

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

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OFFICE OF
ADMINISTRATIVE HEARINGS

IN THE MATTER OF:

NORTHSHORE SCHOOL DISTRICT
SCHOOL DISTRICT

SPECIAL EDUCATION
CAUSE NO. 2002-SE-0087

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

A hearing was held before Administrative Law Judge (ALJ) Janice E. Shave on September 23, 24, 25, October 3, 23, 24, and November 8, 2002. Both the parents of the student whose education is at issue (the Parents and the Student) were present at the start of the first day of hearing. The Mother was present throughout most of the hearing. The Parents were represented throughout the proceeding by Charlotte Cassidy, Attorney at Law, and by Jeanette Cohen, Rule 9 Legal Intern. The Northshore School District (the School District) was represented by Tracy Miller, Attorney at Law. Sharon Hartung, director of special education, Carrie Matthews, director of primary special education, and Ford Waterstrat, director of Sorenson Early Childhood Center, participated on behalf of the School District.

Persons testifying in the hearing included Carrie Matthews, Ford Waterstrat, Lynn Brewer (former audiologist), Brenda Foster (vision specialist), Jan Webb (speech/language pathologist (SLP)), Andrea Robertson (occupational therapist (OT)), (Sorenson special education teacher), (Sorenson registered nurse (RN)), (extended school year special education teacher), (instructional assistant (IA)), (principal, Elementary School), (RN), (special education teacher) and Julie Burgess-Dennis (SLP), Darlene Mikkelsen (occupational therapist (OT)), Mark Campano (Student's private dual sensory impairment consultant with Washington Disabilities Service), Chris Borders (Student's private audiologist), Debbie Markham (Student's private physical therapist (PT)), JoAnn Kerrick (Student's private rehabilitation nurse consultant) and the Mother. Karen J. Carlson provided American Sign Language (ASL) interpretation for Ms. Green.

The following exhibits were admitted: Joint Ex. # 1, D #s 1- 7, 11-12, 22-54. P#s 1, 2, 3, 4, 5, 6, 12, 13, 14 (pages 2, 3, 4, 7, 8, 10 -12, 16 -20, 25, 28 - 31, 33, 34, 36, 39, 40 - 43),15, 19, 22, 24 (page 1,) 26, 27, 31.&&

The record closed November 25, 2002, based upon the agreement of the parties. The parties agreed the due date for the decision in the matter is the close of the record plus twenty-one days, which is December 16, 2002.

STATEMENT OF THE CASE

1. This case concerns the appropriate educational placement for the Student for the 2002-2003 school year (02-03 SY.) The School District's proposed placement is mornings in a self-contained special education classroom at Elementary School () and afternoons in a full-inclusion kindergarten program at Elementary School (). The School District's proposed placement is contained within an individualized education program (IEP) dated June 28, 2002.

2. The Parents assert the School District's proposed placement is not appropriate, and ask that the School District be ordered to develop an IEP for the Student for 02-03 SY to attend the morning full-inclusion program at and the afternoon self-contained preschool program at Sorenson Early Childhood Center (Sorenson), and specifically, the afternoon class taught by , which is comprised of specific students who are in that classroom at present. The Student attended preschool from February through June, 2002, at Sorenson, and that location was determined to be the Student's stay put placement pending the outcome of this proceeding. The Parents also request a one-on-one aide who is fluent in sign language be provided for the component of the program.

3. The Student was enrolled in the School District in 1999, at which time the School District conducted a full evaluation and determined she was eligible for special education and related services under the preschool (ages 3-6) categories for multiple disabilities and developmental delay. That placement was based upon an evaluation dated November 3, 1999. The parties agree she qualifies for special education and related services in the following areas: cognitive, fine/gross motor, communication, audiology and vision.

4. At the hearing the parties stipulated to the listing of the following equipment in the Student's 02-03 IEP: Rifton chair, tumbleform chair, corner chair, vestibule stimulation equipment (bolster swing), and feeding equipment (including an adaptive spoon, a sippy cup, a straw, vinyl tubing and a on-way valve). See Joint Exhibit 1. The only remaining equipment issues relate to the inclusion in the IEP of a therapeutic tricycle and a sit-to-stand chair. The parties did not agree on the necessity of all requested equipment.

PROCEDURAL BACKGROUND

The Parents commenced this action with a request for a due process hearing filed with the Office of the Superintendent of Public Instruction June 19, 2002.

A pre-hearing order was entered on July 2, 2002, in which the issues for hearing were set forth as follows:

Whether the District has developed and proposed an appropriate IEP, program and placement for the Student for the 2002-2003 school year?

Specifically, the Parents assert the following: the District failed to consider the Parents' and their 'team of experts and service providers' input; the IEP should contain, but does not, a health plan, a list of supplemental aids and services to be provided at District expense, a transportation plan, and an appropriate location for services; the present levels of performance fail to identify the Student's developmental age as well as her chronological age. The Parents also assert that the District has not provided adequate assurances the discussed placement locations, including the neighborhood school, can accommodate the Student's transportation, accessibility, health, supplementary aids and services, and modifications needs (including privacy screen, microphones, speakers, switches, and toys). The Parents also assert the District did not include them in

the placement decision and has selected an inappropriate program and location with behaviorally challenged students.

(footnote omitted.)

Paragraph 9 of the July 2, 2002 pre-hearing order identified the requested remedies as follows:

Whether the District should place the Student at the Parents' preferred District locations, develop an IEP that address [sic] the Parents' concerns and provide other equitable remedies, as appropriate?

The July 2, 2002 pre-hearing order provided, "the Student's evaluation and the timeliness of the IEP development is not at issue."

A second pre-hearing order, dated July 10, 2002, set the hearing for September 23, 24 and 25, 2002, and set the deadline for the issuance of the written decision for October 24, 2002, 30 days from the last day of hearing. The July 20, 2002 pre-hearing order amended the requested remedies as follows:

Whether the District must place the Student at the Parents' preferred District locations and develop an IEP that addresses the Parents' concerns stated in paragraph 8 of the July 2, 2002 Prehearing Order?

Whether the District is required to develop an implementation plan that addresses the requested health plan, supplementary aids and services and modifications, a transportation plan, and accessibility plan for the location of services for the 2002-2003 school year?

Another pre-hearing order dated August 2, 2002, set forth the following summary of the issues and remedies for hearing:

- (1) The Parents allege there is no agreed upon health care plan for the Student.
- (2) Whether the School District has provided appropriate supplementary aids and services for the Student, including a pacer, walker, and special lighting.
- (3) Whether the School District has appropriately considered the Student's developmental age, as contrasted with her

chronological age, in the School District's proposed placement for the 2002-2003 school year.

