

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Stratford Board of Education

Appearing on behalf of the Parent: Attorney Catherine L. Williams, Connecticut Legal Services, 211 State Street, Bridgeport, CT 06604

Appearing on behalf of the Board: Attorney Michelle C. Laubin, Berchem, Moses & Devlin, P.C., 75 Broad Street, Milford, CT 06460

Appearing before: Attorney Mary Elizabeth Oppenheim, Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Whether the Board failed to provide a free appropriate public education to the Student from the fall 2002 through the 2004-2005 school year.
2. Whether the Student is entitled to compensatory education.¹

SUMMARY:

The 15 year old eighth grade Student has been enrolled in the Board schools since his sixth grade year. The Student has been identified as eligible for special education and related services due to his specific learning disability. The Student's achievement scores continue to show significant deficits in reading and written language. The Student was expelled from school from May 2004 until the end of the school year, and received inconsistent tutoring during the time of his expulsion. The Parent brought this action claiming various procedural violations and denial of a free appropriate public education from the fall 2002 through the current school year, including the period of the Student's expulsion, as the Student has not demonstrated progress in his reading and written expression.

PROCEDURAL HISTORY:

The Parent requested this hearing on October 13, and a prehearing conference was held on October 19. The parties initially requested an extension of the mailing date of the decision to allow for settlement discussions, and the first hearing date of November 30 was scheduled. At the hearing on November 30, the attorneys for the parties reported that an evaluation of the Student was pending, and the Parent's attorney requested an

¹ A third issue was presented in this matter. That issue was: whether the Student shall be provided an independent evaluation. The parties came to an agreement regarding this issue, and on the first day of hearing, the Parent's attorney confirmed that the Parent was no longer pursuing that issue.

additional extension of the mailing date of the decision to allow for completion of the evaluation.

The mailing date of the decision was extended at the request of the attorneys for the parties, and without objection from the opposing party to schedule additional hearing dates as necessary to present their case. The hearing convened on nine additional dates in January, February and March 2005. At the conclusion of the hearing, the attorneys for the parties requested additional extensions to allow the filing of briefs and reply briefs.

The attorneys submitted briefs on April 29, and reply briefs on May 9.

The Parent's witnesses were Angelo Vespe, Board assistant superintendent of pupil personnel services; John Panagrossi, Board coordinator of pupil services; Miriam Giskin, Board reading consultant; Rosemary Martin, Board school counselor, Helen Kruger, independent education evaluator; Joyce Cordova, Board special education teacher, Patricia Toth, Board head secretary and Mary Carol Collings, Board school nurse.

The Board's witnesses were Michelle Dillon, Board sixth grade teacher; Meranda Jutcawitz, Board special education teacher; Janet Zeiner, Board seventh grade language arts teacher; Rosalie Bares, Board eighth grade language arts teacher; Barbara Feldman, principal of the New School, and Angelo Vespe, Board assistant superintendent of pupil personnel services.

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. Callallen Independent School Board, 835 F. Supp. 340 (S.D. Tex. 1993)

FINDINGS OF FACT:

1. The Student is 15 years old, and is currently enrolled in 8th grade. The Student has been identified as eligible for special education services under the category of specific learning disability [SLD]. [Exhibit B-37]
2. As of January 28, 2005, the Student has been attending the New School in Stratford, a private school for students with learning disabilities established in cooperation with the Board. [Testimony Ms. Feldman]
3. On or about August 27, 2002, the Parent completed forms to register the Student in the Board schools for sixth grade at Chapel Street School. [Testimony Ms. Toth; Exhibits P-9, B-38, B-41] The registration form indicated that the Student was transferring to Stratford from Deerfield Beach Middle School in Deerfield, Florida, where the Student had been enrolled in fifth grade. [Exhibit P-9]
4. At the time the Parent completed the forms, she responded "yes" to the form question that asked "[h]as your child ever received any special education or

