

ISSUES:

1. Does the placement offered by the Board for the 2001-2002 academic year for the Student satisfy the requirements of the IDEA that the Student be provided a free and appropriate education at public expense in the least restrictive environment?
2. If not, is the Connecticut Center for Child Development (“CCCD”) an appropriate placement for the Student for the 2001-2002 academic year?

PROCEDURAL SUMMARY:

The Parents, who appeared *pro se*, seek a determination as to their son’s (the “Student’s”) placement for the 2001-2002 academic year. At the September 5, 2001 Pre-Hearing Conference, hearing was scheduled for September 28, October 3 and October 4, 2001. At that time, the Parents raised concerns regarding the Board’s compliance with the IDEA “stay-put” requirements, 20 U.S.C. § 1415(j). At hearing on September 28, 2001, the parties reported that “stay-put” issues had been resolved.

Between them, the parties identified 18 potential witnesses for hearing. Given the number of potential witnesses, it was anticipated that hearing would continue past October 4, 2001 and that the October 5, 2001 date for mailing the final decision would be adjusted accordingly. For the reasons set forth more fully below, the hearing concluded on October 3, 2001. The parties agreed to extend the date for mailing of the final decision until and including October 11, 2001 to permit the Hearing Officer an adequate opportunity to prepare that decision.

On September 28, 2001, the Board reported that it had been advised by CCCD that CCCD currently had no openings for a child of the Student’s age; and, further, that even assuming a space became available at CCCD for a child of the Student’s age, admission was not certain as CCCD would need to evaluate the Student, a process which could involve reviewing a videotape of the Student’s current functioning. Given this development, the parties agreed to discuss settlement of their disputes prior to the scheduled October 3, 2001 hearing date.

On October 2, 2001, the Board’s counsel advised the Hearing Officer that the parties had been unable to reach a settlement and that the Board planned to stipulate (and had advised the Parents that it would stipulate): (1) that the educational program it had offered to the Student for the 2001-2002 academic year was not appropriate to meet the Student’s educational needs; and, (2) that CCCD was an appropriate placement for the Student in the 2001-2002 academic year. The Board conceded that entering these stipulations in the circumstances of this case would result in the Student remaining in an in-district placement and leave unresolved Parental concerns regarding such a placement. The Board indicated a willingness to continue efforts to identify an appropriate out-of-district placement for the Student for the 2001-2002 academic year.

Prior to going on the record on October 3, 2001, the parties confirmed that they had been unable to identify an alternative out-of-the-district placement for the Student in the short

time since the last hearing date. In light of the Board's stipulation and lack of an opening at CCCD, and to assure that the Student's educational needs were met in an in-district placement pending placement outside of the district for the 2001-2002 academic year, the Hearing Officer reviewed with the parties a draft order generated by the Hearing Officer based on the existing documentary record and the testimony elicited on September 28, 2001. The Parents agreed that the provisions of the draft order, with certain modifications, would address their concerns regarding an in-district placement for the 2001-2002 academic year, pending identification of a potential placement out of the district. Those concerns were placement of the Student at "CS" (an elementary school in the district) rather than at "BHS" (the elementary school the Student would otherwise attend); transportation; and a request for specific consultants to provide occupational and speech therapy services. Certain additional testimony was taken on October 3, 2001 related to the request for a placement at "CS."

EXHIBITS AND WITNESSES:

The Parents offered 44 exhibits (Exhibits P-1 through P-44) and the Board offered 14 (Exhibits BB-1 through BB-14). All documentary exhibits offered by the parties were admitted into evidence as full exhibits by agreement. Four exhibits were marked by the Hearing Officer as follows: Exhibit HO-1 (the Parents' request for due process), and three exhibits related to the "stay-put" issue: Exhibit HO-2 (September 11, 2001 Board submission); HO-3 (September 17, 2001 Parent submission); and HO-4 (September 24, 2001 Board submission).

The initial set of exhibits submitted by the Board (Exhibits BA-1 through BA-12) was not properly numbered or indexed. The Board subsequently submitted a replacement set of exhibits (Exhibits BB-1 through BB-14) which is the Board's record in this proceeding.

Testimony was elicited from the Parents, Ms. Begley (a Special Education Supervisor employed by the Board), Mr. Amato (currently Acting Special Education Supervisor at BHS, the school the Student attended in the 2000-2001 academic year and is currently attending) and Mr. Nappi (Acting Assistant Superintendent of Special Education).

STIPULATIONS:

1. The educational program offered by the Board for the Student for the 2001-2002 academic year, as reflected in an IEP developed on July 27, 2001 (Exhibit P-34), as corrected (Exhibit P-41) and as adjusted (Exhibit P-38), was not appropriate to meet the Student's educational needs.
2. An out-of-district placement for the Student for the 2001-2002 academic year at CCCD, which specializes in treatment of children with autism, is an appropriate placement for the Student.

FINDINGS OF FACT:

To the extent that the procedural summary includes findings of fact or conclusions of law, that the findings of fact or stipulations are conclusions of law, or that the conclusions of law are findings of fact, they should be so considered without regard to their given labels. *See, e.g., Bonnie Ann F. v. Callahan Independent School Board*, 835 F.Supp. 340 (S.D. Tex. 1993). The factual findings stated herein are based on the Hearing Officer's assessment of the credibility of witnesses. Citations to testimony or documentary exhibits are for illustrative purposes and not mean to exclude other admissible evidence in the record supporting that finding.

1. The Student, currently 8 years old, is eligible to receive and is receiving special education and related services pursuant to the IDEA, 20 U.S.C. § 1401, *et seq.* and the applicable Connecticut statutes. There is no dispute between the parties that the Student is entitled to receive special education services.
2. At all relevant times, the Student has been identified as Other Health Impaired ("OHI") based on a diagnosis of autism. There is no dispute between the parties as to the Student's diagnosis or IDEA classification.
3. The Student was evaluated by Michael Powers, Psy.D., on October 17, 1995. (P-1) Dr. Powers noted:
 - a. The Student manifests significant weaknesses in socialization, social communications, social imagination and social communications skills.
 - b. The Student communicates with a combination of vocal, gestural and motoric attempts but is essentially non-verbal and cannot follow simple one-step commands. He is, however, "very stimulable for language" and is attentive when others try to get him to engage vocally.
 - c. The Student manifests multiple behavioral stereotypies, including toe-walking, excessive object mouthing and arm flapping.
 - d. The Student's learning style emphasizes visual, sequential, associative and literal learning processes, with some analytic strategies evident. He learns best when material is presented in a rote, sequential, step-by-step manner.
4. In his 1995 report, Dr. Powers concluded that the Student's then-current cognitive abilities were below average with "moderate" deficits of adaptive behavior. (P-1) The results of specific assessments administered are as follows:
 - a. The Student (then 35 months old) achieved a mental age equivalent of 22 months on the Bayley Scales of Infant Development, a standardized assessment of cognitive and developmental functioning. Dr. Powers opined that that result may underestimate the Student's abilities because foundation skills for learning (e.g., imitation, direction following, matching-to-sample,

etc.) were absent from his repertoire at the time. (P-1)

- b. The Student attained the following results on the Vineland Adaptive Behavior Scales, an assessment of skill level in various domains:

DOMAIN	AGE EQUIVALENT
Communication	9 months
Daily Living	16 months
Socialization	12 months
Motor Skills	23 months
Adaptive Behavior Composite	15 months

- c. The Student achieved a score of 37.5 on the Childhood Autism Rating Scale, a measure of overt autistic symptomatology, placing him in the range of children who are “more significantly affected” by autistic symptoms.