(4) Whether the evaluation of the Student is appropriate where the triennial evaluation is due November, 2002.

(5) And, whether the appellants/Parents are entitled to their requested remedies, or other equitable remedies, as appropriate.

By letter dated August 9, 2002, the Parents supplemented their due process request. In summary, the Parents set forth the following issues in addition to those previously stated in their request for a due process hearing:

- (1) Whether the District has failed to reevaluate the Student in a timely manner;
- (2) Whether the IEP process at Sorenson was timely;
- (3) Whether the proposed IEP was created with sufficient input from the Parents and others with knowledge of the Student and her disabilities;
- (4) Whether the Student needs a one-on-one aide to attend the inclusion program at _____;
- (5) Whether the present levels of performance set forth in the proposed IEP are accurate; and
- (6) Whether a transition plan should be developed.

The Parents further clarified their statement of the issues for the hearing by letter dated August 28, 2002. In summary, the Parents set forth the following issues:

- (1) Whether the District has failed to reevaluate the Student in a timely manner, either because the Parents repeatedly requested a reevaluation and/or because one was warranted;
- (2) Whether the IEP process was completed in a timely fashion;
- (3) Whether the IEP developed and proposed by the District for the 2002-2003 school year was the product of the IEP team or of consensus;
- (4) Whether the proposed kindergarten placement at _____ Elementary School was in accordance with the IDEA, specifically:
 - (a) Whether the Student was emotionally and developmentally mature enough to be placed at _____

- (b) Whether the Student needed instruction by a teacher fluent in sign language in order to obtain educational benefit;
 - (c) Whether the Student would receive meaningful mainstreaming opportunities at _____ ;
 - (d) Whether the Student would receive sufficient individualized instruction at _____ ;
 - (e) Whether inclusion with children with severe behavior issues at _____ posed a health risk to the Student; and
 - (f) Whether increased transportation time to _____ posed a health risk to the Student;
- (5) Whether the present levels of performance in the proposed IEP adequately described the Student's needs;
 - (6) Whether the one-on-one aide during the _____ portion of the program needed to be fluent in sign language;
 - (7) Whether the IEP adequately describes the Student's health and safety needs and/or incorporates a health plan that addresses necessary positioning changes, wheelchair strapping techniques, and recognition of and methods for addressing startle responses and ATNR episodes; and
 - (8) Whether the IEP adequately describes the use of assistive technology, including fitted chairs, walkers, standers and augmentative technology devices.

By order dated September 9, 2002, the Parents' August 9, 2002, request to amend their request for hearing was granted.

On July 10, 2002, Parents requested a stay put placement for the Student at Sorenson, where she had attended preschool beginning in February, 2002, pursuant to an IEP dated February 8, 2002. A prehearing telephone conference on the Parents' motion was held on August 22, 2002, and the Parents' request for stay put placement at Sorenson was granted in the September 9, 2002 order.

FINDINGS OF FACT

Background

1. Sorenson serves all the School District's preschool special education (109 developmentally delayed) and regular education students (8), as well as a low income-targeted population (36 Head Start) ages three to five years. A small number of students,

generally those who turn five during the late Spring or early Summer, stay at Sorenson another school year after turning five. Each school day begins with greetings, and the students move on from there, generally in group activities such as story time, table play, singing, arts/crafts projects, followed by recess and snack. The day ends with music and preparation to go home. It is not an academic preschool. Special education students may be absent from the classroom for pull-out services such as PT, audiology, SLP, toileting, or tube feeding (for hydration).

2. has two resource rooms (for special education students who do not need full-time self-contained placement,) plus seven contained learning center (CLC) classrooms, which are self-contained classrooms for students who are not educated in a mainstream environment due to the severity of their conditions. It is where the School District's most seriously involved special education students with the greatest need levels are usually placed, since it has the ability to offer significant levels of services. The CLCs are divided into grade-level clusters, generally K-1, 1-2, and so forth. The CLC classrooms are balanced by age, gender, wheelchair use, and skill levels, such as verbal skills. Mainstreaming opportunities for CLC students occur at physical education (PE) classes, recess, lunch, music, circle time, center time, story time, assemblies, and some academics instruction. The CLC classrooms have regular education buddy classroom for mainstreaming opportunities.

3. is the special education teacher at the CLC the School District proposed for the Student, which is a kindergarten, first and second grade class. The 01-02 SY was her first year teaching. She is not fluent in sign language, knows only a few signs/words, and has expressed her willingness to learn more signs. The classroom composition changes as students move in and out, but in general it has 7 or 8 students in the morning and the same or similar in the afternoon. In addition to the full-time special education teacher, there is one full time IA and two part-time IAs. One student assigned to that class is wheelchair bound and medically fragile. He has a full-time RN assigned to him. If the Student were to attend that classroom, another IA would be assigned to the classroom, but not specifically to the Student. This is consistent with staffing policies at

4. The Student turned five years old /01. She lives with her Parents, within the boundaries of the School District. She has multiple diagnoses, and the parties agree she is eligible for special education services under the eligibility categories of vision impaired, hearing impaired, orthopedically impaired and developmentally delayed. She has been diagnosed with cerebral palsy (CP) with spastic quadri paresis and primitive reflexes, anoxic (absence of oxygen) encephalopathy (disease of the brain), persistent right esotropia (crossed eye) and mild right amblyopia (partial loss of sight) and bilateral mixed hearing loss, moderate in the right ear and sloping from mild to profound in the left ear. The CP results in chronological and sequential developmental delays.

5. The Student has impaired and unequal vision and hearing. She needs to exert a large amount of energy for her brain to process the difference in her vision, and then balance it. The imbalance in her ears is believed to make it difficult for her to localize where sound originates. The hearing and vision impairments are extremely difficult, and thus far impossible, to completely quantify, given her communication and developmental status.

6. The Student seemed to benefit from the classroom FM audio system, and again from a personal FM system utilized by the School District after the Student returned to Sorenson. The personal FM system was difficult to get operational, for a variety of reasons beyond the Parents' and the School District's control. Ms. was inconsistent in her use of the personal FM system, which requires her to wear a microphone and the Student to wear, or have near her ears, a hearing device.