- remedial services.” [Exhibit P-9] Since the time that the Student was registered, the Board has revised this form question. The question now asks separately if the student has received special education and one asks if received any remedial services. Now, if the person checks special education, the next question that is asked is to provide documents, such as an IEP. If the parent indicates that the student received remedial services in the past, the parent is now also asked the question of what type of services were received. [Testimony Dr. Vespe]
5. The Board policy required verification of residency prior to enrollment. [Testimony Dr. Vespe, Exhibit P-9] The Declaration of Legal Residency form required by the Board for enrollment was signed by the Parent’s landlord on or about September 5, and residency was verified by the Board’s attendance officer on or about September 6, 2002 [Exhibit P-9]
 6. When the Parent was present at the Chapel Street School to register the Student on August 27, the Parent was provided several forms to be completed and returned showing proof of immunization and a health assessment. [Testimony Ms. Toth, Exhibit P-11] The Parent completed a health record survey on August 27, 2002 [Exhibit P-7], but the requisite physical examination was not performed until September 18, 2002. [Exhibit P-11] The school nurse must determine whether everything is sufficiently filled out with the health form to determine when the student can enroll in school. [Testimony Ms. Toth] The students must have an updated physical examination before they can attend school. [Testimony Ms. Collins]
 7. The Parent returned the completed State of Connecticut Health Assessment Record to Chapel Street School on September 20, 2002, and the Student was permitted to start school that day. [Exhibits P-11, P-28]
 8. An Informal Reading Inventory [IRI] was conducted by Ms. Giskin, the reading teacher at Chapel Street School on October 1, 2002, less than two weeks after the Student entered the Board schools. [Testimony Ms. Giskin, Exhibit P-12] The Student was brought to the reading consultant’s attention very rapidly as the classroom teacher was concerned that the Student’s reading appeared to be below grade level. [Testimony Ms. Giskin, Ms. Dillon] Ms. Giskin determined that, as a student in the sixth grade, the Student was able to read a level 3 passage with 93% accuracy and was able to comprehend that passage with 90% accuracy. His reading skills were below grade level, and she began providing the Student with small group reading assistance in the classroom. The informal assessment gave the reading consultant sufficient information to determine at which level she should begin to work with the Student. [Testimony Ms. Giskin, Exhibit P-12]
 9. A parent conference was held in late October to discuss the Student’s progress during his first month in the Board schools. During this parent conference, Ms. Dillon, the Student’s sixth grade language arts teacher, discussed with the Parent her serious concerns regarding the Student’s reading ability. For the first time at

- this parent conference, the Parent disclosed to Ms. Dillon that the Student had previously attended school in Bridgeport [Connecticut] and had received special education services there. The Parent still did not provide the Board with an IEP or copies of any other relevant documents. [Testimony Ms. Dillon]
10. Following the October parent conference on October 31, 2002, the Parent signed a release permitting the Board to obtain copies of the Student's records from both Bridgeport and the middle school in Deerfield Beach, Florida. [Exhibit P-14] When this release was provided to appropriate personnel in those districts, the Board staff received copies of some of the Student's special and regular education records from those districts. At no time did the Parent ever provide copies of any of the Student's records to the Board staff. [Testimony Ms. Cordova, Ms. Giskin, Ms. Dillon, Ms. Toth]
 11. On November 21, 2002, the staff at Chapel Street School conducted a Pupil Study Team (PST) meeting to review the Student's status, and determine if it would be appropriate to refer the Student to a Planning and Placement Team (PPT) for further action. The team determined that the Student should be referred for a PPT meeting given the Student's difficulties and history of special education eligibility. [Testimony Ms. Giskin, Ms. Dillon, Ms. Cordova; Exhibit P-17] The PST discussion related to the Student's trouble in grasping science concepts, and that he can comprehend information if it is read to him. It was noted that the Student's spelling is poor, that he writes in simple sentences with run-ons and writes in incomplete sentences. The PST members noted that the Student's listening comprehension was higher than his reading ability. It was recommended that the records from Bridgeport be obtained. [Exhibit P-16]
 12. The Board sends out procedural safeguards to the parents with the notice of PPT. The procedural safeguards are also offered again at the PPT meetings. [Testimony Ms. Martin]
 13. The first PPT meeting for the Student was convened on December 5, 2002. The school based members of the team determined that the Student was eligible for special education services as a student with a Specific Learning Disability. The Student was provided with two hours per week of resource room support services for reading and written expression. [Testimony Ms. Dillon, Ms. Cordova, Ms. Giskin; Exhibit P-18] The Parent signed consent for the Board to implement this placement in special education on that date. [Exhibit P-19] No comprehensive evaluation was completed by the Board at the time of this eligibility determination. The Board referenced the IRI informal assessment as an achievement report considered by the team. The Board also referenced review of the Florida and Bridgeport IEPs and evaluations. [Exhibit P-19] No documents presented at the hearing indicate that the Florida school completed any assessments of the Student. The Bridgeport records indicate that the achievement testing was completed on May 5, 2000 [Exhibit P-3], and that a triennial reevaluation was due on May 27, 2002. [Exhibit P-4] Nevertheless, the most