- 5. Based on this evaluation, Dr. Powers recommended, among other things (P-1):

- a. That the Student have an intensive applied behavioral analysis (“ABA”) discrete trial instruction (“DTI”) program focused on establishing (i) imitation skills, (ii) a functional communication system using a Picture Exchange Communication System (“PECS”) to develop a broader vocabulary and specific strategies to access materials and activities that he wants from other people, and (iii) basic concepts such as matching and receptive identification of pictures. The program should provide a minimum of 4-5 hours per day of 1-to-1 instruction in school supplemented by 10 hours/week of programming at home. A full day, 6-8 week summer program will also be required to prevent regression of skills.
- b. Re-evaluation in one year’s time.
- c. Close collaboration and regular contact between parents and school to assure consistency across environments. Dr. Powers defined this collaboration as critical to the “ultimate success of teaching efforts” with the Student.

- 6. In the 1995-1996, 1996-1997 and 1997-1998 academic years, the Student attended “WS,” the Board’s special education preschool. The Student’s services during a portion of the 1997-1998 academic year were delivered by the CREC River Street School Autism Program, which was engaged by the Board to provide technical assistance, and program consultation to the Board’s staff involved in providing direct services to children with autism. (See, e.g., Parent Test.; Begley Test.; P-2)

- 7. The Student was re-evaluated by Dr. Powers in February of 1998 when he was 63 months old (5 years, 3 months). Dr. Powers noted, among other things that (P-2):

- a. The Student continues to have difficulty in socialization, social communication and social imagination, with some gains noted since 1995.
 - b. The Student's social recognition skills remain the greatest area of concern within the socialization triad. The Student is more aware of other children now and less aloof and indifferent, but is likely to approach them for instrumental purposes and has difficulty initiating contact appropriately.
 - c. The Student continues to communicate with a combination of vocal, gestural and motoric strategies. He uses approximately 300 words by parent estimate, but is difficult to understand at times due to articulation errors. He continues to manifest immediate and delayed echolalia.
 - d. Behavioral stereotypies remain, but are somewhat reduced from the prior evaluation.
 - g. The Student's had made some important gains in learning style since 1995: "[The Student] literally has 'learned how to learn.' Imitation, matching, direction-following, etc. skills are well established at this time . . . [The Student] remains very focused on routines and works best when situations are highly structured. Predictability within a structured activity is essential, and [the Student] is far more independent when this is the case . . . [The Student] becomes very stimulus bound and learns new information in the context within which it was taught and does not readily or easily transfer this learning to situations beyond the instructional setting."
8. Comparing the 1995 and 1998 evaluation results, Dr. Powers concluded that the Student had made significant gains and that difficulties with language processing which negatively impacted performance in 1998 are likely due to inefficiencies in generalization and stimulus control. (P-2) More specifically:
- a. On the Leiter International Performance Scale (a measure of non-verbal reasoning and cognitive problem solving), the Student at age level, indicating average-for-age non-verbal reasoning and cognitive skills.
 - b. On the Stanford Binet Intelligence Scale (4th Ed.) (which assesses cognitive functioning across verbal reasoning, abstract visual reasoning, quantitative reasoning and short-term memory domains), the Student did not obtain scorable results, or attained scores that were not meaningful indicators of performance. Although the Student's language processing and motor planning and processing difficulties interfered with "otherwise more capable performance," Dr. Powers opined that over time, and with more active intervention to address these issues, the Student's performance on measures such as the Stanford Binet would be expected to *improve*.

- c. On the Vineland Scales, the Student showed significant gains in the Communication domain (+26 months), Daily Living Skills domain (+17 months), and the Adaptive Behavior Composite (+17 months) and modest gains in the Socialization Skills domain (+11 months). A comparison of the 1995 and 1998 Vineland Scale results is set forth below:

DOMAIN	AGE EQUIVALENT (1995; age 35 months)	AGE EQUIVALENT (1998; age 63 months)
Communication	9 months	35 months
Daily Living	16 months	33 months
Socialization	12 months	21 months
Motor Skills	23 months	41 months
Adaptive Behavior Composite	15 months	34 months

- d. On the Childhood Autism Scale, the Student achieved a total score of 34, placing him in the range of children who are more mildly affected by symptoms of their autism. This is a “slight reduction” in overt autistic symptomatology over the 1995 result.
9. In his 1998 report, Dr. Powers recommended, among other things (P-2):
- a. That the Student be provided a special education program providing a minimum of six hours/day of service following an ABA model with integration with typically developing children as appropriate; a 1-to-1 instructional assistant throughout the day specifically trained in ABA teaching strategies; and continued participation by CREC.
 - b. That the Student’s program incorporate specific strategies to address the Student’s “compelling need” with respect to socialization and play skills.
 - c. A comprehensive speech and language evaluation by an appropriately trained and experienced clinician.
 - d. Implementation of strategies to intensively support emerging word identification and decoding skills.
 - e. Reevaluation in two years to obtain updated information for treatment planning purposes.

- f. Regular meetings between the individuals providing services to the Student, noting the importance to “effective instruction” for children such as the Student of close coordination of efforts between family, school and other service providers to support generalization training and ensure consistency across settings.
10. The Student attended “RES,” a public school in the district, in the 1998-1999 and 1999-2000 academic years. He was placed in a kindergarten class in both years. Notwithstanding Dr. Powers’ 1998 recommendation, CREC was not involved in the Student’s program in the 1998-1999 academic year and in most of the 1999-2000 academic years. CREC began providing services again to the Student beginning in July 2000 and has continued to provide services since that time. (Parent Test.; Begley Test; P-11; P-12; BB-7.)
11. Since July 2000, CREC has been an integral part of the Student’s overall program. The need for continued involvement of an outside consultant whom the Parents have confidence in and who can reliably provide consultative services to the Board and/or direct services to the Student is critical to the Student’s ability to attain an educational benefit from an in-district placement at this time.
12. As to the Student’s progress in meeting occupational therapy goals set for the 1998-1999 academic year, a June 1, 1999 occupational therapy report notes that the Student had made steady progress throughout the year; that his attention to task is improved by sensory input such as deep pressure; that he is now writing his name and words and starting to copy simple sentences from the board; that he is more aware of his environment; and that his short attention, constant energy, talking and need for daily sensory input affect his ability to initiate or complete classroom tasks independently and to remain focused on tasks. The therapist, Ms. Riesbeck, recommended 1 hour/week of direct and indirect services to address his sensory motor processing, attention and visual motor skills. (BB-7, at 19)
13. A speech and language report prepared for June 1, 1999 PPT (BB-7, at 23-26) indicates that the Student did not meet many of the goals established in his October 1998 IEP for improving receptive and expressive communication skills. Those goals and his progress to date are set forth below:
 - a. *Objective # 1: Comprehend specific spatial, quantity and temporal concepts:* Except for performance on a highly structured puzzle activity used to teach antonyms, the Student’s progress in comprehending concepts has been “difficult” and he does not answer “Where” questions consistently using in, on or under concepts. Pre-math concepts (e.g., most, none) are “difficult.”