7. The Student is small in stature, weighing in the low 30-pound range at the time the hearing commenced. She is not able to walk or crawl. She requires positioning in a wheelchair with multiple restraints, or a variety of other restraint systems, that vary her posture in order to avoid pressure sores. She requires positioning changes every 20-30 minutes, and frequent monitoring of her position, whether in a wheelchair or other assistive positioning equipment, in order to remain safe. She is not able to return her head to midline, and has various primitive reflexes, including a startle response, that cause her head to move out of midline. She is then at risk for asphyxiation/aspiration.

8. The Student is not able to swallow food safely, even including pureed food, and her nutritional needs are supplied through tube-feeding. School District

personnel at Sorenson during the 01-02 SY worked with the Student on increasing her tongue control to improve swallowing, and diminish drooling and gagging. This is accomplished by placing small amounts of soft solids directly onto her molars while the other classroom students have their snack. The Student thus also participates socially in snack time. The swallowing work with tiny bits of soft solids and/or pureed food does not provide the Student with a significant source of nutrition. She is not capable of self-feeding. Due to her fine and gross motor development, the Student is not anticipated to be able to meet all her nutritional needs through mouth-feeding now, and it is not clear if/when she will be able to do so. Her private OT only recently (after the development of the proposed placement and IEP that are at issue in this proceeding) began work with her two times a week on increasing swallowing skills.

9. An area of significant strength for the Student is social interaction. She is quite popular in her Sorenson preschool class, and made friends at her summer placement. Social skills are important for the Student, who is expected to be dependent upon other people for her activities of daily living throughout her life.

10. The Student attended Sorenson as a special education student in the School District in _____'s class, for approximately two months in late 1999 - early 2000, following a full evaluation by the School District (summary dated November 3, 1999.) She then moved to the Shoreline School District (Shoreline) where she received special education services that are not at issue in this proceeding. Exhibit P 4.

11. In addition to services she receives at school, the Student receives SLP, OT, PT, vision and audiology services/consultation through a variety of private providers. The private OT services were once time per week for a two and one-half hour session, until toward the end of the due process hearing. One and one-half hours was devoted to feeding, and one hour was a co-treatment with the private SLP.

Spring, 2002

12. The Parents re-enrolled the Student in the Northshore School District in or about January, 2002, and she began attending Sorenson in February, 2002. The Parents and School District first met on February 1, 2002, to develop an IEP for the Student's return to Sorenson. A second IEP meeting was scheduled for and held February 8, 2002. An IEP was developed at that meeting (2/8/02 IEP), although the participants did

not sign it. Exhibit P 7. That IEP addressed the remainder of the 01-02 SY. It placed the Student in _____'s preschool class at Sorenson again. The Student received special education services from February through June, 2002, pursuant to the 2/8/02 IEP.

Evaluation of the Student

13. The Parents allege the 2/8/02 IEP was not a 'final' IEP, however, the Student participated in school under the terms of that IEP. The 2/8/02 IEP is not at issue in this proceeding, so that issue will not be addressed further.

14. When the Student was placed in the School District in February 2002, her Parents wanted to be certain the education she received was the best possible for her, and to that end they worked with the School District to refine the program and the delivery of services. The Parents did not specifically request a new, full reevaluation when the Student first returned. However, the Parents believed the School District would conduct whatever tests were needed to determine the best education for their child. The three-year re-evaluation of the Student was due to be completed 11/02. The School District did not realize the Parent wanted the Student to be fully re-evaluated, and did not believe the Student needed to be fully re-evaluated.

15. When the Student re-enrolled and began attending Sorenson, School District personnel closely observed the Student, and met with the Parents and the Parents' private service providers. The Parents offered to have various private providers go to the school and present in-service training sessions, however, the offer was first made at the time Sorenson was moving to a new building, and the timing did not work out immediately. School District personnel were provided with and did watch a video about the Student from the Parents, which included information from the private providers. The Student's private SLP made video tapes of the Student's private therapists working with the Student. Those videos were intended to illustrate the techniques used by the private therapists and to help staff in assessing the Student's needs, as well as to assist in a new evaluation. The videos were watched by School District staff. The Parent presented two in-service trainings to School District staff about a variety of topics if importance to the Student's health and safety, included by not limited to positioning. The Parents' consultant on issues of dual impairment (hard of hearing and vision-impaired, formerly referred to as deaf/blind) met

with and spoke with the Student's special education teacher frequently. Other Parent private consultants met with and/or spoke with School District personnel.

16. School District personnel continued to collect information and work to get to know more about the Student throughout the remainder of the 01-02 SY. School District staff continued to work with the Parents to adjust and fine-tune the services that were provided to the Student throughout the rest of the school year. This included meetings and phone calls with the Mother and with various of the private providers, viewing the videos and reviewing documentary information submitted by the Parent.

17. The special education teacher and the special education IA worked with the Mother throughout the remainder of the 01-02 SY to take photos of the Student in her positioning equipment to illustrate proper use of the equipment. The photos were placed in the special education classroom teacher's file on the Student, available for those working with the Student. The teacher prepared a document describing rules relating to positioning, movement and checking the Student's splints. This was attached to the Student's primary equipment item, her wheelchair and is available for those working with the Student.

18. A regularly-scheduled parent-teacher conference is held by Sorenson staff each year in March to discuss each student's progress and to introduce the subject of the following year's placement location. The Parents and School District participated in this parent-teacher conference in March, 2002. School District staff identified placement options for the 02-03 SY as _____'s contained learning center (CLC) transitional kindergarten, _____, and retention at Sorenson for another year. The School District's OT (Robertson) and SLP (Webb) expressed their belief the Student was ready to move on to kindergarten.

19. The next IEP meeting after the 2/8/02 meeting occurred March 29, 2002. The Parents requested the meeting. Persons attending included the School District employees SLP Jan Webb, Sorenson administrator _____, audiologist Lynn Brewer, vision specialist Brenda Foster. The Mother attended, and brought along Mark Campano (the family's private dual-sensory impairment consultant with the Washington Sensory Disabilities Service,) and Julie Burgess-Dennis (the family's private SLP.) A significant point to the Parent was that the School District's proposed IEP still included

mention of the Student choosing between yes/no answers, including use of a smiley face. This issue had been discussed at the prior 2/8/02 IEP meeting, when the parties agreed it would be removed. The School District again agreed to remove that language, and physically marked it off the draft IEP. The location of the Student's placement for the 02-03 SY was not addressed, as the parties were still working on fine-tuning the 01-02 SY IEP.

