STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

North Branford Board of Education v. Student

Appearing on behalf of the Parent:	Parents, Pro Se
Appearing on behalf of the Board:	Attorney Marsha Belman Moses Berchem, Moses & Devlin, P.C. 75 Broad Street Milford, CT 06460
Appearing before:	Mary H.B. Gelfman, Esq. Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Are the Individualized Education Program (IEP) and placement offered by the Board at a Planning and Placement Team (PPT) meeting on February 2, 2004, including a transition plan from the current placement at Student Learning Center (SLC), appropriate to Student's special education needs in the least restrictive environment?

2. Is an independent psychiatric evaluation necessary prior to a change in Student's placement?

3. If the Board's program is not appropriate, is continued placement at SLC appropriate?

PROCEDURAL HISTORY:

This hearing was requested the Board of Education by letter dated February 27, 2004. The undersigned hearing officer was appointed on the same day. A pre-hearing conference was held on March 10, 2004, with Attorney Klebanoff appearing for the Parents and Attorney Moses appearing for the Board. It was reported that Attorney Zanger (from the same law firm) would appear for the Parents at the hearing. By letter dated March 26, 2004, Attorney Klebanoff informed the hearing officer that Parent would be proceeding Pro Se.

The hearing was scheduled for March 29 and April 1, 2004, 1 p.m. to 5 p.m; April 16, 2004, 9 a.m. to 5 p.m; and May 10, 2004, 10 a.m. to 5 p.m. Because of an asserted need

for additional hearing dates, the parties requested an extension of the deadline for mailing the final decision and order, pursuant to Section 10-76h-9(c), Regulations of Connecticut State Agencies (R.C.S.A.). This request is granted: the mailing date is extended from April 12 to May 12, 2004. The hearing concluded on April 16 and the May 10, 2004, session was cancelled.

To the extent that the procedural history, summary, and findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *Bonnie Ann F. v. Calallen Independent School District,* 835 F. Supp. 340, 20 IDELR 736 (S.D. Tex. 1993)

All motions and objections not previously ruled upon, if any, are hereby overruled.

SUMMARY:

After Parents complained about Student's out-of-district special education placement, Student's triennial re-evaluation was performed and the PPT proposed an in-district placement at the Board's middle school. The Parents preferred to continue the out-of-district placement, requested a psychiatric evaluation prior to a change in placement and opposed the in-district alternative. The Board initiated the hearing.

FINDINGS OF FACT:

From a review of all documents entered on the record of the hearing and testimony offered on behalf of the parties, I make the following Findings of Fact.

1. Student is now thirteen years of age (birth date February 11, 1991) and attends the Student Learning Center (SLC), a private school approved for special education by the State Department of Education. She was placed at SLC by the Board's PPT for the summer program in 2000, and has continued there since. (Exhibits B-60, B-61)

2. Student was first referred to the PPT during her kindergarten year because of concern about her adjustment to school. The PPT met with Parent on December 12, 1996, and decided to evaluate Student. At this meeting, Student's present levels of educational performance were described as:

> **Academic achievement**: virtually nonverbal [in school] – appears to have some comprehension. **Psycho-motor skills:** adequate, fine motor some concern. **Social skills:** nonverbal. **Self-help skills:** adequate, needs help zippering. **Medical status:** ear infections, sinus infections. **Speech/language:** nonverbal.

The record of this meeting shows that Student's difficulties with focusing and attending were discussed. Her Parent reported that she was verbal at home, and that they had discussed her unwillingness to communicate with her classmates at home. Parents reported that her behavior at home was sometimes difficult to manage. The PPT agreed to evaluate her. (Exhibits B-1, B-3)

3. A school psychologist observed Student in her classroom on January 31, 1997, and performed a trans-disciplinary play assessment. Student was reported as "significantly less visually attentive [to the teacher]" than her classmates. She received some support from a classroom aide on a writing assignment. She had trouble making the shift to story time, and wandered around the room before and briefly during the story, although she gave better visual attention at story time than she had earlier. The play-based assessment was observed through a one-way window: Student played with a counselor assistant whom she already knew. Student preferred the housekeeping area and the doll house:

> … devis[ing] elaborate dramatic and symbolic play schemas in logical order while playing with the dolls and house area.

She demonstrated turn taking in conversation and imaginative pretend situations. The School Psychologist concluded that a more formal evaluation of Student should be done in six months, noting that her cognitive functioning was probably in the average range for nonverbal tasks. Verbal functioning was:

> … probably hindered by a combination of emotional and pragmatic language problems which prevent her from using her speech capabilities in the school setting. (Exhibit B-5)

4. Occupational therapy and physical therapy play-based assessments were also made of Student on January 31. 1997. The therapists recommended occupational therapy:

> … to address her lack of initiative and sustained interest in fine and/or visual motor tasks.

and physical therapy consultation;

> … to promote participation in gross motor activities and to promote more mature patterns of transition. (Exhibit B-6)

5. A speech/language play-based assessment/observation was performed on January 31 and February 10, 1997. On the first day, Student's responses to attempts to engage her in conversation were mostly nods or one-word answers: she also communicated with gestures. Also observed in her physical education class, she was inattentive and nonverbal. She behaved appropriately at snack time, but was not observed to use any expressive language. (Exhibit B-9)

6. The PPT convened on February 12, 1997, to discuss Student's evaluations and to develop an IEP for her. She was identified as eligible for special education because of a language disability. Her present levels of educational performance were described:

> **Academic achievement:** needs much redirecting in academic instruction, difficulty focusing, perseverates, trouble following directions, printing – fine motor lagging. **Social skills:** Play still parallel, likes to function in her own world. **Self-help skills:** adequate except for "asking". **Medical status:** neurological evaluation to be done 2/19/97. **Speech/language:** pragmatics very weak, chooses not to speak in many situations.

The PPT developed an IEP that included speech/language services one hour per week; special education 12½ hours; occupational therapy one half hour hour; physical therapy 15 minutes consultation; and counseling with the school social worker one half hour. She was placed in the special needs kindergarten for part of the school day. (Exhibit B-9)

7.Student was examined by a neurologist on February 18, 1997. This physician summarized:

> … [Student] is a six year old, right-handed girl with delayed socialization skills and communication skills which are seen predominantly at school. Her parents feel that her socialization with family members and language at home is far superior to what is seen at school. She does have overactivity and behavioral outbursts at home. I find her neurological examination to be unremarkable. Due to the history of "phasing out", I do feel it would be helpful to do an EEG to be certain that there is no paroxysmal activity producing this behavior. If that study is normal, I do not feel further neurodiagnostic studies are needed. I feel that her psychological intervention should continue to determine what emotional factors may be contributing to her clinical presentation. I do not feel that the clinical presentation is typical of an attention deficit disorder. I feel that a psychological evaluation should be completed to help program educationally for the next school year. (Exhibit B-10)

8. A psychosocial assessment of Student was performed on March 21 and April 7, 1997. The report of this assessment mentioned that Student and her family were seeing a therapist, who felt that Student's problems in school were based on anxiety and separation difficulties. Among problematic behaviors reported at home was Student biting herself, impulsivity and fearlessness. Student's kindergarten teacher completed an Achenbach Child Behavior Check List, which showed Student as:

> … behaving in a withdrawn manner, not interacting with others, often not responding to overtures from peers. At times she appears confused and when doing written work will sometimes repeatedly trace over her responses. Results of this questionnaire also indicate that [Student] is having very significant problems with attention and concentration.

The kindergarten teacher also completed the Burk's Behavior Rating Scale:

> … significant problems were noted in poor physical strength (i.e. seems to tire quickly, will not rough and tumble with others, and appears physically lethargic), and with apparent confusion (i.e. does not ask questions, follows directions poorly). Very significant problems were noted in poor attention and excessive withdrawal (i.e. seems shy, does not show feelings, disinterested in the play of others, is difficult to get to know, and withdraws quickly from group activities).

The special needs kindergarten teacher also completed the Burk's scale:

> … significant problems were noted in poor attention and confused behavior (i.e. doesn't ask questions and follows directions poorly).

The school social worker also observed Student. (Exhibit B-11)

9. The school social worker summarized her findings in a report dated April 17, 1997:

> … Student has made great strides in adjusting to kindergarten. She is coming to school happily, appears much more comfortable and relaxed, is engaging in more reciprocal, age appropriate social behavior with both peers and adults, and is showing some growth in her ability to attend and concentrate. [Student] can become over-stimulated and during these times exaggerated and excessive giggling as well as rapid hand movements have been observed. The areas of

> attention and socialization are still below age expectations and are effecting [Student's] ability to achieve and be more successful in school. Her improvements in both socialization and in her ability to attend, concentrate and persist during structured lessons are most readily apparent in the smaller Special Needs Kindergarten program where she is able to receive facilitation and assistance as needed. Attentional problems including distractibility, difficulty sustaining attention, seeming not to listen when spoken to, difficulty following through on instructions and fidgeting have been present both in school and at home for some time. These attentional problems should continue to be monitored closely.