- b. *Objective # 2: Comprehend directions and answer questions composed of two-word phrases and simple subject-verb sentences:* The Student follows simple directions which may need to be repeated at times depending on his distraction level. The Student answers simple questions of the type “Whose is it?” using a possessive noun. The Student can identify familiar people in response to the question “Who is it?”; with a prompt (usually “I”). The Student can answer with simple four word sentences (“I have a [noun]”); and spontaneously uses 2 word phrases such as “eating cookies” when asked about what is happening in a picture.
 - c. *Objective # 3: Comprehend the pronoun “I” and understand “who, what, where” questions:* The report states that this objective has “been addressed previously,” referring to the results reported above for Objective #s 1 and 2.
 - d. *Objective # 4: Use sentences containing verb + ing:* The Student names 12/15 verbs using this format but does not consistently use this structure in sentences.
 - e. *Objective # 5: Increase use of descriptive vocabulary:* The Student does not use descriptive language spontaneously except when talking about himself and only occasionally at those times.
 - f. *Objective # 6: Explain experienced events:* The report states that this Objective was not addressed as of June 1, 1999.
 - g. *Objective # 7: Improve pragmatic communication:* The report states that “This objective has been addressed in many of our other activities” but provides no specific data or statement as to progress on this goal.
 - h. *Objective # 8: Identify and label simple emotions:* The report states that the Student mastered this objective with respect to happy, sad, angry, afraid and surprised, but does not indicate whether the goal has been achieved.
 - i. *Objective # 9: Increase intelligibility of speech:* The report states that the Student has improved his pitch control and volume, produces 16 /s/ blend words with a model with 100% accuracy, and is also beginning to use /s/ blends spontaneously, but does not state whether the goal was reached.
 - j. The Student’s ability to sit and wait, follow directions, focus and control his behavior improved significantly, such that the 1-to-1 aid during speech therapy was discontinued.
14. The Student’s special education teacher prepared a progress report dated June 1, 1999. (BB-7, at 27-30) The report describes the Student’s current functioning, but does not clearly state the extent to which the Student attained his goals and objectives set forth in the October 1998 IEP.

- a. *Goal: To improve cognitive/pre-academic skills in Math:* The Student can identify ordinal numbers (first, second and last); can complete a repeating pattern; has difficulty with more, less, all and none concepts; is able to add sums to 10 with a visual aid; is working on memorizing some math facts (0 to 10 addition) through the use of flash cards; can count by 10s using a visual grid as a prompt; and can expressively identify numbers 0 to 41.
- b. *Goal: To improve cognitive/pre-academic skills:* language arts and reading: The Student reportedly mastered all 3 objectives under this goal; he can read 50 additional sight words from his DTI and Edmark reading programs; can match objects or pictures to words for comprehension, and can match words and pictures to objects.
- c. *Goal: To improve receptive language skills:* The Student is able to answer who, what and where questions about a simple topic or story; has difficulty with when questions; and can place 6 picture cards in a proper sequence but has difficulty describing the events of each picture.
- d. *Goal: To improve expressive language skills:* The Student can describe an object, place or person with an attribute and respond to yes and no appropriately; he can read singular and plural words, but not use them in context correctly; he does better with the use of I and you, but has difficulty with me, he, she and they; he can imitate target consonants in phrases, sentences and words, but will not express them independently; he can label objects or persons when they are described to him; he can express confusion (“I don’t know”).
- e. *Goal: To improve perceptual motor skills:* The Student can copy all upper and lower case letters and can write his name independently; can copy numerals 1-10 and write the majority of them independently; has begun to write full sentences from a near point copy.
- f. *Goal: To improve receptive/expressive language skills, pragmatic and social communication:* The Student can reciprocate social information independently, but still requires prompting to use appropriate tone and eye contact. The Student verbally reciprocates appropriate dialogue during board games with prompting and can act out imaginative play scripts non-verbally with action and animal figures. The Student has difficulty reciprocating dialogue at free play and art but does better at cooking class.

- g. *Goal: To increase personal/social skills:* The Student will participate in group activities for 5 to 8 minutes with intermittent reinforcement and can extend his time up to 30 minutes at times with verbal reminders to stay engaged in the activity. The Student will respond to adult greetings with occasional prompts but will not initiate greetings to adults and peers. The Student's inappropriate vocalizations have decreased markedly since September. He can sit in a group with low humming and at times sit quietly for periods of up to 30 minutes when engaged in enjoyable visual and interactive activities. The Student has become more aware of his peers and occasionally joins in their play independently for short periods. However, he prefers solitary activities and parallel play.
15. At the June 1, 1999 PPT (BB-7), the Student's proposed IEP for the 1999-2000 academic year provided that the Student would remain at RES, again as a kindergartner and receive 10.75 hours/week of services in a self-contained classroom setting and 16.75 hours/week of services in regular classroom settings (afternoon kindergarten, physical education, recess and lunch). Other services included a full-time 1-to-1 instructional aide; team meetings; 2.5 hours/week of speech services; 0.75 hours/week of occupational therapy services; an extended school year program; 20 minutes/month consultation with an autism consultant; and 20 minutes/month of social worker services.
16. Progress reports completed in May of 2000 indicate that the Student did not attain many of the goals and objectives set forth in this IEP. Those goals and objectives and the Student's reported year-end performance (P-12, at 14-16 and 20-22) are summarized below:
- a. *IEP Goal # 1* - increase math skills by 6 months. Short term objectives included: (1) adding sums 0-10 independently; (2) identify numbers 0-100; and subtract numbers 0-10. The success criterion for these objectives was a 90% to 100% accuracy rate.
- Performance as of May 2000:* The Student can identify numbers 0-66 receptively and expressively; is able to add sums using numbers 0,1,2 together with 0-8 independently; and can subtract the numbers 0-10 with the use of manipulatives and verbal prompting.

- b. *IEP Goal # 2* - increase language arts skills by 6 months. Short term objectives included: (1) Write lower case letters independently; criterion for success is 100% accuracy rate; (2) Answer “when” questions independently; criterion for success is 90% accuracy rate; (3) Write a sentence from a near point copy; criterion for success is 80% accuracy rate.

Performance as of May 2000: The Student can write 18 lowercase letters independently; write a sentence from a near point copy with assistance with proper sizing and spacing; and can answer 15 questions in his DTI program.

- c. *IEP Goal # 3* - increase reading skills by 6 months. Short term objectives included: (1) increasing reading sight vocabulary to 100 words; (2) read words with “ed” and “ing” endings; and, (3) make picture/sentence association with acquired sight vocabulary. Success criterion for each objective was 100% accuracy using Edmark post-tests.

Performance as of May 2000: The Student mastered 64 sight words from the Edmark program but needs prompting to make picture/sentence associations with those sight words; he is able to read words with “s” endings and needs prompting to read words with “ed” and “ing” endings.

- d. *IEP Goal # 4* - increase his science skills by 6 months. Short term objectives included: (1) label the daily weather using appropriate symbol; (2) identify the four seasons when shown a visual representation of each; and (3) labels 20 animals of the world and/or sea life. Criterion for success for these objectives was an accuracy rate ranging from 80% to 90%.