20. The Parent visited the proposed classroom at'. She did not like what she saw. The classroom had students who had poor communication skills. The students each worked on their own project, rather than working in a group. One of the students had significant health problems, and had a one-to-one RN assigned to him. The teacher, , is young and was just completing her first year as a special education teacher. Ms. is not fluent in sign language, and knows only a few basic signs/words. The Mother much preferred the preschool atmosphere at Sorenson, and preferred the many years of experience, and the sign language fluency, of Ms. .

21. A significant factor in the dispute between the parties is the Parents' strong personal ties to Ms. and to Ms. , the IA. The Parents have not just requested that the Student remain at Sorenson throughout the 02-03 SY, but they want her to remain in Ms. 's class with the same students. Ms. volunteered her personal time in a variety of ways to assist the family and the Student, above and beyond her classroom duties. Ms. has demonstrated a strong personal interest in the Student, which is somewhat unusual in its intensity, and which is obviously appreciated by the Parents. Ms. would much prefer the Student remain with her throughout the 02-03 SY, and has assisted the Parents in their efforts to have the Student remain there. The Student's emotional, health and communication needs require a high level of individualized attention. Ms. 's number 1 focus in the class appears to be the Student.

IEP Process for 02-03

22. The Parent sent e-mail requests to Ms. , requesting another IEP meeting. The Parent was concerned because she had not yet seen results of evaluations she thought would be done by the School District, and she had not signed the 2/8/02 IEP under which the Student was already receiving her education. Also, she was sending

some of family-owned equipment to school with the Student, and she believed the School District should purchase its own equipment.

23. School District staff discussed the Student frequently throughout April and May, 2002. Some of these discussions were brief, hallway types of encounters, not planned or scheduled, to discuss the Student's progress, and to share information about what worked and what didn't. Some were scheduled, and did include discussion of what the School District portion of the IEP team would recommend for the following year's placement. The Parents allege these were meetings they were inappropriately excluded from, but the evidence does not support that allegation. Some of the discussions related to ESY services, some related to the current school year, and some to considerations about the following year. The School District e-mails reflect the School District was beginning to consider and prefer placement at the location for its proposal. The School District was working on the wording of the draft of its proposal for the 02-03 IEP.

24. The record is clear that the Parents did not trust the School District at all by this point. The parents were told information by Ms. about what was happening at school, and what the discussions were, and the Parents felt they were being inappropriately excluded.

25. On May 10, 2002, School District personnel met with the Parent and with the family's two private OT providers to discuss the Student's OT and PT needs.

26. The IEP process was begun again in May, 2002, to address the 2002-2003 school year (02-03 SY.) Ms. felt she was being pressured to remove mention of sign language from the draft of the IEP School District staff was working on. Ms. had been asked to do so by the administrator, Ford Waterstrat, in order to not "tie the hands of" the education team that the Student would be assigned to for 02-03 SY. Ms. further disagreed with the way the draft IEP was taking shape because it did not specifically identify or quantify the Student's degree of hearing impairment in the present levels of performance section.

27. An IEP meeting was scheduled for and held May 24, 2002 (5/24/02 IEP meeting). Just prior to the IEP meeting, the Mother provided a written request to Mr. Waterstrat for a PT assessment, to be completed no later than May 31, 2002, and

requested that a placement program for 02-03 SY be determined no later than June 7, 2002. Exhibit P 14.37 and .38.

28. The 5/24/02 IEP meeting was attended by the director of special education for primary grades, Ms. Matthews, Mr. Waterstrat, the OT, special education teacher, vision specialist, SLP, and audiologist from the School District, as well as by the Mother, her private SLP and OT. Most of the meeting was spent discussing modes of communication. A bit of time was spent discussing possible locations for the 02-03 SY, and the Parent understood that Sorenson, and were all options the Parent could choose. The family's private SLP mistakenly believed the sole subject for the meeting was ESY, and she was not prepared to discuss other topics, except to state the Student needed to be instructed in sign language. The degree of sign language was not specified.

29. The Mother noted there was still confusion and lack of knowledge on team members' parts about what exactly the Student could see, hear and understand. This is consistent with the family's medical experts' inability to measure her functional abilities with precision. School District personnel had only worked with the Student three and one-half months at the time of the 5/24/02 IEP meeting, during which time the Student had experienced some health problems unrelated to School District actions. Those health problems diverted the attention and time of School District staff from making progress to bringing the Student back to an acceptable level of health. School District personnel agreed with the private SLP they all were just starting to learn about the Student.

30. The Parents became quite concerned they did not yet have an agreed-upon placement for the 02-03 SY in part because they did not trust the School District. The Parents had been told by parent advocates (not the representatives in this proceeding) that school districts try to force parents into inappropriate placements by rushing placement decisions right before school let out in June each year.

31. expressed her opinion to various IEP team members in an email dated June 19, 2002 that the Student's day to day school environment should include "people who have good basic sign language skills." She stated she was not under the illusion that the Student did at that time, or ever would, need a sign language interpreter, and that the Student would benefit from being in an environment that:

includes sign language on a daily basis (NOT interpreting, just good basic signs --- perhaps 15 or so new ones each month.... All this requires is one of the 'daily staff' - either teacher or IA - who have that level of skill - or who are willing to learn.

Exhibit P 14.53. Ms. _____ then volunteered to coach and coordinate this effort on her own time.

32. The above language is clear. It identifies the need for staff to know basic signs, and be willing to learn more. However, during the hearing Ms. _____ expressed the belief the Student needs staff who are fluent in sign to assist the Student to learn basic sign.

33. On June 19, 2002 the Parents filed a request for due process hearing, challenging the then-current IEP process.

34. The parties participated in a day-long mediation to resolve the ESY dispute in or about mid-June, 2002. When they successfully resolved that issue by agreement, they informed the ALJ assigned to that matter. The parties had been scheduled to participate in a hearing on June 28, 2002, and the ALJ apparently suggested the parties utilize that schedule time to meet and discuss the 02-03 IEP /placement issue. The parties both agreed to do this on June 21, 2002. The parties both knew the purpose of the June 28, 2002 meeting was to discuss the Student's IEP and placement for the 02-03 SY. Consistent with this understanding, the School District prepared and delivered a written notice to the Parents on June 26, 2002 that the meeting would be an IEP meeting.