This school social worker recommended school counseling "to assist [Student] to further her development of social skills and to improve her ability to attend. (Exhibit B-11, pp. 3-6)

10. Student had a speech/language evaluation on April 29 and May 1 and 29, 1997. Student scored in the low average range on several standardized measures. The speech/language pathologist summarized testing and classroom observations:

> It was noted that during one language group activity [Student] had difficulty coming up with appropriate questions to ask during a guessing game. This examiner noticed that [Student] sometimes subvocalized (moved her lips speaking quietly to herself) during worksheet activities, and while instructions were being given by the classroom teacher. [Student] needed frequent reminders to follow directions or follow through with a task once the instructions had been given. During seatwork activities she almost always needed to be reminded to look at her paper or watch the teacher as she demonstrated something.
>
> [Student] rarely sought assistance when needed. Many times she appeared unaware of her mistakes or need to ask for help. She rarely initiated conversation with the children but if they asked her a question, she generally answered appropriately. On one occasion she commented, "[student name], aren't you lucky" upon hearing that one of her classmates had just bought a new board game.
>
> While administering the word definition subtest on the TOLD-P:2, it was necessary for this examiner to repeat the stimulus question and prompt her repeatedly. During the Boehm Concept Test frequent repetitions and pointing, "look here" was necessary to refocus [Student].
>
> [Student] has adapted quite well to the small classroom environment during the past few months. She appears to be happy and comfortable. This has encouraged more initiating conversation with teachers and teacher's aides. Pragmatic or social use of language has shown some improvement. Classroom observation as well as testing indicates that [Student] has difficulty attending to and processing directions. Receptive language skills are borderline average to below average. Expressive language skills are within the low average range for labeling pictures. Expressive tasks involving processing a direction, repeating information, or completing a partially formed sentence appropriately were difficult for [Student]. She did not understand many concepts that a child her age would be expected to know. Problem solving and verbal reasoning skills appear to be a weak area as well. [Student] would greatly benefit

from a small classroom setting rich in language based activities. She needs assistance to be frequent and available as necessary. (Exhibit B-13)

11. An educational evaluation of Student performed in June, 1997, showed her verbal IQ at 90, performance IQ at 61 (with significant scatter) and full scale IQ on the WISC-III 73. Standardized test scores reported:

Subtest	Standard Score	Percentile
K-ABC Reading/Decoding	91	27
W-J		
Letter-Word Identification	93	32
Comprehension	102	55
Broad Reading	97	42
Arithmetic		
K-ABC Arithmetic Application	73	4
W-J		
Calculation	74	4
Applied Math	67	1
Broad Math	60	.4
Written Language		
W-J		
Dictation	108	70
Writing Samples	106	66
Broad Written Language	107	68
Basic Skills (W-J)	92	30
Knowledge		
K-ABC		
Faces & Places	71	3
Riddles	88	21
W-J		
Science	106	66
Social Studies	106	66
Humanities	87	19
Broad Knowledge	99	47

This evaluation concludes with a discussion of discrepancies in test scores and seven recommendations to the PPT. (Exhibit B-14 pp. 2-3)

12. Student had a psychological evaluation on June 6 and 11, 1997. While recognizing improvements in Student's testing behavior and attention, the evaluator noted problem areas as well as unusual behaviors. This evaluator's interpretation and summary section started with the following comments:

> [Student's] test scores on the WPPSI-R indicate a very wide range of abilities. Her Full Scale I.Q. of 73 is a relatively meaningless statistic due to the wide differences in her abilities, and due to the perceptual processing problems which underlie and undermine her ability to express her cognitive potential. There is a significant discrepancy between [Student's] current verbal cognitive abilities and her visual/manual abilities, with the verbal being much better developed, in the

> Low Average range. These scores are probably an underestimation of her potential, due to the interference of visual processing and visual-motor problems, auditory processing problems, particularly auditory discrimination (seen in the results of the Test of Auditory Discrimination), which are seen in the results of the various other tests administered. Her academic readiness is not at a "ready for grade one" level. She will need considerable support in the academic areas.

This report concluded with recommendations for the PPT, including individual and small group instruction, language therapy, occupational therapy, and modified programming. (Exhibit B-16)

13. Progress on Student's social and emotional objectives was reported on June 9, 1997. Student had met eight of thirteen objectives; the remainder were marked "in progress". (Exhibit B-15)

14. The PPT met on June 17, 1997, to review evaluations and plan for the next year. Student's present level of educational performance was described:

> **Academic achievement:** Readiness reading skills, no 1-1 correspondence consistency. **Psycho-motor skills:** Visual organization poor – impacts product; fine motor weakness; motor movement overflow noted; non-standard pencil grip. **Psychodiagnostic:** WPPSI-R Full Scale 73, Verbal 90, Performance 61; [Doctor] feels behavior due to anxiety; infrequent eye contact when conversing; difficulty with task persistence. **Social skills:** Difficulty using visual cues; tends to mimic others; needs to be redirected; enjoys conversational play with peers; can turn take. **Self-help skills:** distractible; needs extra time to process information; requires teacher facilitation on structured activities to participate. **Medical status:** Normal hearing; neurologically fine; history ear infections to age 2. **Speech/language:** Receptive language skills – borderline average to low average; expressive language skills – low average for labeling pictures, processing directions, repeating information, & completing partial sentences; concepts weak – 3rd percentile; problem solving & verbal reasoning skills weak; articulation & fluency are good.

[Student] was reported as "often appears fatigued, disinterested, withdrawn and confused in the larger class". Distractibility seemed to be increasing, but atypical behaviors were decreasing. Parent suggested a diagnosis of pervasive developmental disorder (PDD), but also reported that their private therapist attributed some of Student's behavior to anxiety. The PPT discussed placement for the next year in a small, language-based class in a different elementary school: Parents were reluctant to change schools, but agreed to observe the class. Services for the next year were listed as: speech/language, one hour per week; special education in the resource room, two and a half hours; occupational therapy consult, one half hour; and counseling one half hour. An extended year program was proposed, and accepted by phone call the next day. (Exhibits B-18, B-21)

15. As planned at the June 17 PPT meeting, the PPT re-convened on October 23, 1997. Student's first grade teacher reported that she was keeping a log of problematic behaviors, such as shouting out, not remaining seated, repeated behavior after being asked to stop, pencil in mouth and some copying of other student behaviors. She had

developed a behavior plan for Student. An aide helped with redirection and focus, but the PPT agreed to move the aide further away to encourage Student to be more independent. The IEP remained unchanged. (Exhibit B-22)

16. A January, 1998, Language Progress Report showed five of eight objectives met. The other objectives were marked in progress (two) and M[et]/I[n]P[rogress] (one). A narrative report of the same date concluded:

> Even during such individualized sessions, she can be distracted by noises, pictures on the wall, or her jewelry, for example. She appears at times not to be listening, then looks puzzled, and in a moment, comes up with the answer to the question asked. She has made nice gains since her initial evaluation in January 1997 when she spoke in primarily one word utterances to adults at school. Overall, it appears that [Student] has much of the foundation necessary to enable her to comprehend and use language effectively. However, it appears that attentional and social/emotional issues significantly affect her ability to use these skills to the fullest in school. [Student's] case is complex and will require continued on-going diagnostics. (Exhibits B-23, B-24)

17. A progress report for counseling dated February 10, 1998, showed four objectives met and six in progress. A narrative report continued:

> Disruptive behaviors which were apparent in the fall have diminished to a great degree. [Student] is happy, relaxed [and] often chooses to participate in the classroom. She is involving herself in group activities when these are structured and expectations are known. Socializing with peers in unstructured situations is more difficult [and] [Student] is not yet initiating peer interactions. She does respond when overtures are made by others however. The issues of attention, concentration, and distractibility are still of real concern especially in the large classroom setting. (Exhibit B-26)

18. The PPT convened on March 12, 1998, to discuss Student's IEP. She continued to be identified as language impaired. Her present level of educational performance were given as:

> **Academic achievement:** Oral reading 55% comprehension 85%; academically completed K[indergarten] skills. Letter identification, reading sight words. **Psycho-motor skills:** Fine motor weakness; visual organization poor – impacts product. **Psychodiagnostic:** WPPSI-R – Full scale 73, Verbal 90, Performance 61. **Other:** Difficulty w/ task persistence. **Social skills:** Hangs back socially, difficulty using visual cues. **Self-help skills:** Requires redirection, unable to work independently, participates in class, attending & persisting skills – weak. **Speech/language:** Receptive & expressive language weakness; social language use continues to be difficult – needs prompts.

Services to be provided continued at one hour per week of speech/language, two and a half hours of special education in the resource room, one half hour of occupational therapy "w/consult" and one half hour of physical therapy "direct". Discussion at this PPT meeting centered on the issue of whether Student would have the skills needed for second grade: Parent opposed retention in first grade. An intensive special education

program in the morning, with mainstream classes in the afternoon was proposed. No action was taken. (Exhibit B-27)

19. A special education progress report for 1997-98 showed uneven results, with more progress in reading than in math and written communication. (Exhibit B-28)

20. A speech/language progress report dated May, 1998, included a narrative report:

> … [Student] continues to clearly understand the mechanics involved in what is typically considered "normal" social interactions. … These have been role-played in our sessions. However, a significant gap remains with her ability to apply this knowledge. She demonstrates attentional issues, outbursts of laughter or inappropriate vocalizations during class or when walking down the hall and, more recently, repetitive touching of herself. She lacks significant social interactions with her peers unless given encouragement and support to join social activities. She is unable to complete assignments without significant assistance. In class, her teacher reports that she is able to ask for help/clarification when needed, and will volunteer to participate in class discussions at times. When she does, her discussion is meaningful and on topic. She appears to have a good vocabulary foundation. … (Exhibit B-29)

21. A June 4, 1998, progress report for counseling noted good progress but some anxiety. This report concludes:

> The issues of distractibility, personal independence and social awareness continue to be areas of real concern.