Performance as of May 2000: The Student appears to have mastered these goals, in that he can label the daily weather using an appropriate symbol for cloudy, rainy, snowy and sunny conditions; can identify the seasons when shown a visual representation; and can identify 19 animals/sea life.

- e. *IEP Goal # 5* - increase social studies/health skills by 6 months. Short term objectives included: (1) the Student will identify basic emotions when shown a picture; (2) shown pictures of people in various situations, the Student will match the proper emotion to the situation depicted; and (3) the Student will identify 10 different modes of transportation. Criterion for success on these objectives was a 90% accuracy rate.

Performance as of May 2000: The Student can identify the emotions sad, angry, happy and scared when shown a schematic drawing of each. He is unable to match the appropriate emotion to people in various emotional settings; he can identify 11 different modes of transportation.

- f. *IEP Goal # 6* - increase social/behavioral skills by 6 months. Short term objectives included: (1) when requested by an adult to deliver a message, the Student will gain the specified person's attention and delivery the requested message; (2) the Student will walk in line with his class with 2 prompts or less; and (3) the Student will sit at his desk and complete 1 ditto with 2 prompts or less. Criterion for success on these objectives was an accuracy rate ranging from 80% to 90%.

Performance as of May 2000: The Student continues to need several prompts to deliver a message to another individual and appropriately gain their attention; he continues to need several gestural and verbal prompts to walk in line with his class; and continues to need more than 2 prompts to sit at his desk and complete a task. The teacher stated that the Student had had a difficult year behaviorally with many of his problems labeled as "sensory based."

- g. *IEP Goal # 7* -improve language comprehension. Short term objectives included: (1) demonstrate comprehension of simple "what" questions; (2) demonstrate comprehension of concepts in, on and under; and (3) demonstrate comprehension of 10 pairs of antonyms through matching. Criterion for success on these objectives was an accuracy rate of 80%.

Performance as of May 2000: The Student has demonstrated comprehension of what questions, of 10 pairs of opposites and of the concepts in, on and under. The Student has reportedly "mastered all of the objectives in this area of language comprehension."

- h. *IEP Goal # 8* - improve expressive language skills. Short term objectives included: (1) the Student will answer simple questions using complete sentences of 3-4 words without prompts other than the question itself; (2) the Student will express the concepts on, in and under in response to the question "Where is the ____?"; (3) the Student will use verb plus "ing" in structured sentences and activities; and, (4) the Student will initiate greetings within the school setting. Criterion for success was an accuracy rate of 80%.

Performance as of May 2000: The Student answers simple questions using complete sentences of 3-4 words; expresses concepts of in, on and under when asked "Where is it?"; is using verb + ing in structured sentences and activities; will raise his hand to request something; usually does not initiate greetings when he comes to speech.

- i. *IEP Goal # 9* – Student will express himself intelligibly. The short term objective was to have the Student produce certain specific sounds correctly without a model. Criterion for success was 80% accuracy rate.

Performance as of May 2000: The report states simply that the Student has mastered this goal.

- j. *IEP Goal # 10* – Student will use multisensory information to participate in and complete classroom tasks. Short term objectives included: (1) the Student will follow a 2-3 step classroom activity with minimal redirection; (2) the Student will copy a sentence from the board using correct letter formation and spacing; and, (3) the Student will utilize strategies/modifications regarding sensory diet to increase attention to task. Criterion for success on some of these objectives was an 80% accuracy rate.

Performance as of May 2000: An occupational therapy progress report presented at the May 1, 2000 PPT (P-12, at 11) states that the Student has made “slow and steady progress this year” and was beginning to write sentences and copy them from the board with “some legibility;” that the Student continued to have difficulty initiating and completing tasks, attending to an activity and tolerating sensory input; and that the Student should receive 1 hour/week of direct and up to 0.5 hours/week of indirect occupational therapy services.

17. During the 1999-2000 academic year, the relationship between the Parents and the RES staff administering the Student’s program deteriorated associated with Parental concerns regarding the implementation of the Student’s program and the Student’s progress.
 - a. At a December 6, 1999 PPT, the RES staff proposed placement in another of the district’s elementary schools as a potential solution. (P-11; Begley Test.; Parent Test.)
 - b. The Parents rejected the district’s proposal for placement in another elementary school at a PPT convened on January 3, 2000. The minutes note that a sensory integration assessment requested by the Parents was underway and that the Board may commence due process to address its concerns. (P-4) The Board ultimately elected not to commence due process, however. (Begley Test.; Parents’ Test.)

- c. A PPT was convened on April 10, 2000 to “clarify the direction to be taken for [the Student’s] program.” By this time, the parties had reached an agreement to develop a school- and home-based program to be provided by CREC to resolve the issues which had prompted the December 1999 and January 2000 PPTs. The sensory integration evaluation had not yet been completed. No changes were made to the Student’s program. (P-11)
18. The sensory integration assessment described above was performed by Ms. Hyatt in March 2000 with the report issued in later April. (P-12, at 23-31) At the time of the evaluation, the Student was receiving 1.5 hours/week of occupational therapy and 2.5 hours/week of speech therapy as related services through the Board, as well as private occupational therapy. Among other things, Ms. Hyatt noted:
 - a. That the Student’s problems with attention and distractibility are the result of his difficulty in modulating sensory input;
 - b. That although the Student appears to be able to cope fairly well at home, he has difficulty coping in school due to the number of students in the classroom and the pace of instruction;
 - c. That although the Student had the answers to many questions asked in the classroom, the present school situation is “over stimulating,” the pace is “too fast for him” and the class size was “not appropriate for his needs;” and
 - d. That sensory integration and direct and indirect occupational therapy interventions should be incorporated into his program, and that he should receive no less than 1.5 hours/week of occupational therapy.
19. A PPT was convened on May 1, 2000 to perform an annual review and develop goals and objectives for the 2000-2001 academic year. (P-12) The minutes report that the Parents had expressed concern that “there has been little growth for [the Student over the past] year.” The minutes also note that further direction was needed from CREC in developing the home-school program for the following academic year.
20. The goals and objectives developed for the Student for the 2000-2001 academic year at the May 1, 2000 PPT appear in many respects to be fairly modest. Notwithstanding the modest nature of those goals and objectives, the Student failed to reach many of them. The Student’s goals and objectives for the 2000-2001 academic year in the May 1, 2000 PPT (P-12) and his progress in attaining them (P-32, at 20) are set forth below:

- a. *Goal # 1: Increase reading and language arts skills.* Short term objectives: (1) increase sight vocabulary to 125 words; (2) make picture sentence association with acquired sight vocabulary; and (3) write his name with proper size and spelling. Criterion for success on these objectives was a 100% accuracy rate.

Performance as of June 2001: The Student acquired approximately 50 new words. The remaining objectives are “in process.”

- b. *Goal # 2: Increase math skills.* Short term objectives are: (1) add sums 0-10 using manipulatives or a number line; (2) subtract numbers 0-10 using manipulatives or a number line; and (3) identify numbers 0-100. Criterion for success on these objectives was an accuracy rate ranging from 80% to 90%.

Performance as of June 2001: The Student reportedly mastered adding some 0-10 using manipulatives or a number line and identifying numbers 0-100. Subtraction objectives were not addressed.