35. The Mother participated in the June 28, 2002 meeting. She did not request it be rescheduled. She had asked the family's private therapists and consultants to participate, but they were unable to do so in person due to the short notice. Some were available by telephone. The Mother assumed the meeting would take all day long, but was informed at the beginning of the meeting that it would end at noon. The Mother participated in the meeting and did not ask that it be rescheduled. During the first portion of the meeting the parties again went over the Student's present levels of performance and goals and objectives. These had been reviewed extensively at the May, 2002 IEP meeting, and the Parent and her representative had previously agreed to them, with one or two small exceptions. The Parent and School District agreed on the Student's present

levels of performance and goals and objectives as identified in the 6/28/02 IEP. The remaining area of significant disagreement was the location.

36. The School District's members of the Student's IEP team proposed an IEP for the upcoming 2002-2003 school year. Exhibit P12, duplicate Exhibit D 38. (6/28/02 IEP.) Because the Student turned five in December, 2001, and Sorenson is designed for students ages three through five, the School District proposed a special education placement for this student in a self-contained, half-time kindergarten program at

The proposed IEP also provides for an inclusion program in the afternoon kindergarten at , which is the family's neighborhood school. The component was requested by the Parents, who registered the Student at independent of the School District's special education department in large part because the Mother believed she had been told special education students could not attend full-day kindergarten, and she thought that was discriminatory. The full-inclusion half-day kindergarten program is an integral part of the 6/28/02 IEP proposal from the School District. The component involves a one-to-one IA for the Student. The Parents request that IA be fluent in sign language, the School District does not agree the IA needs to be fluent for the Student to achieve educational benefit.

37. In developing the proposed IEP for the 2002-2003 school year, the School District relied on information provided to it from the Parents, and from Shoreline School District, where the Student attended school from January, 2000 through January, 2002, current information from the Student's outside providers, and the observations of and data collected by School District personnel who worked with the Student from February through June 2002.

38. The 6/28/02 IEP contemplated a health plan would be developed as a separate document to facilitate the Student's move to the new placement. Exhibit D 38.2. Because the Parent rejected the proposed placement, the new health plan was not completed for the Student's move. Similarly, the School District contemplated that the Sorenson, and staff would need to participate in trainings to facilitate the Student's move from one school and staff to another. Again, because the Parent rejected the proposed IEP, the transfer planning was not done.

39. The Parents were provided with the opportunity to participate fully in the 6/28/02 IEP process and provided input regarding the present levels of performance, the goals and objectives and the placement recommendation. The District provided adequate notice to the Parents of meetings, including the June 28, 2002 IEP meeting, and the Parents were permitted to bring anyone they wished to each meeting. The Parents were on notice from the June 21, 2002 discussion with the ALJ assigned to the ESY issue that the topic of discussion at the 6/28/02 IEP meeting would be the Student's IEP and placement for the 02-03 SY.

40. Several meetings were held at which the proposed placement was discussed, including, but not limited to meetings on May 24, 31 and June 28, 2002. The Parents expressed their agreement with the proposed present levels of performance and goals and objectives set forth in the 6/28/02 IEP at the 6/28/02 IEP meeting. The 6/28/02 IEP adequately describes the Student's levels of performance. The goals and objectives set forth in the 6/28/02 IEP are appropriate for the Student.

Extended School Year Services 2002

41. Following the 5/24/02 IEP meeting, the Parents filed a written request for a due process hearing. That program was the subject of a separate due process proceeding which resolved through mediation. The Student attended a four week ESY program through the School District during the Summer of 2002. That placement is not at issue in this proceeding. Aspects of that placement are relevant to this proceeding, however.

42. The Student adjusted well to the brief ESY placement. She was assigned an IA (, a Sorenson classroom IA, and (last name unknown,) who was a respite care worker for the family. The ESY classroom teacher was new to the Student, as were some of the ESY classmates. The Student made friends and did well. Ms. had concerns about one ESY classmate who was also a Sorenson classmate of the Student. Despite Ms. 's concerns, that other student did not go near the Student in the four week session. The Student was bused by the School District to the ESY location (not Sorenson or) with a one-to-one aide.

43. The students who were assigned to Ms. _____'s classroom as of the time of the hearing were significantly disabled. They had poor communication skills. None of the students are considered behavior problems or are eligible for special education services based upon their behavior, but many have IEPs which address behavior, specifically, their tendency to decline to go along with the class. One tends to run away, and two tend to scream. Two of the students do not initiate social contact, and a third says socially inappropriate things over and over.

44. Instruction at _____ consists of a circle time in the morning where the students engage in activities such as greeting one another, and then focus on the schedule for the day. Social interaction is facilitated by an adult through structured activities such as turn taking and encouraging students to use greetings. This is followed by individual work times. The teacher generally first teaches a task one to one, and then the students work on the task independently. The children generally do not work together and do not work on the same things.

45. Ms. _____ is familiar with _____, having sent many of her Sorenson students there, when their conditions were severe and required that level of services. She does not believe the Student should attend _____, at least not yet.

Communication

46. The Student needs to be communicated with in a variety of modalities (methods) since she is vision impaired (affects her ability to see sign language movements and to see pictures and adaptive communication equipment,) hearing impaired (affects her ability to hear spoken language) and does not have gross or fine motor skills that allow her to express herself in sign language. When School District and private therapy staff communicate with the Student in sign language, they generally both speak the word(s) and sign the most important words at the same time. They also utilize body language/movement, which the Student is not expected to be able to utilize in her expressive language. When they show the Student pictures they speak the word(s) at the same time.

47. The Student's family's primary language in the home is Spanish. The Student receives instruction in school in English. Her Parents attend after-school sign

language instruction taught by . The Parents are trying to use sign language with the Student at home as they learn it, along with speaking the words they sign.

48. is hearing impaired and is fluent in sign language. She is passionate in her belief that the Student needs to learn sign language in order to develop "inner language." Inner language is the language a person uses internally to form thoughts. It is not clear why Ms. believes the Student's inner language must be sign language, as opposed to some other method of communication. The consultants and School District personnel are all agreed that the Student is not anticipated to ever develop motor skills to express herself in sign. Ms. undertook to document the Student's mastery of specific sign language signs. Exhibits SD 51 and 52. The documentation is a bit spotty, having been collected in a somewhat haphazard fashion, but it reveals the Student has mastered only a handful (approximately five words) of signs.

49. The classroom IA at Sorenson, , is hearing impaired and is fluent in sign language.

50. The Student's private dual-sensory-impairment consultant apparently disagrees with the Parents' request that the Student attend Sorenson 1/2 day and 1/2 day. He believes the Student needs to focus on one environment without being confused about what is expected, what is meaningful. He is also suspicious about the unanimous reports that the Student did well in the ESY summer program, noting that just because a child adapts well socially and emotionally does not mean the child understands what is going on. Further, he stresses the importance of consistency of method(s) of communication, down to the smallest detail of presentation of pictures of objects in the same manner - how it is held, where it is held (at the same height and distance from the child) and when it is presented are important.

