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Decision

Due Process Hearing for ML
Date of Birth: xx/xx/xx
File Number: 8118/07-08LS

Dates of Hearings:
December 10, 2007; December 12, 2007; December 14, 2007; December 20, 2007

CLOSED HEARING

Parties:
Mr. and Mrs.

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Hearing Officer:

December 28, 2007
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David F. Bateman, PhD

I. BACKGROUND

Student is a xx-year-old student in the Centennial School District. The main dispute for this Hearing is his eligibility for services. The Parents allege eligibility for Section 504/IDEA as a student with ADHD along with a specific learning disability. The Parents are seeking tuition reimbursement to the Private School and compensatory education from the fall of 2006 to the initiation of his services at the private placement. The District feels it has all times provided Student with the education to which he is entitled, that he is not an eligible student under Section 504/Chapter 15 nor is he eligible as a student under IDEA.

In the spring of 2007 Student wrote on the bathroom wall at school a message that was seen as a threat of a bomb. Student was not classified as an eligible child under Section 504 or IDEA. The District initiated expulsion proceedings and the Parents requested an evaluation to determine eligibility for special education and related services. The Parents enrolled Student in the Private School and are now seeking tuition reimbursement to such.

II. FINDINGS OF FACT¹

A. Background

1. Student was born on xx/xx/xx. He is currently xx-years of age (S-1, p. 1).
2. Student is a resident of the District (S-1, p. 1).
3. On the 2002 Pennsylvania System of School Assessment (PSSA) in math he scored at the 97th percentile and in reading he scored at the 86th percentile (S-5).
4. Student's seventh grade report card (2003-2004) indicates grades during the third marking period of a B in Art, F in Music, F in Physical Education, C in English, F in Math, A in Reading, C in Science, and C in Social Studies. Comments include uncooperative and easily distracted (P-2).
5. The District sent an email to the Parents on December 7, 2005 stating the District does not do testing/diagnosis of ADD or ADHD (S-6).
6. The District completed an evaluation report in February 2006 (S-2). The report found that Student was not eligible for special education and related services (S-2, p. 13). Strengths were listed as high average cognitive ability, reading and math above grade level, excellent verbal analytic reasoning skills, Student can work well in one-to-one settings, he can be polite and cooperative with adults, is sociable with many friends. Needs were described a needing to help sustain his

¹ References to notes of testimony will be designated "NT" followed by the relevant page number. References to District evidentiary exhibits will be designated "S" followed by the relevant exhibit number. References to Parents' evidentiary exhibits will be designated "P" followed by the relevant exhibit number. Findings of Fact will be designated by "FF" followed by the relevant fact number.

concentration and attention in school, needs to control his impulsive nature and assume responsibility for his actions, needs to complete homework and classwork, and needs to develop career goals and short-term school goals (S-2, p. 12). Recommendations include: outside psychological and psychiatric counseling, a behavior plan to help with classwork and homework, weekly progress sheet, extra time on written tests, mentor at school, participate in vocational programs, and participate in extracurricular activities at [redacted District] High School (S-2, p. 12).

7. A student assistance program (SAP) referral form was issued on December 6, 2006 (S-8). One of the recommendations was for individual outpatient counseling.
8. Student's tenth grade report card (2006-2007) indicates grades during the second marking period of F in English, F in Algebra, D in Biology, and D in Eng and Rel Tech. Comments include easily distracted (P-2, p. 2).
9. On May 23, 2007, Student wrote "5/23/07 Boom 9:30 AM." (S-4). Student admitted writing the threatening message and was suspended for ten-days out of school for endangerment and disorderly conduct and scheduled for a pre-expulsion hearing.
10. Student served a ten-day out of school suspension in May/June 2007 (S-7).
11. Mr. D. MA, a licensed clinical psychologist wrote a letter regarding his work with Student on May 23, 2007 (P-3). The letter states Student

has ADHD throughout his life and needs a prescription of Adderall, and that Adderall reduces impulsivity. He also states Student poses no threat whatsoever to himself or others (P-3, p. 2). A second letter describes Student as not taking his medication in the morning of the incident and that he is remorseful (P-3, p. 4).