Strategies listed were: positive reinforcement, modeling appropriate behavior, be consistent with expectations, use praise and encouragement, establish eye contact before giving directions, give immediate feedback, parent reinforcement of skills at home, have the student repeat directions, apply skills to practical everyday experiences, and behavior modification. (Exhibit B-31)

22. The PPT convened on June 4, 1998, for an annual review. Student's present level of educational performance was recorded:

> **Academic achievement:** [Student] has made small progress in the area of reading – however she still has great difficulty. PBA miscue 46%. **Psychomotor skills:** [Student's] fine motor skills need work, however she is showing some progress. **Social skills:** [Student] has shown small improvement in the area – however she has great difficulty still in socializing with her peers. **Self-help skills:** [Student] is very distracted and needs extra time and constant reminders in order for her to do daily tasks. **Medical status:** Passed school hearing and vision screen – Fall, 1997. **Speech/language:** Speech within normal limits. Language – significant pragmatics (social use of language) weaknesses.

Discussion included concern about attention, distractibility and concentration. She was below grade level in reading, writing and math. A behavior modification program had been successful. Parents reported that Student was being evaluated at Clifford Beers Child Guidance Clinic, and that they were considering medication [for her attention problems]. The PPT offered three options for the next year: 1) special education program

at a different elementary school; 2) retention in first grade with special education support; and 3) grade 2 with special education support. Parents opposed moving to a different school and retention. The PPT agreed to meet again in August. (Exhibit B-32)

23. The Board recommended an independent psychological evaluation. (Exhibits B-33, B-34, B-35)

24. The PPT convened on September 23, 1998. Present level of educational performance was recorded:

> **Academic achievement:** Reading skills mid-grade one. **Psycho-motor skills:** fine motor weakness, motor overflow. **Psychodiagnostic:** WPPSI – Full scale 73, verbal 90, performance 61. **Social skills:** Quiet, some repetitive behaviors – licking – continue to be observed; small group learning best [illegible]. **Self-help skills:** Puts forth a lot of effort to work; more cooperative, able to respond to teacher directions. **Medical status:** 10 mg time release Ritalin. **Speech/language:** Receptive language – borderline average to low average; expressive language – low average; weak concepts, problem solving & verbal reasoning weak; articulation & fluency good.

Services to be provided were listed: speech/language therapy, one hour per week; special education, one and a half hours; counseling, a half hour; occupational therapy, a half hour w/consult; and remedial reading one hour. This program would continue until the report of the independent psychological evaluation was received. Student's great improvement in behavior was attributed to medication. The PPT again recommended a special education placement in a different school, which Parent opposed. At Parent request, remedial reading was planned in place of special education services in reading. A weekly communication log was proposed. (Exhibit B-37)

25. The report of an independent psychological evaluation performed on July 1 was received by the Board on October 9, 1998. The psychological evaluator noted low average cognitive abilities on the Stanford Binet, with significant scatter in subtest scores "a cause for some concern". On the Childhood Autism Rating Scale, Student's score was well below the cut-off. Her stereotypical behavior was noted. Her use of tantrums and screaming to avoid demands was confirmed. The diagnosis: Attention Deficit Hyperactivity Disorder: Predominantly Hyperactive-Combined Type; Rule out Anxiety Disorder of Childhood. The evaluator's main concerns were given as:

> inability to modulate sensory input;
> a tendency to react quickly and impulsively when information is presented; and
> auditory distractibility across all settings.

This evaluator recommended:

> 1. A highly structured program, with a small student:teacher ratio in second grade, with special education in areas of academic weakness. Counseling and behavior management should be coordinated with outside clinicians working with the family.
> 2. Medical referral for medication.
> 3. Expand services at Clifford Beers Clinic to include support for Parents with home behavior issues.

4. Social skills goals in school.
5. Assessment of pragmatic language skills, modification of language goals.
6. Special education support in academic areas of weakness.
7. Help for the family in dealing with problematic behavior at home and in the community. (Exhibit B-38)

26. The PPT convened on December 22, 1998, and revised Student's goals and objectives. The record for the hearing does not include further information about this meeting, but a March, 1999, progress report indicates that Student had transferred to a different school in the district. (Exhibits B-42, B-43)

27. The PPT convened on April 27, 1999, to conduct an annual review. Student's present levels of educational performance were given as:

> **Health & Development:** Medication for ADHD. **Academic/Cognitive:** All academics fall at the end of grade one. WPPSI-R F.S.-73, V.-90, P.-61. **Social/Emotional/Behavioral:** [Student] continues to be withdrawn at times. Can get over-stimulated at times. Some growth made in reciprocal activities. Improvement in reciprocal communication. **Motor:** Fine and visual motor control has greatly improved. Move to indirect OT service. **Communication:** Understanding of basic concepts is delayed. Pragmatic skills continue to be an area of need as well as verbal reasoning skills. **Strengths:** Artistic; good sense of humor; creative; computer skills; creative writing potential. **Concerns/needs:** Phonemic awareness weaknesses; social skills; weak encoding and decoding; difficulty with math reasoning; basic language concepts; pragmatic language skills; verbal reasoning skills.

Student would repeat second grade, and would receive fifteen hours per week of special education in the resource room per week, fourteen and a half hours of regular education, one half hour of counseling with the social worker, one hour of language, and occupational therapy consult. The PPT offered a summer program which the Parents declined. (Exhibit B-46)

28. The PPT convened on September 2, 1999, to discuss Student's IEP. Because of recent behavior problems, a paraprofessional would be assigned to Student in mainstream settings. A behavior log would be kept, and shared with Parents. Student was reported to be seeing a child psychiatrist, and her medication had been changed. The scheduled triennial evaluation would be postponed to June 2001, and the independent psychological evaluation of July, 1998, would be used in the interim. (Exhibit B-49)

29. Student's behavior became disruptive during the week of September 7-10, 1999: she was removed from class several times, the principal and the school social worker tried to calm her down, and her Parents were called to remove her from school. Parent stated that she would take Student to her psychiatrist. Student was then absent from school for several days. (Exhibit B-50)

30. The PPT convened on November 10, 1999, to discuss Student's status. She had been hospitalized for three weeks as a result of a medication problem. Her diagnosis was

reported as Attention Deficit Hyperactivity Disorder and Obsessive Compulsive Disorder. She received homebound instruction after discharge. The PPT decided to continue homebound while Student's medication was being adjusted to stabilize her behavior. (Exhibits B-52, B-53)

31. An occupational therapy evaluation was conducted on November 18, 1999. This therapist listed impressions and recommendations:

> 1. [Student] demonstrates mild to moderate sensory defensiveness, particularly in the tactile system. These issues may be significantly impacting her arousal level and ability to attend and follow directions.
> 2. [Student] demonstrates a variety of behaviors indicative of sensory hyporesponsivity and sensory seeking. These behaviors can be disruptive in academic environments and can also disrupt peer relationships.
> 3. Due to the sensory issues, [Student] has not adequately developed a "body map" that allows her to move smoothly and easily in a coordinated fashion throughout her world. She can not feel her body well, and must compensate by using her visual system to guide her movements. However, her visual system is working inefficiently as well. Her eyes have trouble scanning/tracking and targeting. She is having difficulty maintaining visual attention as well. Visual skills were screened during this evaluation and may need to be investigated further.
> 4. [Student] demonstrates difficulties with basic motor skills and motor execution, leading to problems with sitting upright for lengthy periods and with writing tasks.
> 5. [Student] demonstrates attention seeking behaviors and also appears to have difficulty with self regulation when her sensory environment is not ideal.

This therapist recommended "an appropriate sensory diet" whether at home, school or elsewhere. (Exhibit B-53)

32. Student had a neuropsychological evaluation on January 3 and February 8, 2000. The first day of the evaluation, the evaluator described her:

> … so significantly hyperactive, that despite time, reassurance and rewards her behavior was unlikely to provide reliable data.

She was referred for medication, and behavior on the second day was better. Commenting on an IQ score in the Low Average range, the evaluator stated that this score:

> … should be interpreted cautiously and does not reflect her capabilities.

Discussing Student's behavior and personality, the evaluator remarked:

> Given the degree of [Student's] over-stimulation in the quiet environment and one-on-one interaction with the undersigned, it is clear that [Student] is not yet ready for the public school environment, either in a contained or mainstream classroom. The undersigned saw no evidence of obsessive-compulsive behaviors. Evidence of perseveration, however, was prevalent.