51. The Student currently uses eye gaze to express her choice between objects. She has worked with the family's private SLP in once-per-week one hour sessions since Spring, 2001. Expressive language is the expression or response with language, and is the opposite form of communication from receptive language - which means taking communication in. The private SLP believes the Student is functioning cognitively at the level of a 12 to 14 month old. Given Ms. s lengthy data collection regarding the Student's limited mastery of sign language, it is clear that the Student's various disabilities

are so complex that none of the private therapists or School District staff has a complete, perfect picture of the Student's current comprehension, skill level, or future capabilities.

52. The Student would not gain educational benefit in terms of communication skills from contact with the other students in the classroom. She would gain educational benefit from a communication standpoint under the 6/28/02 IEP proposed placement because the increased classroom staff-student ratio in that placement, she would have specialized instruction in a variety of modalities, would have SLP services, and would have contact with regularly developing peers during mainstreaming opportunities at and especially during the full-inclusion component of the program at

53. It appears the Parents's private SLP does not support the Parents' proposed placement at and Sorenson, preferring the Student remain at Sorenson, and specifically, with Ms. If the Student were to move to a new school, the Parents's private SLP believes the Student's transition should be coordinated by Ms. , who should also participate in planning the new curriculum.

54. The Student would obtain meaningful educational benefit from the District's proposed placement and educational program at and The kindergarten program proposed by the District, including the self-contained component of the program in the morning at and the full-inclusion component of the program in the afternoon at would provide individualized instruction to the Student in the least restrictive environment. It calls for placement in a self-contained classroom with same-age peers, all of whom have some sort of emotional, cognitive, or developmental delay and/or health impairment. The Student would be able to make meaningful progress toward her goals and objectives in the proposed placement.

55. If the Student were placed in the classroom at , there would be a staff-student ratio of approximately 4:8 or 4:9. In addition, one of the students in the classroom is accompanied full-time by a private RN, who is always in the classroom with that student. That RN is not counted in the staff to student ratio. The Student would be accompanied by a one-to-one aide during the full-inclusion component of the program at

56. The Student is not able to protect herself from inappropriate contact by other students, wherever her education is provided. The classroom is structured to prevent and deal quickly with behavior problems. However, with any group of kindergartners, whether at or elsewhere, there is some degree of unpredictability. The level of staffing, even without a one-on-one IA in the CLC, appears to provide a reasonably safe environment.

57. The Student has demonstrated that she is able to adapt to new situations, including her move to Sorenson in February, 2002, and her transition into and out of the ESY program in the Summer of 2002, and back to Sorenson in September, 2002. Under the 6/28/02 IEP, the Student would receive services from the same vision specialist and the same OT she had at Sorenson from February 2002 through June 2002 at the School District's proposed placement. There is no evidence the Student would likely suffer significant harm in transitioning to the kindergarten program proposed by the School District.

58. The Student's private physical therapist, Ms. Markham, only recently evaluated the Student's equipment needs. It is her opinion that use of a therapeutic tricycle and a sit-to-stand machine would benefit the Student. Neither of these pieces of equipment have been tried out with the Student. There is no evidence that the use of either of these two pieces of equipment, above and beyond what the School District has agreed to provide, is necessary for the Student to obtain educational benefit from the School District's proposed placement.

59. The Student needs and will benefit from instruction in a variety of modalities, including the use of augmentative communication, verbal communication, pictures and objects, and basic sign language. The Parents did not establish that the Student needs instruction by someone who is fluent in sign language in order to benefit from education. The opinions of Mr. Compano, Ms. Burgess-Dennis and Ms. to the contrary are not supported by the data collected by Ms. , which indicates the Student's mastery of sign language is minimal. Therefore, instruction by a team of professionals with some familiarity with basic sign and the willingness to learn new signs would benefit the Student to the extent that the Student can understand sign language.

60. The Student's nutritional needs are currently met throughout the day by tube feeding supplemented by pureed food. Therapeutic feeding is not required for the Student to attend school at age 5 or 6, however, improvement in the basic life skill of swallowing and reducing tongue thrusting are of extreme importance to the Student. Drooling is a socially unacceptable activity in public. The inability to control her tongue also results in greater gag reflex problems, which put the Student at risk for aspiration of vomit, and significant health problems. Although the Student is not anticipated to be able to feed herself, continued work at school on oral mobility, tongue lateralization, lip closure and swallowing will facilitate improvement of a critical life skill which she cannot develop on her own. The level of OT services relating to feeding, as stated in the 6/28/02 IEP, was appropriate when written. It was not until significantly after 6/28/02 that the Student began to work on increased swallowing/tongue mobility/feeding issues. The Student's needs may well have changed in the six months since the IEP was developed, and that would be an appropriate issue for the Parents and School District to review.

61. The proposed program has adequate time for occupational and physical therapy, as a combined service, for the Student to benefit from education, with the exception that the Student's therapeutic feeding needs are not addressed by the 6/28/02 IEP. PT services have been provided to the Student under the District's service model, which combines OT and PT, without complaint by the Parents, and the provision of services under this model has, in the past, allowed the Student to make meaningful progress toward her goals and objectives.

62. The Student's safety and health issues on the school bus can be adequately addressed by proper training of the driver, proper positioning of the Student in her wheelchair, and proper securing of the wheelchair in the bus.

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction over the parties and subject matter of this action for the Superintendent of Public Instruction as authorized by 20 U.S.C. Section 1401 *et seq.* (Individuals with Disabilities Education Act (IDEA)), Chapter 28A.155 RCW, Chapter 34.05 RCW, Chapter 34.12 RCW, and the regulations promulgated thereunder, including 34 CFR 300 *et seq.*, and Chapter 392-172 WAC (or Chapter 392-171 WAC for cases arising before November 11, 1995).

2. The Individuals with Disabilities Education Act (IDEA) (formerly the Education for All Handicapped Children Act) and its implementing regulations provide federal money to assist state and local agencies in educating children with disabilities, and condition such funding upon a state's compliance with extensive goals and procedures. In *Hendrick Hudson District Board of Education vs. Rowley*, 458 U.S. 176, 102 S. Ct. 3034 (1982), the Supreme Court established both a procedural and a substantive test to evaluate a state's compliance with the Act, as follows:

First, had the state complied with the procedures set forth in the Act? And second, is the individualized educational program developed through the Act's procedures reasonably calculated to enable the child to receive educational benefits? If these requirements are met, the state has complied with the obligations imposed by Congress and the courts can require no more.
103 S. Ct. at 3051.