12. The District completed a pre-expulsion hearing on Student on June 7, 2007 (S-4). The incident in question involves Student writing on the lavatory wall "5/23/07 Boom 9:30 AM." Student was suspended for 10-days out-of-school for endangerment and disorderly conduct and scheduled for a pre-expulsion hearing. He was adjudicated for his actions (NT 43-44). As a part of his adjudication he has six months probation and 30 hours of community service (NT 44).
13. At about the same time as the bomb notice, Student was prescribed medications for ADHD in various doses from 20 milligrams to 30 milligrams (NT 45).
14. The District completed an evaluation on August 24, 2007 (S-1). The District found the student has a disability but does not require specially designed instruction (S-1, p. 34). Student admits to using illicit substances once a week for about two years (S-1, p. 15).
15. On August 24, 2007, the District completed a Chapter 15/Section 504 Evaluation Report finding that he does not meet criteria for identification as a Protected Handicapped child under 15 PA. Code 15.2 (S-3).

16. Student currently attends Private School (NT 47). Parents sought the school because of the small setting. Parents describe his progress as excellent (NT 49).
17. Dr. L, a licensed psychologist completed an evaluation on November 10, 2007 (P-1). He concluded Student has ADHD as well as a language based learning disability (P-1, p. 3, NT 189).
18. On November 27, 2007, Student was permanently expelled from [District] High School, from the [redacted] Institute of Technology, and the Centennial School District (S-9, p. 9).
19. The District and the Parents discussed different options for providing education to Student including [Private School B] and the [Private School C] (HO-2).

III. ISSUES PRESENTED

Is Student an eligible student under the Individuals with Disabilities Education Act?

Is Student an eligible student under Chapter 15/Section 504 of the Rehabilitation Act?

Is Student eligible for tuition reimbursement (and transportation) for the 2007-2008 school year to Private School?

Is Student eligible for compensatory education for inappropriate services for a denial of a free appropriate public education for the 2006-2007 school year?

IV. DISCUSSION AND CONCLUSION OF THE LAW

Student's Eligibility

The first question that needs to be addressed is Student's eligibility for special education and related services. It will be followed by a discussion about whether he is eligible for a Chapter 15/Section 504 plan.

Legal standard

Before there is a discussion regarding Student's educational placement, a review of the necessary components of the law is appropriate

The definition for a learning disability is:

§300.8 Child with a disability.

(a) General. (1) Child with a disability means a child evaluated in accordance with §§300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deafblindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(ii) If, consistent with §300.38(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

(10) Specific learning disability. (i) General. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical

calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

§300.307 Specific learning disabilities.

(a) General. A State must adopt, consistent with §300.309, criteria for determining whether a child has a specific learning disability as defined in §300.8. In addition, the criteria adopted by the State--

(1) May prohibit the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability as defined in §300.8;

(2) May not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability as defined in §300.8;

(3) Must permit the use of a process that determines if the child responds to scientific, research-based intervention as part of the evaluation procedures described in §300.304; and

4) May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability as defined in §300.8.

(b) Consistency with State criteria. A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

§300.308 Group members.

The determination of whether a child suspected of having a specific learning disability is a child with a disability, as defined in §300.8, is made by the child's parents and the group described under §300.306(a)(1) that--

(a) Is collectively qualified to--

(1) Conduct, as appropriate, individual diagnostic assessments in the areas of speech and language, academic achievement, intellectual development, and social-emotional development;

(2) Interpret assessment and intervention data, and apply critical analysis to those data;

(3) Develop appropriate educational and transitional recommendations based on the assessment data; and

(4) Deliver, and monitor specifically designed instruction and services to meet the needs of a child with a specific learning disability; and

(b) Includes--(1) A special education teacher;

(2)(i) The child's general education teacher; or

(ii) If the child does not have a general education teacher, a general education teacher qualified to teach a child of the child's age; and

(c) Other professionals, if appropriate, such as a school psychologist, reading teacher, or educational therapist.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

§300.309 Determining the existence of a specific learning disability.

(a) The group described in §300.308 may determine that a child has a specific learning disability if--

(1) The child does not achieve commensurate with the child's age in one or more of the following areas, when provided with learning experiences appropriate for the child's age:

- (i) Oral expression.
- (ii) Listening comprehension.
- (iii) Written expression.
- (iv) Basic reading skill.
- (v) Reading fluency skills.
- (vi) Reading comprehension.
- (vii) Mathematics calculation.
- (viii) Mathematics problem solving.

(2)(i) The child fails to achieve a rate of learning to make sufficient progress to meet State-approved results in one or more of the areas identified in

paragraph (a)(1) of this section when assessed with a response to scientific, research-based intervention process; or

(ii) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, or a pattern of strengths and weaknesses in performance, achievement, or both, relative to intellectual development, that is determined by the team to be relevant to the identification of a specific learning disability, using appropriate assessments consistent with §§300.304 and 300.305; and

(3) The group determines that its findings under paragraph (a)(1) and (2) of this section are not primarily the result of--

- (i) A visual, hearing, or motor disability;
- (ii) Mental retardation;
- (iii) Emotional disturbance;
- (iv) Cultural factors; or
- (v) Environmental or economic disadvantage.