This evaluator described Student's neuropsychological profile:

> Significant attentional deficits, sequencing and organizational deficits, word finding difficulties, problems with phonemic decoding, severe graphomotor

> deficits and impaired gestalt recognition of segmented objects. In addition, [Student] reveals evidence of problems with cognitive focusing, and by history compulsive behaviors and rituals. [Student's] findings are consistent with a significant Attention Deficit Hyperactivity Disorder, but the severity of her nonverbal difficulties raises the question of a nonverbal learning disability. … [Student] will need close psychiatric and therapeutic monitoring as it appears that her diagnosis is evolving.

The report of this neuropsychological evaluation concluded with recommendations concerning medication and regular psychotherapy, a central auditory processing evaluation, individualized reading program, social skills training, a summer program including reading, placement in a therapeutic school program with significant structure, occupational therapy, and a neurological evaluation. (Exhibit B-57)

33. The PPT convened on June 28, 2000. Student's identification was changed from language disabled to multi-handicapped, and placement for a summer program and the 2000-2001 school year would be at the Student Learning Center (SLC), a private school approved for special education placements by the State Department of Education. Present levels of educational performance were given:

> **Health & development:** Daily mediation – paxil, serquel – sleep, time release Ritalin being considered for fall. **Academic/cognitive:** WISC-III verbal 82, performance 52, full scale 66; achievement scores grade 1 equivalent; perceptual abilities significantly impaired. **Social/emotional/behavioral:** Significant attentional deficits; difficulty with peer relationships; some perseveration noted. **Motor:** Fine motor delays – grapho-motor. **Communication:** Expressive & receptive language delays. **Strengths:** Artistic; good sense of humor; creative; computer skills. **Concerns/needs:** Easily distracted & over-stimulated; academic delay; perseverative; some avoidance of eye contact; social skills; grapho-motor delays.

Goals and objectives were developed, with the understanding that SLC might want another PPT meeting in the fall to revise the IEP. (Exhibit B-60)

34. A progress report for the SLC summer 2000 program included behavior:

> She is becoming more independent in her desk work and computers. When off-task, she is easily brought back with often a verbal cue. She is adjusting to the level system [behavior plan]. [Student] has participated in activities requiring listening skills, following directions, patience and taking turns. (Exhibit B-61)

35. Progress reports from SLC in early October, 2000, show "satisfactory effort" in almost all categories. (Exhibit B-65)

36. The PPT convened on October 11, 2000, to discuss Student's placement at SLC. Her present levels of educational performance were given as:

> **Health & development:** daily medication – paxil, serquel for sleep. **Academc/cognitive:** WISC III verbal 82, performance 52, full scale 66; achievement scores grade 1 equivalent; perceptual abilities significantly impaired. **Social/emotional/behavioral:** Continues to work on social skills; needs to be

developing comfort level w/peers. **Motor:** Fine motor delays. **Communication:** Expressive and receptive delays. **Strengths:** adjusting well to new school; maintaining highest level in behavior system; artistic; progressing academically. **Concerns/needs:** Some distraction; social skills; tends to be quiet; initiating conversation w/peers; rhyming – trying to increase comfort w/language; self-esteem; grapho-motor delays.

The PPT agreed to continue placement at SLC; avoid chocolate and red dye; proposed goals and objectives agreed upon; and reviewed Student's medication. Her program included 28 hours per week of special education, one hour of language therapy, a half hour of counseling, and a half hour of occupational therapy. (Exhibit B-67)

37. The SLC occupational therapist recommended a specific plan for activities in the classroom and at home to help with Student's sensory problems. (Exhibit B-68)

38. A progress report dated December 14, 2000, from SLC showed "satisfactory effort" in almost all areas and "excellent effort" in about half of social skills objectives. A narrative comment followed:

> [Student] is doing wonderfully in class. We've seen a decrease in attentiveness and independence due to the decrease in meds. Otherwise she's doing great.

(Exhibit B-70)

39. A mid-year social work summary from SLC dated January 17, 2001, described progress:

> [Student] is seen for thirty minutes weekly for individual social work counseling. [Student] is comfortable sharing her feelings related to self-esteem, and has recently been sharing her feelings related to both school and family related events. We have also been talking about ways of handling anger appropriately, although [Student] is always very appropriate in the school environment, she has shared concerns about working through situations when she cannot have her way. [Student] is making excellent progress in counseling. Socially, she is more comfortable but still reserved with her peers. Her adjustment to this school environment has been very positive, and [Student] is truly a pleasure to work with. (Exhibit B-72)

40. A progress report dated March 2, 2001, from SLC showed about half of Student's objectives "excellent effort", and half "satisfactory effort". Narrative comment:

> [Student] has been doing well on her completed work. However, all of it is getting done due to her ability to focus – which I don't believe is always in her control. (Exhibit B-76)

41. Student's scores on the Woodcock-Johnson III Tests of Achievement, administered on March 30, 2001, and March 4, 2002:

	%	Standard Score	%	Standard Score
Cluster/test	2001	2001	2002	2002
Oral language	8	79	1	67
Total achievement	6	76	4	74

Broad reading	2	70	2	69
Broad math	9	80	2	70
Broad written language	15	85	23	89
Math calculation skills	8	78	2	70
Written expression	9	80	28	91
Academic skills	8	79	3	72
Academic fluency	2	69	4	73
Academic applications	6	77	6	77
Subtests				
Letter-word identification	8	79	3	71
Reading fluency	6	77	3	72
Story recall	52	101	39	96
Understanding directions	5	75	1	64
Calculation	14	84	5	75
Math fluency	1	66	1	65
Spelling	30	92	22	88
Writing Fluency	4	73	23	89
Passage comprehension	1	66	9	80
Applied problems	14	84	3	73
Writing samples	43	97	46	99

(Exhibits B-79, B-104)

42. A progress report from SLC dated May 11, 2001, showed about half of Student's objectives at "excellent effort" and half at "satisfactory effort". Narrative comment:

> [Student] is doing her best daily, and has begun to listen to her therapeutic music which seems to increase focus. She continues to develop in all areas.

(Exhibit B-81)

43. A speech/language annual update from SLC dated May 25, 2001, included the following:

> [Student] made very good progress in speech and language during this academic year, particularly in her expressive language and social communication skills. ….. [Student's] difficulty maintaining attention seems to effect her auditory processing, particularly as the amount and complexity of information increases. She has trouble learning to play new games and following multi-step directions. As she gets older, she will become more aware of her areas of difficulty and begin to develop compensatory strategies. (Exhibit B-84)

44. Student's 37 IEP objectives were graded for 2000-2001:

Mastered	17
Satisfactory Progress	3
Continue next year	15
Not Introduced	2 (Exhibit B-90)

45. The PPT convened on May 28, 2001. Student's present levels of educational performance were given:

> **Health & development:** Medications being monitored. **Academic/cognitive:** WJ-III 3/01, SS Reading 70; math 80; writing 85. TVMI: SS 81; DTVP: average range for visual closure – all other tests below average.
> **Social/emotional/behavioral:** Continue to receive social work services to address self-esteem, anger management and social communication. **Motor:** Continue to have OT to address spatial relations, eye hand coordination and sensory needs. **Communication:** Continue to receive speech & language to address expressive and receptive language skills. **Strengths:** Memory, visual closure, posture improving, good manners, improved social communication, utilizes related services time well. **Concerns/needs:** Reading decoding and comprehension; math – although improvement noted; spatial relations & position in space; eye hand coordination; motor control; compulsive behavior; following multi-step directions; maintaining communication.

The PPT agreed: medications will continue to be reviewed; proposed goals/objectives agreed upon; Student will continue at SLC; counseling, speech/language therapy and OT to continue; CMT – out of level grade 2; extended year services. (Exhibit B-85)

46. Student's report card for third grade at SLC (2000-2001) showed mostly A's and B's, with "good" on most work habits and social attitudes. (Exhibit B-88)

47. Student's progress report for the summer 2001 program at SLC detailed progress in reading and math, and concluded with social skills:

> [Student] continues to become more expressive and is talking more with other students and staff with more people around. [Student] is also very appropriate when discussing private issues. (Exhibit B-92)

48. A progress report from SLC dated September 28, 2001, showed about half "excellent effort" and half "satisfactory effort". Narrative comment:

> [Student] has put forth a great deal of effort in her academics. Her inability to focus does seem to frustrate her and her work habits. [Student] continues to work through her frustrations and continues to keep working hard. (Exhibit B-93)

49. A progress report from SLC dated December 5, 2001, showed "needs improvement" in attentiveness in class and organization and focus; about half of the remaining goals were "excellent effort" and half were "satisfactory effort". Narrative comments:

> [Student] is a hard worker when she is able to concentrate on the task at hand. She has demonstrated a great deal of difficulty with this. She does try her best, and is right now trying to help herself focus – both through asking for help and asking for OT related items. (Exhibit B-97)

50. An occupational therapy progress report from SLC dated January 2002 described her current status:

> The focus of OT treatment has included attempts to improve [Student's] ability to attend and maintain focus on the activities presented to her both within the classroom and within the OT setting. [Student] continues to present with a shortened attention span and a variety of sensory seeking and repetitive behaviors.