- c. *Goal # 3: Increase science skills.* Short term objectives are: (1) when shown a visual representation of a flower, correctly label the parts; (2) make a simple graph about a previously taught concept; and (3) recall 3 items from a previously taught science concept. Criterion for success on these objectives was an accuracy rate ranging from 90% to 100%.

Performance as of June 2001: The Student mastered the flower labeling objective. The remaining objectives were not addressed.

- d. *Goal # 4: Increase social and behavioral skills.* Short term objectives are: (1) sit appropriately for a period of 15 minutes during desktop activity with 2 prompts or less; (2) wait appropriately for a period of 2 minutes across various settings; and, (3) reciprocate greetings and closures with adults and peers independently. Criterion for success on these objectives was an accuracy rate of 100% or 90% on 5 opportunities.

Performance as of June 2001: The Student reported mastered the objective of reciprocating greetings and closures independently. The remaining objectives are reportedly “in process.”

- e. *Goal # 5: the Student will improve his communications skills in various settings.* Short term objectives are: (1) reciprocate information with one other person using a variety of simple sentences, with specific components including the concept of “and”; (2) identify and express the names of eight places; (3) demonstrate comprehension of and express the concepts next to, in front of, and behind; (4) use a complete sentence to describe a picture with the simple prompt “Tell me about it”; (5) answer at least 5 questions about himself; and, (6) demonstrate comprehension of the function of 15 objects. Criterion for success on these objectives was an 80% accuracy rate generally.

Performance as of June 2001: The Student mastered the objectives of identifying and expressing the names of 8 places, demonstrating comprehension and expressing concepts of next to, in front of and behind; and demonstrating comprehension of 15 objects. The remaining objectives are described as “in process.” (P-32, at 20; 28)

- f. *Goal # 6: Use multi-sensory techniques to be able to engage in written tasks during teacher directed activity.* Short term objectives are: (1) using multi-sensory input, the Student will print first and last name with letter on line placements; (2) will copy board work with correct letter formation, size and on line placement; and (3) utilize provided strategies and modifications regarding sensory diet to increase attention to task. Criterion for success on some of these objectives was an 80% accuracy rate.

Performance as of June 2001: The Student mastered the objective of printing his first and last name on line, The objective as to copying board work was reported as “in process.” The objective of increasing attention to task through use of sensory diet was “not addressed.”

21. A PPT was convened on August 18, 2000 to review the Student’s placement, IEP and special education program for the 2000-2001 academic year. (P-15) The following is noted in the minutes:
- a. The Student was to receive a home/school program which included 4 hours/day at home with services provided by CREC and 2 hours/day at “BHS,” a public elementary school in the district, rather than RES, where the Student attended in the 1999-2000 academic year. The school component is expected to be in place in 2 to 4 weeks following an ecological evaluation by CREC.
 - b. A paraprofessional from CREC was to work in the classroom one day per week starting in mid to late September.
 - c. The Student would receive 1 hour/week of occupational therapy at BHS.

- d. The Student would receive 1.5 hours/week of speech therapy at BHS.
 - e. The PPT is to reconvene in early December 2000 to review progress.
 - f. The Board was to contact Dr. Powers to perform a re-evaluation of the Student by February 2001.
22. The Student started the 2000-2001 academic year as a first grader attending BHS. (Parent Test.; Begley Test.)
 23. A PPT initially scheduled for December 14, 2000 was rescheduled. (P-21, at 9)
 24. Due to a delay in the start of the Student's program at BHS, he did not receive occupational therapy services until October 25, 2000, and he was provided an additional ½ hour/week of occupational therapy through December 2000 to make up for the lost time. (P-21, at 7) That delay was due to CREC-related staffing issues. (Begley Test.; Parent Test.)
 25. A PPT was convened on January 4, 2001 to review the Student's IEP and progress to date at BHS. (P-21, at 1-6) No changes were made to the Student's program, but the minutes note the following:
 - a. Based in part on CREC input, the district staff recommended that the Student spend part of his day in the first grade classroom for academics and part of the day in kindergarten for socialization. That would change the Student's schedule so that he would spend ½ day in school either in the morning or the afternoon, in contrast to the current program in which the Student comes into school in the morning, goes home for lunch and returns to school in the afternoon. The Parents rejected that recommendation on the ground that the Student had already spent 2 years in kindergarten and that the Parents wanted him to be socializing with children that were closer to his age.
 - b. The Parents raised the issue of Dr. Powers' re-evaluation as agreed-upon in the August 2000 PPT, but were advised by Mr. Farrell (then Acting Special Education Supervisor at BHS) that the only question that should be submitted to Dr. Powers was whether the Student should spend more time with kindergartners for socialization purposes.
 26. Over the next several weeks, the parties attempted unsuccessfully to resolve the disagreements that arose at the January 4 2001 PPT. (P-43; P-44; BB-2; P-22; P-25) The Parents ultimately commenced due process, which was resolved by a settlement agreement (P-25) that provided as follows:

- a. Dr. Powers would perform a “full reevaluation” including psychological and achievement, as well as a consultation as to how to meet the Student’s socialization needs. The settlement agreement expressly notes that there would be a delay in obtaining the reevaluation because of the waiting list for such evaluations at Dr. Powers’ office.
 - b. A language assessment was to be performed by Ms. Mule.
 - c. The Student will continue to receive 1.5 hours/week of occupational therapy provided by Board staff or its agents through June 2001.
 - d. Prior to June 2001, Ms. Hyatt would perform an independent occupational therapy and sensory integration assessment.
27. In March 2001, Ms. Mule administered a speech and language evaluation and concluded that the Student has a “Severe Receptive and Expressive Disorder” and “Pragmatic Disorder.” (P-32, at 21-27) She noted the following in her report:
- a. Although the Student’s IEP called for 1.5 hours/week of direct speech and language intervention, the Student had missed about six weeks due to the absence of a speech therapist and is now receiving 2.0 hours/week.
 - b. The Student, who was 8 years old at the time, performed at an age equivalent of 3 years and 7 months on the Preschool Language Scale 3 – Auditory Comprehension section. His scores in 2001 showed an approximately 10 month improvement over his 2 year 9 month level score in a 1998 evaluation.
 - c. The Student’s performance on the Preschool Language Scale 3 – Expressive Language was an age equivalent of 2 years 5 months, an approximately 9 month improvement over his age equivalent score of 1 year 8 months in a 1998 evaluation.
 - d. Although the Student communicates most frequently to regulate the behavior of others to meet his needs, he is also showing clear behaviors to access the attention of others and share attention jointly.
 - e. The Student’s articulation of words is showing very significant improvement since the last assessment and is now “near age appropriate.”
 - f. The Student continues to have difficulty processing sentence length information, tending to comprehend specific words and missing critical elements of information as he processes.