(b) For a child suspected of having a specific learning disability, the group must consider, as part of the evaluation described in §§300.304 through 300.306, data that demonstrates that--

(1) Prior to, or as a part of the referral process, the child was provided appropriate high-quality, research-based instruction in regular education settings, consistent with section 1111(b)(8)(D) and (E) of the ESEA, including that the instruction was delivered by qualified personnel; and

(2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, was provided to the child's parents.

(c) If the child has not made adequate progress after an appropriate period of time, during which the conditions in paragraphs (b)(1) and (2) of this section have been implemented, a referral for an evaluation to determine if the child needs special education and related services must be made.

(d) Once the child is referred for an evaluation to determine if the child needs special education and related services, the timelines described in §§300.301 and 300.303 must be adhered to, unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as described in §300.308.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

§300.311 Written report.

(a) For a child suspected of having a specific learning disability, the evaluation report and the documentation of the determination of eligibility, as required by §300.306(a)(2), must include a statement of--

- (1) Whether the child has a specific learning disability;
- (2) The basis for making the determination, including an assurance that the determination has been made in accordance with §300.306(c)(1);
- (3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
- (4) The educationally relevant medical findings, if any;
- (5) Whether the child does not achieve commensurate with the child's age;

(6) Whether there are strengths and weaknesses in performance or achievement or both, or there are strengths and weaknesses in performance or achievement, or both, relative to intellectual development in one or more of the areas described in §300.309(a) that require special education and related services; and

(7) The instructional strategies used and the student-centered data collected if a response to scientific, research-based intervention process, as described in §300.309 was implemented.

(b) Each group member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the group member must submit a separate statement presenting his or her conclusions.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

The evaluation of February 28, 2006 (S-2) did not find Student eligible for special education and related services as a student with a learning disability. Specifically, the evaluation report states:

Present testing showed that Student is performing in the high average range of intelligence. His superior verbal skills are much better developed than his average nonverbal skills. Student has adequate memory skills and ability to do clerical tasks. There is no evidence of a learning disability. Academically, Student shows academic strength in reading and is at approximately a twelfth grade level (S-2, p. 11).

It is clear the District followed the appropriate procedures in determining Student does not have a learning disability. He was tested in the appropriate areas as required by §300.309, and they generated a written report as required by §300.310.

They found no evidence of a specific learning disability summarizing with Student has the academic and cognitive skills necessary for success in regular high school class (S-2, p. 12). The report and conclusions are sound and supported by the evidence.

The evaluation of August 24, 2007 (S-1) also found Student not eligible for special education and related services. This evaluation report found similar scores to the evaluation of February 2006 (S-2). Specifically, the August 2007 evaluation report states:

Student's scores on the WIAT-II and the WJIII Ach were compared to the levels of achievement expected for a student with his general intellectual ability, as indicated by the Full Scale IQ score of 110 on the WISC-IV. Student achieved achievement scores commensurate with his overall level of cognitive ability in all areas tested. No significant differences were observed between Student's achievement scores and the level of achievement expected for him based on his Full Scale IQ score of 110 (S-1, p. 14).

Again, it is clear the District followed the appropriate procedures in determining Student does not have a learning disability. He was tested in the appropriate areas as required by §300.309, and they generated a written report as required by §300.310. They found no evidence of a specific learning disability summarizing with Student has the academic and cognitive skills necessary for above grade level expectations (S-1, p. 20). This report and conclusions are also sound and supported by the evidence.

The only evidence or testimony that Student has a learning disability came from Dr. L. Dr. L. stated that as a part of his review of the records, specifically, the February 2006 evaluation (NT 192) (S-2) that Student has an undiagnosed learning

disability syndrome. The evidence he used was the scatter among the index scores in the WISC-IV (S-2, p. 6). He also goes on to state from the same report there is a learning disability in math (S-2, p. 8). When questioned, he stated it was appropriate to use the highest subtest score from the WISC-IV to determine Student's true functioning level. On the WISC-IV completed in February 2006 Student received a verbal comprehension score of 128, and a full scale IQ of 113. Dr. L feels it is more appropriate to use the 128 verbal comprehension score when making a determination about whether a discrepancy in Student's ability is present (NT 192-194; 196-198; 199-). He also goes on to describe problems Student has with attention deficit disorder (NT 200).