> Ongoing consultation with the classroom staff has resulted in recent changes in her existing sensory diet to include:
>
> -More frequent 10 minute sensory breaks between and during work times.
> -Verbal reminders and written reminders to choose and utilize her oral motor program activities.
> -Verbal reminders to utilize such modifications as her weighted lap blanket and therapy ball seat during work periods.
>
> Previously, [Student] has been self-directing many of her sensory activities according to her needs. At this time she is again having difficulty identifying her inattention and recalling which sensory modifications she can utilize to assist herself. (Exhibit B-98)

51. A progress report dated March 1, 2002, from SLC showed "needs improvement" in completion of required work, attentiveness in class, self-discipline, and organization. Two thirds of the remaining objectives were marked as "excellent effort", and one third as "satisfactory effort". Narrative comments:

> [Student] has had some trouble focusing on her work and daily activities. When she is able to focus on a task she performs well on her work. [Student] also needs to work on her organizational skills. However, [Student] does continue to have a wonderful personality to add to the mix of our class. (Exhibit B-103)

52. The PPT convened on April 3, 2002. Student's present levels of educational performance were given as:

> **Health & development:** Medication has been discontinued – [Student] is on elimination diet with supplements per doctor. **Academic/cognitive:** WJ III [grade level scores] Academic skills 2.5, Fluency 2.1, Applications 2.2, Reading 1.7, Story recall 3.6, Written expression 3.5, Math calculations 2.1, Total achievement 2.3, Spelling 3.1, Passage comprehension 2.3.
> **Social/emotional/behavioral:** Severe distractibility, demonstrates obsessive behavior, weaknesses in social communication. **Motor:** Improvement seen in maintaining letters on the line, letter formation. **Communication:** weak expressive and receptive language skills. **Strengths:** writing skills; reading fluency and comprehension is improved; vocabulary; semantic skills; time/space concepts. **Concerns/needs:** Following directions; attending; distractibility; spatial relationships; money concepts; social skills; eye contact; listening skills; keyboarding skills.

The PPT revised goals and objectives, agreed to continue placement at SLC, planned triennial re-evaluation (neuropsychological, observation, interview), and planned for an extended year program (summer 2002). (Exhibit B-109)

53. A progress report dated May 10, 2002, from SLC showed "needs improvement" in attentiveness in class and organization. About two thirds of Student's other objectives were marked "excellent effort", and one third "satisfactory effort". Narrative comments:

> [Student] has had difficulty with her ability to focus. This makes her daily work a bit challenging. When [Student] is able to focus she does a nice job with her

> work. [Student] has begun working with a peer tutor with this assistance a few times a week [she] has shown an ability to complete more work. (Exhibit B-111)

54. Student's report card for 2001-2002 at SLC showed grades of mostly A's and B's, with average effort at the beginning of the year and below average effort at the end of the year. (Exhibit B-112)

55. Progress on IEP goals and objectives for the 2001-2002 school year:

Mastered	4/34
Satisfactory	15/34
Continue during year – slow progress	15/34 (Exhibit B-113)

56. Student's participation in the 2002 summer program at SLC was reported as good. (Exhibit B-114)

57. A progress report dated September 25, 2002, from SLC showed "needs improvement" for self-discipline and organization; two thirds of the remaining objectives were marked "excellent effort" and one third "satisfactory effort". Narrative comment:

> [Student] is a very polite girl. She is very helpful to other classmates in need, she always has a great attitude. [Student] needs to work on her focus to a task at hand and her self-discipline. We are using a timer to help her do this. Another area for [Student] to work on is her organization skills of her work space. [Student] is a pleasure to have in class. (Exhibit B-115)

58. An October, 2002, report on Student's social skills group at SLC included:

> At times [Student] appears unfocused and is one step behind in the discussion. She continues to strike the outsides of her hands together frequently.

(Exhibit B-116)

59. In November, 2002, SLC staff members referred Student to the Department of Children and Families (DCF) because of information Student provided that appeared to require investigation. Parents were offended by the referral, and Parents requested that individual social work sessions be stopped and that the social worker for group sessions be changed. A PPT meeting was scheduled to make this change. (Exhibits B-99, B-109, B-119; Testimony, SLC School Director; Testimony, Parent)

60. A progress report dated December 11, 2002, from SLC showed "needs improvement" in attentiveness in class, punctuality, and organization; half of the remaining objectives were marked "excellent effort" and half "satisfactory effort". Narrative comments:

> [Student] is a very helpful student when others need some assistance. She has developed a good friendship with another classmate. [Student] is very helpful to her and gives her a great deal of attention. [Student] has had consistent challenges with her attention to a task being completed. Math seems to be a particular challenge at this point. We are working hard with her to gain comfort with this. [Student] is also working on being consistent in her reading fluency,

> some days tend to be stronger than others. We continue to work on keeping her work space organized. (Exhibit B-118)

61. A progress report dated February 24, 2003, from SLC showed "needs improvement" in attentiveness in some classes; five "excellent effort" and eight "satisfactory effort"; and grades of A's and B's. Narrative comment:

> [Student] is a delight in the classroom. She is interested in others in the class and always starts conversations. An area of improvement is her ability to concentrate on her work. (Exhibit B-122)

62. The PPT convened on February 24, 2003, to discuss Parents' request concerning social work services. The option of moving Student to the upper school at SLC immediately with her current IEP (instead of in the fall of 2003) would provide more mature classmates and a different social worker, and was accepted. The DCF referral was required by law, based on Student's remarks: school staff members must report anything that sounds problematic, then DCF investigates. Parents reminded school staff members that Student sometimes made inaccurate reports. (Exhibit B-123)

63. A progress report dated May 7, 2003, from SLC showed almost all objectives marked "satisfactory effort" after Student's change of classes. Narrative comment:

> [Student] has adjusted well to our classroom and has transitioned nicely to the upper school. Although she left behind many friends – she has made new acquaintances and is readily accepted by her classmates. [Student] is very considerate, well-mannered and kind. (Exhibit B-127)

64. A social work annual summary dated May 29, 2003, from SLC described her participation in a group since the change of classes. SLC had stopped individual counseling at Student's Parents' request. Student was reported to be sharing her mother's advice with the group, and conflicts reported were:

> … typical of conflicts between adolescent girls and their mothers, and have concerned conflicts over appropriate clothing choices.

Student's new social worker reported concerns:

> … a short attention span and cannot focus for more than five or ten minutes on a particular academic task. [Student] frequently paces in her classroom and is permitted to pace in the hallway for recommended breaks. She has repetitive, stereotypical movements of bringing her hands together and some flapping of her arms. [Student] is unable to work independently. Strengths noted are that [Student] is friendly, polite and enjoys relating to adults in a positive manner. She has formed a friendship with a female student in her class and she is very pleased about this. She enjoys social skills class and participates.

The social worker reported that Parents had been trying to get an appointment with a psychiatrist for Student. (Exhibit B-133)

65. The Director of SLC is a social worker with an administrative certificate. She has monitored Student closely, and describes her as one of the higher functioning students at SLC. Her behavior has never been a problem, and the occupational therapist has worked

on addressing her sensory issues. She has observed Student's distractibility and anxiety, but feels that she improved over time at SLC. After Parents' complaint about the SLC social worker, the Director investigated and "found no grounds for dismissal". She accommodated Parents' request that Student stop individual counseling, although she believes that Student needs this support. She assigned a different social worker to the group for Student. She had never seen bipolar behavior by Student, but she had seen that Student was sometimes depressed. (Testimony, SLC Director)

66. Student's 2002-2003 IEP objectives were evaluated for the year.

Mastered	1/35
Satisfactory progress	26/35
Slow progress	5/35
Not introduced	3/35 (Exhibit B-136)

67. The PPT convened on May 29, 2003, to conduct an annual review. Parent reported that Student was on no medication. Although she appears to be functioning at the second grade level, her teacher felt that this was not necessarily an accurate representation of her ability. Present levels of educational performance were given as:

> **Health & development:** Referred for failed vision screen. **Academic/cognitive:** Overall academics affected by [Student's] inability to focus. Test scores may not be indicative of her true potential. **Social/emotional/behavioral:** Social skills are being addressed – not age appropriate. Behavior is appropriate; polite, well mannered student. Emotionally, [Student] appears happy and positive, concerns about anger management at home. **Communication:** [Student] will continue to work on developing pragmatic skills & receptive/expressive language skills. **Strengths:** Pleasant, social/conversationalist, command of English language. **Concerns/needs:** Pragmatic skills; following directions; distractible; social skills.

The PPT planned an evaluation and discussed IEP goals. A summer program was offered: Parent was considering day camp. (Exhibit B-134)

68. A second referral to DCF was made by SLC on June 4, 2003. (Exhibit B-137)

69. Student's 2002-2003 report card from SLC showed mostly B's with average effort. (Exhibit B-135)

70. Student had an educational auditory processing evaluation at Gaylord Hospital on August 11, 2003. The summary of this evaluation was:

> [Student] was cooperative and attentive during today's testing. She was able to sit still, but would intermittently begin banging her fists together repeatedly. She was also intermittently looking toward a package of breath freshener which was on a table next to her. While doing these things her attention would seem to be broken. Therefore, when they occurred, testing was paused and [Student] was reminded of her task. [Student] was given the chance to take breaks throughout testing and seemed comfortable in accepting it when needed.