- g. The Student tends to rely on echoing and repetition in attempts to help himself process, does not express emotions for himself or others, and is not producing extended discourse.
 - h. That given the “Student’s rate of progress, particularly for comprehension of sentence level information and acquisition of grammar,” his speech and language therapy services should be increased to 2.0 hours/week of direct service, up from 1.5 hours/week.
28. The Student was given an occupational therapy reevaluation by Ms. Riesbeck on May 15, 2001. (P-32, at 30-39). Although noting that he had made “significant” progress since her last contact with him, he still requires a minimum of 1.5 hours/week of occupational therapy services to address, among other things, difficulties with motor planning of events and has low muscle tone and a significant decrease in upper body strength and postural control.
29. Although the August 2000 PPT provided for a reevaluation to be completed by Dr. Powers by February 2001, for the reasons set forth above Dr. Powers did not reevaluate the Student until May 29, 2001, which was too late to make any changes for the 2000-2001 academic year. (P-29). Dr. Powers reported the following:
- a. “[The Student’s]” performance on the cognitive assessment portion of [this] evaluation identify abilities that are well below age expectations, and consistent with Mental Retardation in the mild range. Adaptive skills are significantly compromised as well.”
 - b. Due to behavioral difficulties, the Student was referred to a child psychiatrist and was currently treated with Respiradol, which has been successful in reducing his anxious and repetitive behaviors.
 - c. Social interaction and communication skills remain markedly delayed for the Student. Social recognition skills remain impaired.
 - d. The Student is a vocal speaker using brief sentences to communicate his intentions. He makes requests, asks questions, affirms and negates generally in abbreviated forms. Both immediate and delayed echolalia remain. Pronoun reversals have diminished.
 - e. He continues to manifest a variety of stereotypies and atypical reactions to sensory events.

- f. The Student’s learning style remains essentially consistent with that previously described by Dr. Powers. He is particularly challenged by situations requiring him to shift attention across modalities and by his over-attentiveness to visual and verbal detail. He has emerging academic readiness skills, including one-to-one correspondence and several sight words.
30. Dr. Powers reported these results for the Student’s 2001 reevaluation (P-29):
- a. The Student’s performance on the Stanford Binet continued to show scatter across subtests, but with “more compromise than was evident” in the 1998 evaluation. His verbal reasoning abilities were significantly compromised, and all subtests were significantly below age expectations. His ability as measured on the Stanford Binet, including abstract reasoning skills, is significantly lower than the 1998 evaluation, showing minimal gains since that time and “raising questions about the effectiveness of educational programs provided to him in the past three years.”
 - b. The Student achieved a nonverbal ratio IQ score of 64 on the Leiter International Performance Scale, corresponding to a mental age equivalent of 5 years 5 months. His chronological age at the time was 8 years 6 months. “This [score] identifies significantly sub-average functioning in this area, and highlights the broad-based learning challenges faced by this youngster.”
 - c. The Student earned a total score of 42 on the Child Autism Rating Scale, which places him within the range of children who are more significantly affected by symptoms of an Autism Spectrum Disorder.” Comparison to the 1998 administration of this scale shows an increase in autistic symptomatology.
 - d. The Student’s scores on the Vineland Adaptive Behavior Scales administered in 2001 identify adaptive behaviors that are low in all domains. The results from this evaluation are set forth below, along with the results of the prior two administrations by Dr. Powers:

DOMAIN	AGE EQUIVALENT (1995; age 35 months)	AGE EQUIVALENT (1998; age 63 months)	AGE EQUIVALENT (2001; age 102 months)
Communication	9 months	35 months	40 months
Daily Living	16 months	33 months	50 months
Socialization	12 months	21 months	30 months
Motor Skills	23 months	41 months	Not Reported
Adaptive Behavior Composite	15 months	34 months	40 months

31. Dr. Powers made the following recommendations in his report (P-29):
- a. The Student should participate in a full-day special education program providing a minimum of 35 hours per week of DTI following an ABA model, with emphasis on communication, cognitive, *pre-academic* and social interaction skill development. Dr. Powers stated his “concern[] that the combined public school-based and home-based program currently in place for him provides unnecessary transitions and inefficient use of instructional time across the day.” To address those concerns, Dr. Powers recommended a full-day center-based program that is highly structured. He specifically recommended either the Locust Street program or CCCD. Should the Student remain in the Board’s public schools, continued consultation with CREC is necessary.
 - b. Specific strategies to improve his social interaction skills, which are “significantly compromised.”
 - c. Reduction of motor and verbal stereotypies through positive behavioral supports.
 - d. Continued medication management.
 - e. Ongoing occupational therapy services on a direct basis at least three times per week (30 minutes per session).
 - f. Re-introduction of the Edmark Reading Mastery program as a regular part of his daily instructional activities.
 - g. “Close collaboration” between the Parents, the Board’s team and all related service providers, including a monthly team meeting to review progress and implement new strategies as needed.
32. Dr. Powers’ 2001 report does not contain any specific recommendations for classroom interventions to address the issues identified in his report.
33. On June 5, 2001, CREC staff reported to the Parents that placement at “CS” (another district elementary school) for the next academic year was desirable for the Student because the CS program has fewer children and a greater emphasis on inclusion. (P-31) CREC also reported that it did not have staff currently available to provide services to the Student for the summer program.
34. A PPT was held on June 14, 2001 to review Ms. Riesbeck’s and Ms. Mule’s evaluations and determine the Student’s programming for the 2001-2002 academic year. (P-32) The results of Dr. Powers’ evaluation were not yet

available. The IEP goals and objectives are set forth below:

- a. *Goal # 1* - improve receptive language skills in various settings. Short term objectives under this Goal were (1) improve comprehension of third person pronouns, using manipulatives and then pictures; 80% accuracy rate as criterion for success; and, (2) comprehend increased information load using visual supports; 80% accuracy rate as criterion for success.
- b. *Goal # 2* - increase expressive language skills in various settings. Short term objectives under this goal were (1) regular past and future tense expression; 70% accuracy rate as a criterion for success; (2) sequence picture stories; 75% accuracy rate as criterion for success; and (3) communicating about share experiences; 80% accuracy rate as criterion for success.
- c. *Goal # 3* - improve functional math skills. Short term objectives under this goal were: (1) add and subtract up to three columns of numbers with regrouping; 90% accuracy rate as criterion for success; (2) demonstrate an understanding of the concepts of more/less and larger/smaller with respect to number values; 90% accuracy rate as criterion for success; (3) count change up to \$1.00; 90% accuracy rate as criterion for success; (4) tell time up to the minutes; and (5) identify the time of day for routine events in his daily schedule; 90% accuracy rate as criterion for success.
- d. *Goal # 4* - improve reading skills. Short term objectives under this goal were: (1) the Student will receptively and expressively identify letter sounds; (2) the Student will read simple rebus sentences; (3) the Student will increase his sight word vocabulary by 125 words; and (4) the Student will read and follow one step written directions. The criterion for success in all objectives was a 90% accuracy rate.
- e. *Goal # 5* - improve communication skills. Short term objectives under this goal were: (1) the Student will use a complete sentence to describe a picture in response to a prompt to talk about it; (2) the Student will use where, what, when and who questions to obtain information he wants; (3) the Student will respond using past tense to questions about events that have just transpired; (4) the Student will relate three events from his schedule when asked about what he did that day; and (5) the Student will response to prompts like "I see," "I have" or "I like" by making a similar statement on the same topic. The criterion for success for each objective was a 90% accuracy rate.