The District, as a part of their cross-examination of Dr. L, asked him about cherry-picking the score (NT 256). Dr. L stated the WISC manual allows for evaluator judgment (NT 259). The District stated as a part of an objection the term cherry-pick has been used by different Appeals Panel decisions where the evaluator picked a single score and compared everything to determine the student does have a learning disability (NT 261).

There is support for the contentions of the District and the use of the term cherry-pick. Two recent Pennsylvania Appeals Panel Decisions also discussed the term cherry-picking. In the first one the Appeals Panel discussed the evaluator's "cherry-picking" among the various WISC-IV indices and in a footnote discussed no legal support for this unusual procedure.² In the second decision the Appeals Panel discussed how the independent evaluator used the highest of the four major

² In re: Educational Assignment of A.H., Special Educ. Opinion No. 1736, June 12, 2006.

sub-scores of the WISC-IV instead, rather than the full scale IQ. The Appeals Panel went on to state the norm for this purpose is the full-scale IQ.³

It is clear Dr. L did exactly what the Appeals Panel referred to as cherry-picking. The Parents in this case also cited no legal support for this procedure. Therefore, his diagnosis of Student as a student with a learning disability cannot be supported.

Chapter 15/Section 504 Eligibility

Commonly referred to as the "Rehab Act," or "Section 504," this law authorized federal funds to be paid to institutions after they comply with regulations concerning the education of students with disabilities (and withholding of funds for noncompliance). The main component of Section 504 of the Rehab Act states:

"No otherwise qualified individual with handicaps shall solely by reason of her or his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (29 U.S.C. § 706).

This act protects from discrimination any person, including students who meets one of three criteria. Any person who

"(i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment" (29 U.S.C § 706)

is considered as having a disability under this law. For the purposes of Section 504, major life activities include: caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. The law protects individuals who are discriminated against both intentionally and unintentionally. Under Section 504, individuals who have a disability might need assistance to qualify

³ In re: Educational Assignment of G.T., Special Educ. Opinion No. 1808, March 19, 2007.

for the related services necessary for them to benefit from education. In addition, Section 504 has provisions for nondiscriminatory employment.

In this instance, it is clear Student has ADHD (S-1, p. 20). The evaluation report from the District summarizes that Student was diagnosed with ADHD, Inattentive Type (S-1, p. 20). The report went on to say that Student is being identified as a student with a disability of Other Health Impairment (Attention Deficit Hyperactivity Disorder) (S-1, p. 20). On the same page of the report it indicates Student is able to manage his ADHD and meet with success. However, when not taking his medication, Student demonstrates great difficulty controlling his thoughts and actions, which results in his acting in inappropriate and at times destructive ways. The District was aware of the ADHD problems in February 2006 (S-2, p. 11). This is not a new development. The District found him not eligible for a Chapter 15/Section 504 accommodation plan because:

During the current evaluation, when on medication, Student demonstrated average to above average level intellectual and cognitive functioning, and academic achievement generally above grade level expectations (S-1, p. 20).

The District cited two cases where individuals with disabilities were not identified as being eligible for services after they received medication. The first case, *Schumacher v. Souderton School District*, (Not Reported in F.Supp.2d, 2000 WL 72047 (E.D.Pa), 163 L.R.R.M (BNA) 2461, 17 NDLR P 159), involved a teacher who told her school district she had ADHD and then received a different assignment. The Court held that since she was taking medication for her disability it did not substantially limit a major life activity. In the second case, *Sutton v. United Air Lines*, 527 U.S. 471 (1999) the U.S. Supreme Court ruled that the impact

of mitigating measures, such as medicine and assistive devices, must be considered in determining an individual's disability status under the Americans with Disabilities Act.

Both of the cases provided by the District help understand their reasoning why they did not provide Student a Chapter 15/Section 504 plan. However, there are several points that need to be addressed. First, the need for specially designed instruction is not limited to academic instruction. Instruction in social skills, study skills, and other nonacademic areas are properly considered to be specially designed instruction. Second, special education law does not require a physician to diagnose of Attention Disorder. Third, the District (not the parent) is required by federal and Commonwealth law to conduct an evaluation in all suspected areas of disability.

The District was on notice that the student may well have a disability. Moreover, the District should have known that the student's progress in school would become increasingly dependent on the very skills impaired by Attention Deficit Disorder. The student was distractible, inattentive, and disorganized. These symptoms were repeatedly manifested in failure to complete homework, study effectively, avoid careless mistakes, and so forth. The evidence in the record is overwhelming that the student's behavior was consistent with the symptoms of Attention Deficit Disorder. Indeed, the District did attempt modest interventions that addressed some of the student's needs (see for example, S-2, p. 12). The fact that these interventions were unsuccessful should have provided the District with all the evidence it needed to conclude that the student was in need of special education.