> [Student's] overall test performance suggests a significant auditory processing disorder, with specific weaknesses in the areas of auditory integration and auditory closure. [Technical discussion omitted.]
> While [Student] does present with an auditory processing disorder, it should be noted that all of the tests used today are normed on children with normal IQs. **If [Student] is found to have a below normal IQ, she should not be labeled as having an auditory processing disorder.** [Emphasis in original report.] It would not be possible to say if the problems she was having on the test items were due to an auditory processing problem or an inability to perform the task from an intelligence standpoint.

This evaluator made six recommendations:

- It is recommended that auditory processing findings be viewed as a component of comprehensive educational evaluation. Difficulties in learning, communication, and/or behavior are the most frequent cause for concern and the auditory processing evaluation is performed to assess if any auditory difficulties are affecting achievement.
- Efforts should be made to improve [Student's] access to a clear acoustic signal, both at school and home. Handouts with suggestions for environmental management and compensatory strategies specific to [Student's] profile are included with this report.
- A frequent recommendation for children with an auditory processing disorder is to augment auditory information with visual and other cues. However, children with integration deficits are <u>sometimes</u> more confused by this. The teachers should be alerted to this, to determine if this happens with [Student].
- Research suggests that neuromaturation and neuroplasticity are dependent, at least in part, upon stimulation. Suggested activities to stimulate interhemisperic transfer of information are attached.
- Auditory closure activities may help [Student] develop the necessary skills to fill in the gaps and missing parts of degraded auditory signals to derive meaning. A sample program is enclosed with this report.
- [Student] is in a small, contained special education classroom which is good to help facilitate her auditory processing. However, a trial period with some type of FM system may also be considered so that the teacher's voice will always be brought directly to [Student], regardless of distance or competing noise. If [Student's] classroom situation should change and she is moved into a more mainstream room, preferential seating (away from noise sources and close to the teacher) and the FM system would become very important. (Exhibit B-140)

71. The PPT convened on September 3, 2003. Placement at SLC was to continue, and Student's triennial evaluation was to be completed. Parents' Advocate expressed concern about the program at SLC and questioned Student's lack of progress. Parents had observed immature behaviors and language at home, and home-school communication had broken down. Student had been seeing a psychiatrist weekly for about six weeks, and she was on medication. Parents requested a change in placement. School members of the PPT reported that Student's stereotypical behaviors had decreased since her transfer to the SLC upper school, and that her inconsistent progress was related to her learning style and attentional difficulties. A review of the current goals and objectives

resulted in agreement that they were appropriate. However, Parents wanted a change in placement, with higher functioning peers. School members of the PPT opposed a change in the middle of the triennial evaluation, and pointed out that the specific placement sought by Parents was not state-approved for special education. Homebound instruction was requested pending a change of placement, but the school members of the PPT refused, stating that no documentation had been submitted to support a need for homebound instruction. Student had been out of school for several days, and the Board's attorney informed Parents that a truancy report would be filed with Juvenile Court, as required by law. The triennial evaluation would continue, without behavior rating scales. The Board requested permission to consult with Student's psychiatrist; Parents did not consent at this time. (Exhibit B-142)

72. A psychological evaluation was performed on September 22-24 and October 9, 2003. The School Psychologist holds degrees in social science and in school psychology, and has more than ten years of experience evaluating children with disabilities in several school districts. Student was reported as being evaluated at Yale Child Study Center (YCSC), seeking a diagnosis and help with behavior management techniques. Student was on medication at this time. The School Psychologist summarized Student's strengths as:

> … verbal skills she is pleasant, social, a conversationalist and has a command of the English language.

Weaknesses were:

> … pragmatic skills, difficulty following directions, and social skills ... easily distracted and has difficulty attending to tasks.

This evaluator observed Student at SLC in additional to performing individual testing. Behavior at school was compliant, but Student's Parent reported regression at home, with tantrums and screaming. (Exhibit B-146, Testimony, School Psychologist)

73. Test results on the 2003 psychological evaluation were roughly consistent with earlier testing. Student scored a verbal IQ of 70, performance IQ 55, and full scale IQ 60 on the WISC-III. Results on achievement measures were:

Test, subtests	Standard Score	Percentile
WIAT-II		
Word Reading	40	<0.1
Reading Comprehension	66	2
Pseudoword Decoding	75	15
Reading Composite	53	<1
Numerical Operations	58	0.3
Math Reasoning	43	<0.1
Mathematics Composite	43	<0.1
Spelling	83	13
Written Expression	Not able to score	
Written Language Composite	Not Applicable	
Listening Comprehension	64	1
Oral Expression	70	2
Oral Language Composite	62	1

Key Math		
Numeration		<1
Rational Numbers		2
Geometry		<1
Basic Concepts Area	58	<1
Addition		<1
Subtraction		1
Multiplication		<1
Division		<1
Mental Computation		1
Operations Area	63	1
Measurement		1
Time and Money		2
Estimation		2
Interpreting Data		<1
Problem Solving		2
Applications Area	67	1
Total Test	60	<1

(Exhibit B-146 pp. 8-9)

74. On the Vineland Adaptive Behavior Scales, Student scored adequate on Daily Living Skills, Personal and Domestic; moderately low on Community, Play and Leisure Time and Coping Skills; and low on Communication (receptive, expressive, written), and Socialization (interpersonal relationships). Her Adaptive Behavior Composite score was low. (Exhibit B-146 p.10)

75. The School Psychologist summarized test results and observation of Student:

> … a cooperative and pleasant student … She exhibits significant cognitive deficits as well as significant delays with overall academics and adaptive behavior in the areas of communication and socialization. Her areas of relative strength are in the areas of basic language, rote memory and daily living skills. … areas of significant weakness center upon visual perceptual, visual organizational and motor skills.

Recommendations:

- … extensive support and remediation in the areas of language, socialization, daily living skills and academics.
- … significant difficulty with attention and concentration … will require preferential seating, directions repeated or rephrased, assignments broken down into smaller segments and frequent breaks.
- … works best with material that is concrete … Concepts and ideas that she needs to learn need to be provided in a format that allows hands-on learning.
- … relative strength with rote memory skills. Consequently, tasks that she needs to learn can be broken down into smaller concrete units for memorization.
- … works at a very slow rate of speed especially with paper and pencil tasks. She will require additional time for work completion. In addition she had difficulty organizing and reproducing written work and would benefit from highly

structured writing assignments that have specific boxes or lines to help with spatial placement.

- … has been arriving late to school on a consistent basis and therefore is missing out on instruction and skill reinforcement. It is very important to have [Student] attend school promptly and on a consistent basis.
- … has a need to develop peer relationships. It is suggested that her school be cognizant of this need and provide opportunities for appropriate interactions.

The School Psychologist did not observe any behavior that suggested bipolar disorder during the evaluation or when she observed Student. She rejected Foster School as a placement for Student, on the basis of several district students who have been placed there recently. She described the Foster population as average to above average students, who were very socially savvy. (Exhibit B-146, pp. 11-12, Testimony, School Psychologist)

76. The report of a psychosocial re-assessment dated November 19, 2003, included a summary of many evaluations and diagnoses. Student was reported as in treatment at YCSC. Parent reported dissatisfaction with the current placement (SLC) and behavior issues at home. In Student's interview with the social worker, she reported that on the current medication she doesn't "jump around" as much. She also talked about wanting to have friends. Recommendations of this evaluator:

- assessments should be shared with community providers that are working with Student;
- Student demonstrates severe deficits in the areas of attention and concentration. This, along with her level of psychomotor agitation (e.g, pacing), makes classroom expectations challenging for her. She may best be suited in a classroom environment where she will be provided with structure and support, along with the understanding and flexibility to address these unique needs (e.g. broken-up assignments, whose parts can be completed relatively quickly; allowing for short in-classroom or outside of classroom breaks between tasks).
- Student has a desire to increase her social circle. This means that Student will continue to need support around social skill development. [Specific suggestions omitted.]
- In working with Student's family, it should be understood that the majority of families encompassing a member who has difficulties similar to Student's can experience increased levels of stress and tension; increased levels of guilt, blame and resentment; community isolation; sibling stress issues; and frustration with the support system available. School staff should be sensitive to this fact, while also being available to provide information (or help the family seek information) about community supports, upon their request.
- In working with the family, it is paramount to have a clear communication plan. This plan should detail how, when, with what frequency, etc. to communicate about Student's progress and obstacles.
- A discussion should occur between the family and the staff working with Student to review the laws for state-mandated reporters of [suspected] child abuse and neglect. The school-parent team should also come to an agreement about how to

handle such concerns, should they arise (e.g. how to stay on the same team; keeping Student's needs at the forefront).