- f. *Goal # 6* - use multi-sensory techniques to complete written tasks in the classroom. The specific objectives were: (1) following deep pressure, the Student will attend to a visual motor task for 8-10 minutes; (2) using visually stimulating materials, the Student will copy 2 sentences with on-line placements; and (3) after given a choice of 3 sensory activities, the Student will choose and complete one of them. The criterion for success on each objective was a 75% accuracy rate.
 - g. *Goal # 7* - improve social skills. The specific objectives were: (1) the Student will imitate a variety of play actions of peers for up to 5 minutes; and (2) the Student will gain the attention of and request desired items from peers. Success on these objectives was to be measured by probes with mastery criteria listed as "5 consecutive sessions."
35. A PPT was held on July 27, 2001 to review Dr. Powers' evaluation. (P-34; P-41) The following was decided at the PPT:
- a. The IEP for the 2001-2002 academic year prepared in June 14 would continue in place, but that the Student would attend school at CS rather than BHS. CREC will perform an ecological evaluation and a meeting between CS staff, CREC and the special education supervisor will occur prior to commencement of school for planning purposes.
 - b. The district staff rejected Dr. Powers' recommendation for an out-of-district placement. No details as to the basis for their decision is indicated in the PPT minutes.
 - c. The possibility of utilizing the services of IPP, another consultant engaged by the Board to provide services to children with autism, rather than CREC was discussed.
36. In light of potential staffing problems being reported by CREC that were interfering or would interfere with the Student's program, and other issues, a PPT was convened at Parental request on August 10, 2001 to review the Student's placement for the 2001-2002 academic year. (P-38; Parent Test.) At that PPT:
- a. The district staff, some of whom had not previously worked with the Student, determined that placement will be at "TS," another elementary school in the district, rather than "CS." The IEP provided for 14.0 hours/week of services in regular and self-contained classrooms and 10 hours/week of services at home, as well as 1.5 hours/week of occupational therapy, 2.0 hours/week of speech and language services and a 1-to-1 aid. The Student would spend 3.75 hours/week with typically developing peers.

- b. The Parents requested placement at CCCD due to the many changes in the Student's program over the years, and particularly since July 27, 2001. Although not clear from the minutes, that request was rejected.
 - c. The issue of how to handle teacher/aide absences was discussed, but the resolution was not reported.
37. In the 1999-2000 and/or 2000-2001 academic years, the Parents raised various concerns with the Board as to the Student's special education program. *See, e.g.*, P-7; P-8; P-9; P-10; P-37; P-39; Parent Test. Although the Board made efforts to address these concerns, the issues (as identified below) continued to exist to varying degrees as of the date the Parents requested due process and continue to adversely impact the Student's educational program:
- a. The Board failed at times to adequately supervise or monitor the Student while he is on school property, resulting in occasional physical injuries to the Student.
 - b. The Board failed to adequately train, supervise and/or monitor the 1-to-1 aide assigned to the Student, with the result that the Student's ability to benefit from his educational program has been impaired.
 - c. High turn-over of staff assigned to work with the Student, including but not limited to the staff provided by CREC, resulted in impairment in the Student's ability to benefit from his educational program has been impaired.
 - d. The Board failed to assure that adequate staff is available to deliver the Student's special education program, with the result that the Student's ability to benefit from his educational program has been impaired. Failure to assure that staff providing services to the Student arrive on time and remain with the Student throughout his day.
 - e. The Board failed to assure that CREC would be able to commence delivering special education services to the Student at the beginning of the 2000-2001 and 2001-2002 academic years, with the result that the Student's progress in his special education program has been impaired.
 - f. The Board inappropriately delayed or cancelled PPTs based on the availability of the Board's counsel to participate, resulting in further delay of resolution of issues concerning the Student's special education program.
 - g. The Board, at times, made inappropriate or excessive use of food as a reinforcer, to the extent that the Student became physically ill on occasions.

- h. The Board, at times, made inappropriate use of videos as a means of occupying the Student's time.
38. In addition, the Board failed to timely obtain an agreed-upon reevaluation of the Student by Dr. Powers, with the result that the Student's special education program for approximately half of the 2000-2001 academic year could not be adjusted to reflect the findings of the reevaluation, which showed significant decreases in performance and skill level over prior evaluations.
39. Over a five year period, due in substantial part to instability of CREC's staffing, the primary staff member responsible for the Student's program has changed 9 times. In addition, the Student has attended 3 different schools. (Parent Test.)
40. The Student made little progress in his special education program in the 2000-2001 academic year, a program with relatively modest goals and objectives.
41. Notwithstanding Dr. Powers' recommendations, the Student is currently too young to participate in the Locust Street Program. (Parent Test.)
42. The Student cannot attend CCCD at this time due to limitations expressed by CCCD.
43. In the Spring of 2001, CREC had assessed the CS program and recommended it as a placement for the Student. Subsequent to CREC's assessment, the CS program has changed and is evolving into a new format. It is the Board's position that the CS program is not an appropriate program for the Student at this time because it is in too much of a state of evolutionary flux. (Amato Test.)
44. There is a breakdown in communication between the district teaching and administrative staff and the Parents, such that neither party appears to fully understand at times what the other party is seeking or agreeing to. These communication issues have adversely impacted the Student's educational progress, particularly in the past academic year, and are becoming more severe. The Board overall has made a substantial effort to work with the Parents to address their concerns as those concerns have arisen, but full resolution of those concerns has been hampered by these communication problems.

CONCLUSIONS OF LAW

1. Pursuant to the IDEA, the Board has an obligation to provide the Student with a free and appropriate public education ("FAPE"), including related services, in the least restrictive environment ("LRE"). *See, e.g.*, IDEA, 20 U.S.C. §§ 1401(b), 1402(8), (22), (25) and (29), 1412(a)-(b), 1414(d); 34 C.F.R. §§ 300.340-349, 300.4, 300.550(b); *Hendrick Hudson Cent. School Dist. v. Rowley*, 458 U.S. 176 (1982); *Burlington School Committee v. Dept. of Ed. Of Massachusetts*, 471 U.S. 359 (1980).

2. The Board has stipulated that the program it had offered for the 2001-2002 academic year would not provide the Student with FAPE in the LRE. The evidence in the record supports that finding, even absent the Board's stipulation.
3. The Board has specifically stipulated that a placement out of the district at CCCD would be appropriate for the Student. The evidence in the record supports a finding that placement outside of the district in a therapeutic day program specializing in the treatment of children with autism is the LRE for the Student at this time, due primarily to the Student's lack of progress in the 2000-2001 academic year and the results of Dr. Powers' and Ms. Mule's 2001 evaluations.
4. During the 2000-2001 and 2001-2002 academic years, the Board has contracted with CREC to provide special education services to the Student pursuant to the IEP. While the Board may delegate its responsibility to provide special education services to a third party, the Board remains responsible for assuring that the services required to be provided to the Student are provided in a timely, consistent and professional manner, and in accordance with the IEP. In the 2001-2002 academic year, the Board failed to adequately discharge its obligation to monitor the services being offered by CREC to assure that those services comply with the requirements of the IEP, and to timely take steps to correct deficiencies on a consistent and longer term basis.

