee. [Ex. R-35]

61. Following the resolution conference, an IEP meeting was held on April 13, 1999, in order to address Student's need for a reevaluation and to develop an interim IEP. [Tr. 524-525, Natalie Thomas] The April 13, 1999, IEP included placement in a special education resource program with language services. [Ex. R-46]

62. The April 13, 1999, IEP was written for a short period of time (expiration date of June 9, 1999) so the IEP team could meet when a reevaluation was completed. [Tr. 533, Natalie Thomas, Ex. R-46]

63. A transition plan to facilitate Student's transfer to Parkway West Middle School was discussed at the April 13, 1999, IEP meeting. The plan included having a teacher visit Student at Metropolitan and involving a Special District social worker. [Tr. 526-527 and 544, Natalie Thomas]

64. Parent provided written consent for a reevaluation on September 9, 1999. [Ex. R-70]

65. An Independent Educational Evaluation was completed September 20, 1999, through the Child Psychiatry and Family Center at St. John's Mercy Medical Center by Michael Harris and Gay Absher. [Ex.R-71] St. John's Mercy Medical Center was the Parent's choice to do the reevaluation. [Tr. 81-82, 207,]

66. The SSD scheduled an IEP meeting and diagnostic conference on November 11, 1999. [R-74, R-77, R-99] That meeting had been twice previously scheduled - once for October 18 and once for October 20, 1999. [Ex. R-74; Ex. R-80 at 352]
67. The SSD is required to review evaluation information in terms of the criteria established by the State of Missouri. [Tr. 574, Natalie Thomas]
68. Parent was notified of the meeting in a letter dated October 29, 1999. [Ex. R-77]
69. Parent's counsel was also aware of the November 11, 2000, meeting. [Ex. R-99]
70. At the November 11, 1999, meeting the IEP team completed a diagnostic review. [Tr. 552, Natalie Thomas; Ex. R-80]
71. Information from the Independent Evaluation completed at St. John's Mercy was considered by the IEP team and Dr. Michael Harris from St. John's participated in the reevaluation conference. [Tr. 547, Natalie Thomas; Tr. 790, Chip Jones; Ex. R-80]
72. The IEP team diagnosed Student as Behaviorally Disordered, Learning Disabled in math calculation, and Other Health Impaired. [Tr. 552, Natalie Thomas, Ex. R-80] All who participated in the diagnostic conference, including Dr. Harris from St. John's, agreed with the diagnoses. [Tr. 555, Natalie Thomas, Ex. R-80]
73. On the same date, following the Diagnostic Conference held on November 11, 1999, the IEP team developed a new IEP for Student. [Tr. 552, Natalie Thomas; Ex. R-81]
74. A copy of the IEP and diagnostic summary was sent to Parent and Student. [Ex. R-8 I]
75. This Panel finds that the November 11, 1999, IEP is appropriate to address Student's needs. [Tr. 589, Natalie Thomas]

76. Dr. Thomas testified that the April 13, 1999, IEP would have provided meaningful benefit to Student. [Tr. 589, Natalie Thomas]

77. Student would not have spent her full day in large classes, under the April 13, 1999 IEP. The April 13, 1999, IEP called for a class period a day of language, a class period a day of social skills, and a class period a day of learning strategies in which she would receive special education services. This would leave four class periods a day which could have included physical education, academics, or electives. [Tr. 538-539, Natalie Thomas]

78. The IEP committee considered the full continuum of placement options. [Tr. 589-590, Natalie Thomas]

79. Student was partially successful at Henry School during the first trimester. Student made some passing grades and responded appropriately to some interventions [Tr. 799, 810-12, Shari Nalick; Tr. 540, Natalie Thomas], but her report card reveals an area of concern in all math areas, an area of concern in her failure to accept responsibility, an area of concern in her failure to work cooperatively with others, an area of concern in her failure to complete assignments on time, an area of concern in her failure to act appropriately during hands-on activities and she had difficulty interacting with her peers. [Ex. P-10]

80. Student was partially successful at Henry School during the second trimester. Despite the existence of an IEP during the second trimester, Student's report card reveals an area of concern in all categories associated with her citizenship in the classroom, reveals that she digressed in her work and study habits, reveals that she failed to demonstrate problem-solving skills, reveals that she continued to act inappropriately during hands-on activities and reveals that her behaviors continued to interfere with her relationship with her peers in the classroom. [Ex. P-10]

81. Student was progressing on some academic areas during the second and third trimesters of the 1997-98 school year because Patty Cusack, the SSD teacher, was working with her. [Tr. 74,]

82. Even though the Special District offered more special education service options at Parkway West Middle School than at Henry Elementary School [Tr. 541, Natalie Thomas], the IEP team could not have had a reasonable expectation of success with Student at the Middle School because Student still had not been reevaluated and, therefore, the IEP in existence at the time was deficient.

83. Dr. Thomas testified that she has been involved in the successful transition of other students from Metropolitan to Parkway. [Tr. 542, Natalie Thomas]

84. Student was placed on a regimen of Ritalin for the 1999-00 school year. [Tr. 294, Rita Buckley; Ex. R-64]

CONCLUSIONS OF LAW

85. The Hearing Panel's jurisdiction in this case is pursuant to RSMo §162.961.3 and the Missouri State Plan, part II, § VI, page 33, subsection I, which empowers the Missouri Department of Elementary and Secondary Education with jurisdiction to hear special education due process hearings. The relevant language of RSMo §162.961.3 states:

A parent, guardian or the responsible educational agency may request a due process hearing by the state board of education with respect to any matter relating to identification, evaluation, educational placement, or the provision of a free appropriate public education of the child.