- Student is a youngster with many strengths. As with all students, Student can benefit from a strength-based approach that highlights her strengths. For example, she might "tutor" a peer who is struggling with art or creative writing, as these are some of Student's strengths; or provide a class lecture about caring for animals.
- Student can benefit from a curriculum that includes life skills critical for independent living. (Exhibit B-150)

77. A progress report dated December 3, 2003, from SLC showed Student marked "satisfactory effort" in almost all areas. Her grades were good. Narrative comments:

> [Student] continues to make a great adjustment in her new classroom. She is becoming more involved in discussion with her peers. (Exhibit B-151)

78. The PPT convened on December 12, 2003, to review triennial results and discuss Student's IEP and placement. In addition to school staff members from the Board and SLC, Student's Therapist from the YCSC attended this meeting. Placement at the Board's Middle School Life Skills program, a special education class with opportunities for mainstream experiences, was proposed. This move was proposed for the first day of school after the winter vacation. It was reported that Student was seeing the therapist weekly and also a psychiatrist monthly. She was on medication. Therapist explained that Student's relatively good behavior in school indicated that she had learned that "compulsive or perseverative thoughts and stereotypical behaviors" were not appropriate in school, in contrast to her difficulties at home. The School Psychologist recommended changing Student's classification from "multi-handicapped" to "intellectually disabled" on the basis of her recent evaluation. Parent objected that Student had been out of school at the time of testing, and that her great-grandmother had been ill and later died, casting doubt on the accuracy of the test results. Student's new psychiatric diagnosis had not been released to the school, and Parent asked for a delay in the change of placement, to enable Student to benefit from medication and therapy. Therapist mentioned the importance of Student's changing needs, and suggested a therapeutic placement. (Exhibit B-152 pp. 1-3)

79. At the December 12, 2003, PPT meeting Student's present levels of educational performance were listed as:

> **Health & Development:** 4/10/03 referred for failed vision screen. Currently taking lithium. Review Central Auditory Processing evaluation (8/03). **Academic/cognitive:** 10/28/03 WISC III Verbal 70, Performance 55, Full Scale 60, processing speed 50. WIAT 10/28/03 Reading 53, Math 43, Language 62, Key Math Total 60, Concepts 58, Operations 63, Applications 67. **Social/emotional/behavioral:** Severe deficits in attention/concentration. Projective testing indicated no significant emotional factors. **Motor:** Perceptual organization 59, WISC III 10/03. **Communication:** Weak in pragmatic skills, receptive and expressive language. **Activities of Daily Living:** Vineland 10/28/03 Communication 52, Daily Living 74, Socialization 63, Composite 58.

Strengths: Desire to form friendships; varied interests in art, animals, sports, fashion, beauty; daily living skills; rote memory; basic language skills.
Concerns/needs: Impulse control; attention/concentration; receptive/expressive language; pragmatic language; visual perception; visual organization; all academic areas; adaptive behavior – communication, socialization.

The PPT agreed on goals and objectives for an IEP. Services proposed included special education 23.5 hours per week, speech one hour, social work one half hour, and occupational therapy one half hour. Student would participate in the regular education program at the middle school for homeroom, lunch, allied arts daily and either study hall or library weekly. Student's Parents rejected this placement. (Exhibit B-152)

80. In testimony, the Teacher for the Board's Middle School Life Skills class described the program and the other students currently enrolled, ranging from 11 to 14 years old, in 6th to 8th grades. She had observed Student, and felt that she would be a good fit in the class. This teacher has a B.A. and an M.A. in special education, is a certified special education teacher grades K-12, and has more than ten years of experience teaching students with disabilities similar to Student's problems. She gave the top priority for her class as helping students feel safe and comfortable. She acknowledged that some of her students have problems with social skills, and she has facilitated friendships among her students when support was needed. The staff members in the middle school have been very supportive. The curriculum is integrated with the Board's regular middle school curriculum. Opportunities for contact with non-disabled peers are individually tailored to the needs of each Life Skills student. In addition to the teacher, this class had a full-time paraprofessional and support services from speech/language pathologist, occupational and physical therapists, and a social worker. This program includes a daily communication log, regularly scheduled meeting with parents, and frequent telephone contact. (Testimony, Life Skills Teacher, Testimony, Director of Special Education)

81. SLC reported that Student's progress on objectives as of January, 2004, was:

Mastered	4/50
Satisfactory Progress	29/50
In Progress – Insufficient Time	11/50
Not Introduced	6/50 (Exhibit B-158)

82. By letter dated January 15, 2004, Student's treating psychiatrist at YCSC reported her diagnosis to the school:

Axis I:	Bipolar Disorder, most recent episode manic
	Pervasive Developmental Disorder [PDD], not otherwise specified
Axis II:	Deferred
Axis III:	None
Axis IV:	Educational Problems
Axis V:	GAF 40

The psychiatrist described Student:

She has a life long history of disregulated behavior, reciprocal social-interactional impairments, more recent bizarre behaviors, stereotypies, obsessive, bizarre stereotyped communication style, interests and behaviors suggesting some

> underlying neurodevelopment disorder – a Pervasive Developmental Disorder. She is also blatantly manic with symptoms consistent with the diagnosis of Bipolar Disorder – Type 1.
> [Student] is a bright, compelling, socially-related pubertal female who has chronic emotional difficulties. She is able to understand more nuance of social situations than her presentation might imply. This is a positive prognostic indicator that is of extreme importance in selecting a therapeutic, educational setting. Part of the ongoing treatment plan is to find an appropriate, therapeutic educational setting that is 1) synchronous with her current development/behavioral/cognitive status, but 2) one that will, also, maximize her strong verbal/communication skills, needs and desires. (Exhibit B-159)

83. The PPT convened on February 2, 2004, to discuss the report from YCSC. Parents preferred Foster School, a private school approved for special education placement by the State Department of Education, over the PPT's choice of the Middle School Life Skills program. The Board's Director of Special Education was concerned that Foster School did not usually enroll students with lower than average cognitive ability, although they had agreed to consider Student as a candidate. Parents are concerned about teasing and safety in the Middle School, because Student had great difficulty in larger settings and had recently run off. The Director of SLC had observed the proposed placement and felt it was a good one and could accommodate Student's needs. The Director of SLC also did not think Foster School was appropriate for Student because of the behavior and cognitive ability of students currently enrolled at Foster. Student's SLC classroom teacher supported the Board's middle school placement. Therapist reported that Student presents differently in a school setting from her home setting. She is over-stimulated in larger settings. The Board's Director of Special Education stressed that Student's IEP could be modified in the Board's placement, and that she could initially be escorted in the halls, to and from the bus, and self-contained in the classroom until she was comfortable. Neither Board nor SLC staff had seen any manic behavior in Student. The SLC Director and teacher agreed with a PDD diagnosis, although Student's language is better developed than that of most children with PDD. At the end of this meeting, Parents' Advocate withdrew their request for placement at Foster School and asked that Student continue at SLC. (Exhibit B-160; Testimony , Director of Special Education; Testimony, Parents; Testimony, SLC Director; Testimony, SLC Teacher)

84. Parent agreed to visit the Board's program, but had many questions about its appropriateness for Student. Although the Board staff and SLC staff have visited back and forth to prepare a transition, Student has not, as of the date of this hearing, visited the Board's program. (Testimony, Director of Special Education)

85. A progress report from SLC dated February 23, 2004, showed "excellent effort" in attitude and "satisfactory effort" in all other areas. Narrative comments:

> Student is a pleasure to have in class and she has been working hard this semester. (Exhibit B-161)

86. A March 5, 2004, incident report from SLC described Student arriving at school upset and angry. She spoke harshly about Parent, and said "I want to kill myself". A phone call was made, in which Student apologized to Parent, and Parent provided more details of pre-school difficulties that day. (Exhibit B-162)

87. Student's Therapist appeared as a witness at this hearing. She has earned her Master of Social Work degree, but is not yet licensed. She is a clinical fellow at YCSC, working under supervision of psychiatrists and social workers. She presented her own written history of Student and a psychiatric consultation written by Student's treating psychiatrist, which were entered on the record as Parents' Exhibits 1 and 2, after the Board waived the requirements of 34 C.F.R. §§ 300.509(a)(3) and 300.509(b)(1). Both reports listed previous diagnoses and medications, including a diagnosis at the time of the 1999 hospitalization, Childhood Schizophrenia. Student had been observed engaging in "impulsive and risky behavior, tantrums, hyperactivity, obsessive behavior, and stereotypical movement and behavior" during a crisis in the summer of 2003. She had also expressed suicidal ideation. Therapist had met with SLC staff to discuss Student's behavior in different settings, but she had not observed Student in school. She reported that Student had tried to run away from home, although SLC staff had never seen that kind of behavior. Therapist reported that Student and her family were on the waiting list for behavioral consultation to address difficulties managing Student at home and in the community. (Exhibits P-1, P-2; Testimony, Therapist)

88. The record is silent on whether the Board has been given parental consent to share Student's educational records with YCSC.

89. The report of psychiatric consultation is dated July 29 and August 12 and 19, 2003. After remarking on the contrast between Student's bizarre, out-of-control behavior at her first appointment and her "notably calmer, coop[erative], reserved and attentive" presentation the next week, Student's treating psychiatrist reports current symptoms:

> Diminished need for sleep, unprovoked "tantrumming", hyperactivity, inattention, throwing, destroying objects, biting herself when upset, abuse to animals ("family dog is afraid of her") impulsive risky behaviors, e.g. trying to jump out of moving car. She hoards food, overeats, licks objects. She is "obsessed with collecting and using Chapsticks, lip gloss, recording and re-watching the TV program Survivor". She has compulsively surfed the web for pornographic photo sights (sic) and shaved her legs until they bled. She has no friends, and there are no caretakers that will sit with her. Mother feels that she must monitor [Student] constantly for fear that she may put herself at risk.