FINAL DECISION AND ORDER:

1. To the extent that the Parents still desire to have the Student placed outside of the district for the 2001-2002 academic year (which includes the summer of 2002 for purposes of this paragraph), the Parents and the Board are each directed to continue their efforts to identify a suitable out-of-district placement for the Student. If there is a disagreement between the Board and the Parents regarding the suitability of a proposed placement, the parties are to seek an opinion from Dr. Powers (at Board expense) as to the suitability of the proposed placement and proceed accordingly.
2. Pending placement of the Student out-of-the-district, the Student's educational program for the 2001-2002 academic year shall include the following:
 - a. Speech and language therapy 2.0 hours/week provided at Board expense by Kathy Wickline or another mutually-agreed upon outside therapist if Ms. Wickline cannot provide the service. The therapist providing this service is to be identified by no later than October 25, 2001 and is to begin providing services as soon as practicable thereafter.

- b. Occupational therapy 1.5 hours/week provided at Board expense by Therapy Unlimited or another mutually-agreed upon outside therapist if Therapy Unlimited cannot provide the service. The therapist providing this service is to be identified by no later than October 25, 2001 and is to begin providing services as soon as practicable thereafter.
 - c. The Student is to attend BHS as a second grader, with a program in accordance with the July 27, 2001 (as corrected) and August 10, 2001 IEPs. If the Parents request placement at CS, the parties will in December 2001 reassess the suitability of CS as a placement such that the Student can begin attending CS at the commencement of the third quarter of the school year if such placement is appropriate. The CREC, speech and occupational therapy consultants working with the Student should have input into that assessment.
 - d. CREC will continue to provide consultative services to the Board and services to the Student as set forth in the IEP.
 - e. A 1-to-1 instructional aide who is not a Board employee will be provided at Board expense for the Student at all times in which the Student is participating in the special and regular education programs identified above. CREC staff, with input from the Board and the Parents and at Board expense, is to develop a written document detailing the duties and responsibilities of this instructional aide, and the Board is to assure that this aide is provided adequate supervision and training to fulfill these duties and responsibilities. That document is to be completed by December 1, 2001. The aide will be provided, at Board expense, by CREC as part of the staff assigned by CREC to provide services to or on behalf of the Student.
 - f. IEP goals are to remain as set forth in the July 27, 2001 IEP, except as provided in Paragraph 3 below.
 - g. Commencing on or before October 12, 2001, the Student is to be transported to his in-district placement on a school bus for typically developing peers with a 1-to-1 aide to assist and supervise him. Whether such transportation is appropriate for the Student is to be reviewed on an as-needed basis.
3. By no later than October 12, 2001, the Board and the Parents are to jointly request that Dr. Powers provide a written report to the parties as to: (a) the adequacy of the IEP goals for the Student for the 2001-2002 academic year as set forth in the July 27, 2001 IEP (and any subsequent modifications to those goals made prior to October 12, 2001, if any); and, (b) specific educational, behavioral and other goals to be set and strategies to be implemented with the Student in his in-district placement, in light of the findings made by Dr. Powers in the February 2001 reevaluation. In their request, the parties are to ask Dr. Powers to complete the report by November 15, 2001 and to impress upon Dr. Powers the need for expeditious action on their request. The Parents are to authorize Dr. Powers to

consult with the Board as necessary or requested to assure a complete understanding of Dr. Powers' assessment. Both the report and any time spent by Dr. Powers in providing consultation, including but not limited to participation by Dr. Powers in a PPT, is to be funded by the Board. A PPT is to be convened as expeditiously as possible after receiving this information from Dr. Powers to modify the Student's IEP as necessary to implement those recommendations.

4. For the period through the end of December 2001, CREC staff, the Student's special and regular education teachers and the Parents are to have a team meeting (either face-to-face or by telephone) no less than twice monthly to review the Student's progress in meeting IEP goals. Beginning in January 2001, such meetings are to occur not less than once monthly and may occur more frequently as necessary or desired to assure that the Student is receiving appropriate services while in an in-district placement for the 2001-2002 academic year.
5. For the 2001-2002 academic year (including the summer of 2001), the Board shall make available to the Parents a member of its special education, social work or school psychology staff to act: (a) as an ombudsman and advocate for the Parents with respect to the Student's special education program; and (b) as a liaison between the district staff providing services to the Student and the Parents. Any such Board employee is not to be an individual who is responsible for providing direct services to the Student, and should not be primarily operating out of the same district school that the Student attends. Any such employee shall attend PPTs and may attend other meetings and participate in telephone calls as needed for the purpose of assisting the Parents in addressing their concerns regarding the Student's educational programming and in verifying Parental understanding of information and recommendations made by the district staff.

In the alternative, the Board may propose to engage at its expense an individual who is not a Board employee for this purpose, provided that the individual is knowledgeable and experienced in special education law.

In the alternative, the Parents may request that an individual who is not a Board employee be engaged to provide this service. Provided that the individual selected by the Parents is not an attorney and is knowledgeable in special education law, the Board shall pay that individual's reasonable fees for providing the following services: up to two hours of consultation per month directly to the Parents, consultation with the Board as requested by the Board to assist the Board in communicating with the Parents regarding the Student's educational programming, time spent in preparing for and attending PPTs, and time spent in attending team meetings as necessary or desirable.

This liaison/advocate is to be identified and retained by no later than November 1, 2001.

6. During the 2001-2002 academic year, and to the extent that the student is in an in-

district placement, the Board is to implement steps necessary to assure that CREC is adequately staffed to provide the Student's special education program, and that CREC is timely and consistently delivering its services under the IEP. Nothing in this order shall be interpreted to require the Board to continue to retain CREC as a consultant where CREC is in breach of its agreement with the Board, or otherwise preclude the Board from terminating its agreement with CREC provided that any such termination is not for the purpose of frustrating the applicable provisions of this order. The Board is to make a good faith effort to assure that CREC is available to provide services to the Student pursuant to this order through the commencement of the 2002-2003 academic year.

If CREC is unable or unavailable to provide the required services, the Board is to act expeditiously to engage another consultant to do so. If the Parents agree, that consultant can be IPP. If the Parents object to IPP and another mutually satisfactory consultant cannot be identified, the Board is to commence due process immediately to obtain a determination as to whether IPP is an appropriate consultant.

7. Unless otherwise agreed, the provisions of Paragraphs 1 through 6 inclusive of this order shall cease to apply upon placement of the Student in an agreed-upon out-of-district program for the 2001-2002 academic year, or upon the start of the 2002-2003 academic year (whichever is later).
8. To assure that the Student's programming for the summer of 2002 will commence in a timely manner, by no later than June 1, 2002, a PPT is to be convened and an IEP developed for the Student for the summer of 2002.
9. To assure that the Student's programming for the 2002-2003 academic year will commence in a timely manner, by no later than June 30, 2002, a PPT is to be convened and an IEP developed for the Student for the 2002-2003 academic year.
10. The Parents and the Board are to jointly request an opinion from Dr. Powers (at Board expense) as to whether it is desirable or appropriate to conduct a reevaluation similar to the one performed by Dr. Powers in 2001 to evaluate the Student's progress or status for purposes of planning for the 2002-2003 academic year. If so, such a reevaluation is to be timely undertaken at the Board's expense and the results utilized in planning for the 2002-2003 academic year.
11. The Parents and the Board are to jointly request an opinion from Ms. Mule (at Board expense) as to whether it is desirable or appropriate to conduct a reevaluation similar to the one performed by Ms. Mule in 2001 to evaluate the Student's progress or status for purposes of planning for the 2002-2003 academic year. If so, such a reevaluation is to be timely undertaken at the Board's expense and the results utilized in planning for the 2002-2003 academic year.