Based on the results from the evaluation, Student is being identified as a student with a disability (Attention Deficit Hyperactivity Disorder). However, he does not require specially designed instruction (modifications to the curriculum or teaching to instruct a student) in order for him to benefit from instruction. Accommodations may continue to be necessary in order for Student to achieve at the level of which he is capable (S-1, p. 20).

The very behavior that Student engaged in could have been affected by his ADHD (NT 142-143). We have a student who it is clear has a history of ADHD, and has not received either services or an accommodation plan for those needs. He clearly needs help, and should have been identified as eligible for a Chapter 15/Section 504 plan in February 2006.

Parents Request for Reimbursement to Private School

Under the two-part test for private school reimbursement established by the Supreme Court established in 1985, prior to *Schaffer*, the school district must establish the appropriateness of the education it provided to the student.⁴ If the school district is unable to establish the appropriateness of its own educational program, then under the 1985 precedents the burden then shifts to the parents to prove that the private school selected for their child did provide an appropriate education. See *Burlington School Committee v. Massachusetts Department of Education*, 471 U.S. 379 (1985).⁵ Since *Schaffer* there have been no known

⁴ This Hearing occurred after *Schaffer v. Weast*, 126 S.Ct. 528, and the Parents had the burden of demonstrating the District's program was inappropriate.

⁵ Later, in *Florence County Sch. Dist. v. Carter*, 114 S.Ct. 361 (1993), the Supreme Court reaffirmed the test for private school tuition reimbursement established in Burlington, and added that

appellate cases addressing the viability of *Burlington's* burden of persuasion aspects, although a logical analysis suggests such burden will fall on parents without altering the substantive requirements.

As *Rowley* principles have been applied in the context of private placements, a disabled child is “not . . . entitled to placement in a residential school merely because the latter would more nearly enable the child to reach his or her full potential.” *Abrahamson v. Hirschman*, 701 F.2d 223, 227 (1st Cir. 1983). In making a determination regarding a school district’s obligation to pay for private placement generally and not simply residential ones, a court must make the following inquiries:

First, the court must ask whether the district’s IEP was reasonably calculated to confer an educational benefit on the student. If the court determines that the IEP was not so calculated, the court must then ask whether the parents’ unilateral choice to place a student in a residential setting is the appropriate educational choice for the student. If the answer to the second inquiry is yes, then the parents would be entitled to reimbursement from the school district for the cost of the placement. *Hall v. Vance County Bd. Of Educ.*, *EHLR 557:155*.

It is true that school districts have been required to pay for the educational components of private placements, even in cases where the students require those placements solely for medical reasons, when the school district’s own educational programming for the student is deemed deficient. See *Board of Education of Oak Park and River Forest High School v. Illinois State Board of Education*, 29 IDELR 52 (N.D. Ill 1998), (Where student’s need for private placement was primarily for non-educational reasons, district court limited parents’ claim for reimbursement to

private school placements selected by parents need not be at facilities which are approved by state departments of education for the provision of education to students with disabilities.

the educational component of the private placement given that the school district's educational provisions for the student were inappropriate, and the academic program the student received at the school was appropriate).

Student is not eligible child under the Individuals with Disabilities Education Act. Despite extensive searching there was no case law supporting tuition reimbursement for a student who is solely Section 504 eligible. Therefore, tuition reimbursement cannot be awarded for the Parents unilateral placement at the Private School.

Parents Claim for Compensatory Education

Parents make a claim for compensatory education. Compensatory education may be an appropriate equitable remedy only when the responsible educational authority has failed to provide a child with a disability with an appropriate education as required by the IDEA. The purpose of compensatory education is to replace lost educational services. *See Todd v. Andrews*, 933 F.2d 1576 (11th Cir. 1991). *See also Lester H. v. Gilhool*, 916 F.2d 865 (3rd Cir. 1990); (An IDEA eligible student is entitled to an award of compensatory education only if FAPE is denied by the school district); and *M.C. v. Central Regional Sch. Dist.*, 81 F.3d 389 (3rd Cir. 1996). Here, Student is not an IDEA eligible student, and is therefore not eligible for compensatory education due to a denial of a free appropriate public education.

V. ORDER

In accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED**:

1. Student is eligible as a student requiring a Section 504/Chapter 15 service agreement as a result of his ADHD.
2. Student is not eligible under the Individuals with Disabilities Education Act as a student with a learning disability.
3. Student is not eligible for tuition reimbursement to the Private School.
4. Student is not eligible for compensatory education services due to a denial of a free appropriate public education.

Date

Hearing Officer