The treating psychiatrist offered a diagnostic formulation/plan beginning with:

> [Student's] life long history of disregulated behavior, reciprocal social-interactional impairments, more recent bizarre behaviors, stereotypies, obsessive, bizarre stereotyped communication style, interests and behaviors, suggest some underlying neurodevelopment disorder – a Pervasive Developmental Disorder. Given her relatedness, preserved language and symbolic play, I am inclined to give a working diagnosis of Pervasive Developmental Disorder, NOS. (Exhibit P-2)

90. At the hearing, the Board modified its position concerning Student's proposed transfer from SLC to the middle school program. At this time, the Board proposes that a planned transition occur in June and during the summer program, with the actual change of placement to be at the beginning of the 2004-2005 school year. (Testimony, Director of Special Education)

91. At the hearing, Parents asked for a psychiatric evaluation before Student's placement is changed. The Board's response was that the triennial evaluation recently completed was appropriate and supported the recommended change of placement.

CONCLUSIONS OF LAW AND DISCUSSION

1. There is no dispute that Student requires special education. Because of the complexity of her problems, a variety of diagnoses have been offered over the years. To further complicate matters, a medical diagnosis doesn't always lead directly to a special education classification that makes sense to all PPT members. Parents are uncomfortable with classifying Student as intellectually disabled after the most recent evaluation, and prior evaluations have stressed that Student's particular difficulties with attention and language may result in test scores that underestimate her potential. The PPT should consider the special education classification options available:

- Other Health Impaired (OHI), based on her history of attentional problems;
- Seriously Emotionally Disturbed, based on her psychiatric diagnoses;
- Autism, which includes Pervasive Developmental Disorder (PDD), one of Student's current psychiatric diagnoses. While this seems inappropriate given Student's relatively promising language development and was ruled out in the 1998 independent psychological evaluation, her YCSC treatment team have recently confirmed this diagnosis.
- Multi-handicapped as defined at 10-76a-2(f), Regulations of Connecticut State Agencies (R.C.S.A.): "a child with a combination of identifiable handicaps".

Whatever the classification, an IEP for Student must address all her areas of concern.

2. The standard for review of special education programs for individual students with disabilities was established by the U.S. Supreme Court in the case of *Board of Education of the Hendrick Hudson Central School District v. Rowley,* 458 U.S. 176 (1982), requires two tests: 1) were the procedural requirements of the Act complied with; and 2) was the educational program developed for the child reasonably expected to provide educational benefit.

3. Student has been evaluated several times, both by school personnel and by independent professionals. Pursuant to 34 C.F.R. § 104.35(a), an evaluation must be performed "before … the initial placement … and any subsequent significant change in placement". Pursuant to Section 10-76h-13(e), R.C.S.A., a special education hearing officer may order an independent evaluation. The Board's triennial was thorough and timely, but it lacked a psychiatric evaluation. Parents have requested a psychiatric evaluation prior to

change of placement, and their request was rejected on the basis of Student's record of reasonable behavior in the out-of-district placement. The PPT had not received documentation concerning Student's current mental health issues until the hearing. On the basis of her behavior at home and her recent diagnosis, a psychiatric evaluation is appropriate at this time. Given the particular nature of this case, the Board may contract with YCSC to provide the evaluation, provided that the evaluator is not a member of Student's current treatment team. The psychiatric evaluator shall be provided with a copy of this decision as well as the appropriate school records.

4. Failure to request a psychiatric evaluation as part of the recent triennial evaluation cannot be considered a procedural error at that time, since the Board had not seen any documentation of Student's current psychiatric status until it received the January 15, 2004, letter from YCSC, and the more complete history and observations of Student provided at the hearing. Based on the information it had at relevant times, the Board has met the procedural requirements of IDEA.

5. Student's progress in the Board's school and at SLC has been slow. Several evaluators have expressed caution about the accuracy of standardized test results and her test results show significant scatter. However, her language development since kindergarten has been dramatic. Given her challenging array of problems and the restrictions Parents have placed on options in the past, the Board has offered IEPs and placements that reasonably addressed Student's special education needs.

6. The December 12, 2003, PPT reported, under present levels of educational performance:

> **Health & Development:** 4/10/03 referred for failed vision screen. Currently taking lithium. Review Central Auditory Processing evaluation (8/03).
> **Social/emotional/behavioral:** Severe deficits in attention/concentration. Projective testing indicated no significant emotional factors.

While a well-qualified school psychologist reported what she saw, treatment including lithium should have raised a question of whether the PPT was aware of the total picture, and the presence of Therapist at the PPT suggested serious concerns. The PPT made the original placement at SLC in 2000: Student's recent triennial evaluation and observations of Student at school support her readiness for a less restrictive placement. The Director of SLC described her as almost always on the top level of the SLC behavior system, with minimal problem behaviors in school and good responses to redirection and cues. Both the Director and her current teacher at SLC support the proposed change, if it is carefully planned. Reported behavior at school contrasts with reports of tantrums and bizarre behavior in other settings, although it is certainly possible that the structure and support available at SLC have enabled Student to exercise control over her behavior.

7. While Parents have the right to control the exchange of information about Student between the school and her treatment team, this case illustrates how important it is for the school team and the medical team to have access to each other's observations. While Parents have been reluctant to share psychiatric information in the past, Therapist encouraged openness and met with SLC staff. Unfortunately, she will be leaving soon: it

is hoped that Student's new therapist will continue this essential dialogue. The treatment team has not seen records of Student's consistently low average cognitive functioning, a factor in the Board's selection of educational placement. If the treatment team regards her as "bright" and the school team regards her as "low average", it is not surprising that placement recommendations also differ.

8. Coordination of services among home, school, and clinical support is essential, both to achieve the best possible outcomes for Student and to help Parents contend with her challenging behavior. Coordination includes listening and compromise, with deference to parental concerns.

9. The PPT should consider the recommendations of the 2003 auditory processing evaluation, which had been recommended by the neuropsychological evaluator in 2000. This evaluation suggests another possible route to address Student's attentional problems.

10. Although the record of the hearing shows references to several successful behavior plans, it does not include any specific behavior documentation. Records of Student's actual classroom behavior are anecdotal: behavior logs would be helpful to the PPT and to outside therapists. If classroom behavior is appropriate, that information is important. If classroom behavior is problematic, an analysis of actual events, including possible triggers and successful interventions, should be considered by the PPT. However, the thoughtful, and largely successful, occupational therapy modifications suggest that considerable energy has been spent on regulating Student's classroom behavior.

11. Student's school record shows consistent reports of difficulties with attention, concentration and focus. She has usually responded well to cues and redirection, and it appears from the record that medication has also been helpful. Given the complexity of Student's problems, it is important that school staff be kept up-to-date on her medication status. While the choices of medication are clearly the responsibility of Parents and the physicians treating Student, the school's record of observation can be helpful. Communication among physicians, parents and school staff could benefit Student by helping to identify effective regimens.

12. The PPT members have invested time and patience in trying to address Student's complex problems and to meet Parents' preferences for Student. Parents initially resisted retention in grade, increased special education services, and a transfer to a different elementary school. Parents delayed consent for requested evaluations and did not share medical information in a timely fashion. Placement at SLC was initially acceptable, but after communication problems and two DCF referrals, Parents insisted that they wanted another option. Following the triennial evaluation, the PPT suggested a program in the Board's middle school that includes the possibility of some contact with children who are not disabled. Parents feared that placement for a variety of reasons, and proposed two private placements that the PPT found inappropriate. Therapist also suggested placements, but without direct knowledge of Student's relatively good school behavior, information obtained from Student's educational evaluations, or special education placement requirements. After Parents rejected the Board's program, they decided that

they could cope with SLC in spite of their earlier strong objections. It is clear form testimony by school staff members that the Board's Middle School Life Skills program, with its close supervision and excellent staff:student ratio can be made safe for Student.

13. The PPT recommendation for placement in the Middle School Living Skills program was based on appropriate evaluations, observation of Student at SLC, visits between SLC and Board staff, and the best judgment of a group of experienced professionals. While it is not clear whether these professionals knew how very different Student's behavior in other settings could be, it is also not unusual for children to behave differently in different settings. With an individually planned transition, placement at the Living Skills program is appropriate to Student's special education needs in the least restrictive environment.

FINAL DECISION AND ORDER:

1. The Board shall arrange immediately for a psychiatric evaluation of Student. Among the questions to be addressed shall be a request for suggestions concerning Student's transition and comments on the extreme differences between Student's in-school behavior and that in other settings.

2. The IEP and placement in the Board's Middle School Life Skills program, as proposed at the February 2, 2004, PPT meeting, is appropriate to Student's needs in the least restrictive environment.

3. As recommended by the Board at the hearing, her transition shall be planned for June and the summer of 2004, and she should be fully enrolled at the start of the 2004-2005 school year.

4. Upon receipt of the report of the psychiatric evaluation, the PPT shall convene to review transition plans and Student's IEP.