3. A "free appropriate public education: consists of both the procedural and substantive requirements of EHA. The Rowley court articulated the following standard for determining the appropriateness of special education services:

According to the definitions contained in the (Education for All Handicapped Children Act) a 'free appropriate public education' consists of education instruction specifically designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child 'to benefit' from the instruction. Almost as a checklist for adequacy under the Act, the definition also requires that such instruction and services be provided at public expense and under public supervision, meet the State's educational standards, approximate the grade levels used in the state's regular education, and comport with the child's IEP. Thus, if personalized instruction is being provided with sufficient supportive services to permit the child to benefit from the instruction, and the other items of the definitional checklist are satisfied, the child is receiving a 'free appropriate public education' as defined by the Act.

103 S. Ct. at 3041, 3042.

4. School Districts bear the burden of proving compliance with the procedural requirements of the IDEA. *Clyde K. v. Puyallup School District*, 35 F.3rd 1396 (9th Cir. 1994). Generally only procedural flaws which result in the loss of educational opportunity, or those which seriously infringe on the parent's opportunity to participate in the IEP

formulation process, will result in a denial of FAPE. *W.G. v. Board of Trustees of Target Range School District*, 960 F.2d 1479 (9th Cir. 1992). The Parents allege the School District failed to provide procedurally adequate notice of the 6/28/02 IEP meeting, because the written notice of the meeting was not delivered until the evening of June 26, 2002.

IEP MEETINGS

5. Washington State regulations require that school districts provide notice to the parents of IEP meetings early enough to ensure that the parents will have an opportunity to attend, and must schedule the IEP meeting at a mutually agreed upon place and time. WAC 392-172-15700. The Parents were aware on June 21, 2002 that the June 28, 2002 meeting was for the purpose of addressing the 02-03 SY placement. The Parents agreed to the time and place of the meeting. The Parents participated. They notified their private consultants, but the consultants were not able to attend. The mother chose to proceed without objection to the timing. The outside experts' opinions were considered, as they were expressed through the Parent, through Ms. Clogston, through documents submitted and considered as part of the Student's educational file, and through the many, many interactions between School District staff and the private consultants. The Parents fully participated in the 6/28/02 IEP meeting, and were not denied meaningful participation, even though the School District did not adopt each and every one of the private therapists' recommendations.

6. The IDEA and State regulations require persons knowledgeable about the child be included in the placement decision. 34 CFR 300.522(1); WAC 392-172-180(4). They do not require a School District invite an IEP team member who has already been invited by Parents to attend, and do not require that a school district force an unwilling or unavailable person to attend an IEP meeting. The Parents historically invited their own consultants to the IEP team meetings, and the Parents elected to proceed with the 6/28/02 IEP meeting, which certainly was composed of persons knowledgeable about the child.

7. The IEP team as constituted met the requirements of WAC 392-172-153, given that the Parent had invited her consultants, who were not available, and Parents' opinions, and those of her consultants, were considered.

8. Selection of the appropriate placement for each special education student shall be based upon the student's individualized educational program, the least restrictive

environment requirements of WAC 392-172-172, the placement option(s) that provides a reasonably high probability of assisting the student to gain the student's annual goals and a consideration of harmful effects on the student or on the quality of services which the student needs. The decision on the educational placement shall be made by a group of persons, including the parents, and other persons knowledgeable about the student, the evaluation data, and the placement options.

9. The Parents allege the School District wrongfully excluded the Parents from various pre-IEP team meetings held by the School District during the Spring of 2002. However, not every meeting of school district employees constitutes an IEP meeting. It was appropriate for School District staff to speak together to develop a working proposal for the 6/28/02 IEP. No placement decision was made, although placement was discussed, and the School District developed its placement recommendation for presentation at the 6/28/02 IEP meeting.

10. Contrary to assertions of the Parents, the special education teacher did participate in the process of evaluation and recommendation, and ultimately deciding, placement. This is consistent with IDEA and State regulations. 34 CFR 300.522(a)(1); WAC 392-172-180. Ms. ; opinions were considered, but as she testified happens once every two or three years, her opinion did not carry the day in this case. Ms. may have felt the placement decision was a *fait accompli*, but she still had an independent opportunity to write e-mails, which she did, and to speak up regarding her recommendation.

11. The Parents allege the School District committed further procedural error by determining placement before programming. However, the facts presented at the hearing support the determination that the School District and the Parents worked and worked on the IEP programming issues at great length, going over each goal, objective, and present level of performance while all parties were considering various placement options, including Sorenson, and . The School District's decision to propose the and combination did not arise until mid-June, 2002, according to the Mother's testimony.

12. The Parents allege the School District committed a procedural error by excluding sign language from the 6/28/02 IEP. This is not quite accurate, and leads to an

incorrect conclusion about the content and adequacy of that proposed program. The School District's proposed IEP contemplates use of multiple modes of communication, and was drafted to ensure the Student would receive her education in a rich variety of modes/methods, not just sign language. Given the assessments of her limited vision and her demonstrated limited gross and fine motor control, all persons involved in this dispute share the opinion that the Student absolutely needs to be educated using multi-modal communication.

IA SERVICES

13. Each IEP must include a statement of the special education and related services and supplementary aids and services to be provided to the child or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child. 34 CFR 347(a)(3); WAC 392-172-160(1)(f). This does not require the IEP to list each IA assigned generally to each classroom, where the IA is not assigned to a specific student, but is assigned to the class generally based upon class load. The administrative case to which the Parents cite is not binding authority in another administrative decision. The balance of the cases cited by the Parents appear to relate to 1:1 IAs, and those cases are therefore inapposite.

14. The Parents' concern that the classroom staffing might later fall, or just generally be inadequate, is understandable. The School District retains the burden of substantively providing the Student a FAPE. The Parents have the right to request a hearing to demonstrate that the IEP, as administered by the School District, fails to provide the Student a FAPE, even if where it is found to provide the Student a FAPE as written.

HEALTH PLAN

15. The failure of the School District to complete a health plan which was clearly contemplated to be added to the 6/28/02 IEP does not contemplate procedural error, as the reason it was not completed was the Mother's rejection of the IEP and proposed placement. The development of the health plan and transition plan required the good faith cooperation of the Parents. The Parents are correct that the School District has an ongoing obligation to develop a health plan as an addendum to the IEP. The Parents also must cooperate in the development of that health plan. The Parents do not appear to object to the current health plan, so long as the Student has remained at Sorenson.