86. Parkway was required to provide special education services to students with disabilities eligible for special education services. RSMo. §160.415.7(2).

87. Respondents' Motion to Dismiss, which was denied prior to the hearing but was reiterated during the hearing in this matter, is hereby denied in light of the discretion granted to this Hearing Panel by the IDEA and the Missouri Plan.

88. Before developing an IEP for a given student, a school district must first conduct a comprehensive evaluation of the student.

89. Petitioner had been determined to be a student with a disability eligible for special education services prior to enrolling at Parkway, and she had had an IEP for several years prior to her enrollment at Apprende. No evidence exists suggesting Student had an IEP at Apprende.

90. When Student enrolled at Parkway, Student's last evaluation was nearly three-years-old and Ms. Waters notified SSD that Student needed to be reevaluated as soon as possible by SSD Evaluation Staff. Nevertheless, Student was not reevaluated until September 20, 1999.

91. The Missouri State Plan provides that each local school district shall submit a compliance plan to the Department of Elementary and Secondary Education, Section of Special Education, a written narrative describing the school district's plan for compliance with the requirements for identifying and servicing all students with disabilities. The plan should include administrative procedures that have been adopted by the district's board of directors and include the following components:

A comprehensive screening program addressing all areas of functioning, including a description of measurement procedures, time lines for implementation, pass/fail criteria, and a description of the analysis and use of the results.

A multidisciplinary, nondiscriminatory evaluation and identification program addressing procedural safeguards, individualized evaluation plans, diagnostic staffing procedures, and eligibility criteria for determination of the handicapping conditions.

In addition, the Missouri State Plan requires that all school districts design and implement a comprehensive, continuous and periodic screening program designed to identify suspected physical, sensory, behavioral/emotional or other problems which may significantly interfere with a student's capability of achieving educational success. Screening is required in the area of cognitive functioning, including adaptive behavior, and in the area of social/emotional/behavioral functioning. The Missouri State Plan indicates that periodic screening includes the use of systematic

or formally administered assessments to compare an individual student's performance and development with his or her peers' performance and development, while continuous screening involves the use of informal observations of an individual student's behaviors to identify possible problems which may interfere with ongoing performance and development as compared to the student's peers.

The Missouri State Plan expressly requires each school to identify an individual responsible for implementation of the screening program, establish specific pass/fail criteria for each area screened, establish local procedures that detail screening schedules for all students in all areas of function and establish local procedures for collecting such information in student records. Finally, the Missouri State Plan requires local schools to develop procedures pertaining to the referral of a student suspected of having a disability to determine the need for evaluation. Those procedures must document the ability and responsibility of teachers, other education personnel and parents to effect a referral for evaluation.

The Hearing Panel concludes that, in light of Student attending Parkway for more than a trimester before the District realized Student needed special education services, and in light of the fact that Student was never reevaluated until September 20, 1999, Respondents did not comply with the Missouri State Plan's "child-find" requirements. Respondents keep placing the blame on Parent but this Panel is cognizant of the Respondents' duties under the law to seek out and locate students in need of special services.

92. Because Respondents failed to develop and complete a valid reevaluation "as soon as possible," and because the IEP's developed for Student between February of 1998 and November of 1999 were based upon outdated and insufficient information, this Panel finds that Student was deprived of a free appropriate public education during the 1997-98 school year and Parent had no alternative but to withdraw Student and place her in private schooling at Metropolitan.

93. This Panel finds that the education that Student received at Metropolitan during the 1998-99 school year and during the 1999-00 school year provided Student with an appropriate education.

94. The facts taken in their totality indicate that Respondents failed to timely identify Student as a student with special needs, and then when Respondents realized Student needed special education services, Respondents failed to respond to said needs timely with a reevaluation and an IEP reasonably calculated to provide Student with FAPE.

95. Parent is entitled to reimbursement for the tuition costs at Metropolitan for the entire 1998-99 school year and for the first half of the 1999-00 school year; this Panel finds that Parent could have moved Student back to Parkway for the second half of the 1999-00 school year because a valid and appropriate IEP had been developed and was in effect on November 21, 1999.

96. This Panel does acknowledge receipt of correspondence from Petitioner's previous counsel in this matter asserting an attorney fee lien on any award granted pursuant to this Panel's decision in this matter; this panel, however, is without jurisdiction to award a certain amount of attorneys fees in this cause.

DECISION

The Hearing Panel determines that Parent is entitled to reimbursement for the tuition cost at Metropolitan for the entire 1998-99 school year and for half of the tuition cost for the 1999-00 school year. Respondents' failure to timely identify and timely reevaluate Student led to inadequate IEP's and an inadequate provision of special education services during the 1997-98 school year, which left Parent with no alternative but to withdraw Student and place her in Metropolitan.

This is a unanimous decision of the hearing panel, entered this _____ day of _____, 2000, and mailed to counsel for each party by certified mail, return receipt requested, this same day.

Robert K. Angstead, Chairman

Trudy Fulmer, Panel Member

Jerry Wright, Panel Member

Notice of Right to Appeal

The law provides that any party aggrieved by this decision may appeal to a court of proper jurisdiction. An aggrieved party may file an appeal in state court by utilizing a "Petition for Judicial Review," pursuant to Chapter 536 of the Revised Statutes of Missouri. That petition must be filed in a court of proper venue (the county wherein the aggrieved party resides or Cole County) within 30 days after mailing or delivery of the decision. An aggrieved party may also file an appeal in federal court by filing a complaint in a district court of the United States, without regard to the amount in controversy.