16. The second issue in determining whether a school district has provided a special education student with a FAPE is substantive, and generally expressed in terms of whether the IEP is reasonably calculated to enable the child to receive educational benefit. *Rowley*, supra. Courts have defined this requirement to mean that the child must make more than minimal or trivial progress in a placement, considering the student's unique characteristics. In Washington State, school districts are not required to provide a program which maximizes the child's educational progress. It is understandable that parents prefer and strive to obtain a program that maximizes their child's progress, whether the child is a special education student or a typically developing student. However, that is not test which is to be applied to the School District. Further, once the School District has been found to have proposed an appropriate placement, the inquiry ends, and does not extend to whether the Parents have also proposed an appropriate placement.

17. In considering whether the 6/28/02 IEP is reasonably calculated to meet the Student's educational needs, it must be remembered that the Ninth Circuit has defined 'educational needs' to include the handicapped child's academic, social, health, emotional, communicative, physical and vocational needs." *Seattle School District v. B.S.*, 82 F.3rd 1493 (9th Cir. 1996). It is concluded that the 6/28/02 IEP, which calls for both full inclusion and CLC each school day, is reasonably calculated to allow the Student to make educational gain, to receive benefit that is more than trivial.

The Parents' assertion that the Student can only appropriately be placed in Sorenson, with _____ with the same students who are in the class now, is not adopted. The Parents and their consultants assert the Student must have continuity of placement, and some of the Parents' witnesses' testimony spoke of another two years, or possibly more, for the Student to remain in the Sorenson placement. By that time the Student would be 8 years old, as she has already turned 6, in a preschool program designed for children ages 3 to 5. While she is physically small, and developmentally delayed, there is insufficient support for the proposition that she cannot derive educational benefit from another placement location. Further, it is inappropriate to tie a student's placement to a specific IA or classroom teacher, no matter how much the parents or student might prefer to choose staff. Specifically the identity of staff members and their assignment to specific classrooms, is clearly a matter within the decision-making authority of each school district,

and not within the authority of parents and/or the presiding officer in a special education due process hearing.

18. School districts are required to educate special education students in the least restrictive environment (LRE). WAC 392-172-172. In the present case, both parties assert the Student needs to be in a self-contained special education classroom. The cases cited by the Parent, which address whether a student should be completely mainstreamed or removed and placed in a special education classroom, are therefore not on point. The difference of opinion is whether that should be a self-contained special education classroom where all the students are younger than the Student and where there is one typically developing student, plus one-half day in a full-inclusion classroom, or whether that should be half a day in that same full-inclusion classroom plus one-half day in a self-contained classroom of special education students in the same age-range as the Student. It is concluded the 6/28/02 IEP proposes an appropriate environment on the continuum of service options where it places the Student in an age-appropriate setting for both portions of her school day.

REEVALUATION

19. The Parents allege the School District violated WAC 392-172-182 when it failed to conduct a reevaluation of the Student when she returned to Sorenson in February, 2002, and again when it proposed moving her to _____ That regulation requires reevaluation if conditions warrant reevaluation, or if the student's parent or teacher requests a reevaluation, but at least once every three years.

20. The Parents did not make a request for reevaluation at the time the Student returned to Sorenson in February, 2002. Even during her testimony at the due process hearing the Mother did not clearly state she had requested a reevaluation. The Parents' position at hearing was that the special education teacher was aware they wanted a full reevaluation. However, the special education teacher never communicated any such request or understanding to School District personnel, and she was quite forthcoming with her other requests on behalf of the Student and the family. The Mother appears to now believe she asked for a full reevaluation, but the School District reasonably interpreted her requests as requests to observe and work with the Student and the many private consultants to fine-tune the 2/8/02 IEP.

21. Conditions did not warrant a reevaluation earlier than the three year regularly scheduled reevaluation, even though the Student was moved from one school district to another. The Student continued to be eligible for special education. She was progressing quite well in the Sorenson placement. She had a plethora of private consultants, and the School District received and reviewed each bit of information sent to it by the Parents and by School District personnel. Nothing indicated the Student needed a reevaluation earlier than November, 2002. The School District did not commit a procedural violation by failing to reevaluate sooner.

22. At the time the Parents amended their request for hearing on August 9, 2002 to include the issue of whether the Student was properly reevaluated, the November 3, 2002 deadline for the Student's triennial reevaluation (per 34 CFR § 300.536 and/or WAC 392-172-182) had not yet occurred. The conditions did not warrant a full reevaluation prior to the triennial reevaluation required in November, 2002, under 34 CFR § 300.536 and/or WAC 392-172-182.

23. The administrative law judge has considered all arguments made by the parties. Arguments that are not specifically addressed have been duly considered but are found to have no merit or to not substantially affect a party's rights.

ORDER

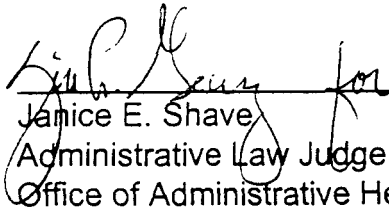
1. The School District's 6/28/02 IEP proposes a free, appropriate public education, including location of the placement, for the Student's 02-03 SY.

2. The School District is not obligated to provide an IA at _____ who is fluent in sign language. The School District shall ensure The _____ IA and the _____ staff have at the minimum a basic understanding of sign language, and undertake to learn at a minimum 15-20 new sign words each month appropriate to the Student's developmental stage.

3. The parties shall participate in a meeting to develop an appropriate health plan for the Student in the _____ placement. It must include the items addressed in the 6/28/02 IEP, including but not limited to positioning, feeding, hydration, skin monitoring, toileting, nebulizer use/hygiene, ear protection, hearing augmentation and eyeglasses, and an emergency action plan.

4. The Parents shall cooperate with development of the health plan.
5. Parents shall cooperate with the transfer of the Student to the new locations.
6. The 6/28/02 IEP provided an appropriate level of OT/PT services, include feeding/swallowing issues, at the time it was proposed. However, the in the intervening six months the Student's readiness to move to a different, more intensive level of work may have changed. The parties shall address this issue when they meet to address the transfer plan and the development of a health plan to follow the Student to the new locations.

Served on the date stamped above.


Janice E. Shave
Administrative Law Judge
Office of Administrative Hearings