- recent assessment completed by the Bridgeport Board that the Board had access to review was the KTEA achievement testing. No reevaluation of the Student was completed at the time the Student was determined to be eligible for special education by the Board, and when his first Stratford IEP was drafted.
14. The Board members of the PPT concluded erroneously that the Student's triennial re-evaluation was to be held on May 2003, based on the incorrect conclusion that the Student's achievement testing of May 5, 2000 constituted a comprehensive evaluation of the Student. Nothing in the Bridgeport records indicate that the achievement testing of May 5, 2000 constituted a full re-evaluation of the Student, as it was expressly contemplated in the Bridgeport PPT meeting summary for May 24, 2000 that the Student's next reevaluation was to be on May 27, 2002. [Exhibit P-4, P-18] The Board did not appropriately evaluate the Student prior to the drafting of the Student's IEP.
 15. During the 2002-2003 school year, the Student's reading skills improved, according to the special education teacher. [Testimony Ms. Cordova] Later testing, however, calls into question the teacher's conclusion regarding progress. The Student's social behavior was typical for his age, and not related to his disability, according to the Student's teacher. The Student was very well liked and social. [Testimony Ms. Dillon] At the conclusion of the 2002-2003 school year, the Student had shown improvement, according to his progress report. [Testimony Ms. Dillon, Exhibit P-28]
 16. The Student's IEP for the 2002-2003 school year indicated that the Student had mastered all of his objectives in the areas of reading and written expression. [Exhibit P-27] The Student's goals and objectives, however, were not appropriately drafted as they were not based on current evaluative information. The Student's report card noted that the Student had shown great improvement, and that his continuous effort and willingness to learn was demonstrated throughout the year. [Exhibit P-28]
 17. The Board completed the Student's evaluation in April 2003, and reviewed it at the PPT meeting of May 8, 2003. [Testimony Cordova, Exhibit P-24] According to the evaluation, the Student's scores on the WISC-III were: Verbal IQ 84, Performance IQ 106, Full Scale IQ 93. [Exhibit P-24]
 18. The WIAT administered at the time of the Student's evaluation in spring 2003 indicated continued academic delays with scores of 68 in reading, 64 in spelling and 88 in math reasoning. The WIAT score in reading was at the 2nd percentile with a grade equivalence of 2:6, and the score in spelling was at the 1st percentile, with a grade equivalence of 2:5. These scores continued to demonstrate a significant discrepancy between ability and achievement in the areas of basic reading and spelling. [Exhibit P-24]

19. On the basis of this evaluation, the Board agreed that the Student continued to qualify as having a specific learning disability in the areas of reading and written expression. [Testimony Ms. Cordova, Exhibit P-25]
20. The PPT developed a program for the Student for his seventh grade year at the Board middle school consisting of three hours per week of special education services in reading and written expression to take place in the regular classroom. [Testimony Ms. Cordova, Ms. Jutcawitz; Exhibit P-25]
21. The special education teacher provided nine hours per week of support to the Student, rather than the 3 hours recommended. It became apparent to the teacher that the Student needed more support than was documented on his IEP, so she provided that support. The Student had begun to fall behind, and the work load was very difficult for him. [Testimony Ms. Jutcawitz]
22. On November 13, 2003, the PPT reconvened to review the Student's IEP, noting that lack of work completion, focusing and weak reading skills impact the Student's grades. In order to address these issues, the PPT reviewed the IEP to include special education services in the resource room for 3.5 hours per week. [Exhibit P-30] The special education teacher was the person who requested this PPT, based on her work with the Student. [Testimony Ms. Jutcawitz] The Student was scheduled for one period per day in the resource room to assist him with organizational skills, reading and written expression. This was a change in the location of the services, so that the Student could receive one on one instruction from the special education teacher in the resource room. The special education teacher also noted in testimony, that in addition to this period of direct instruction, she continued to provide him with support in the regular education classroom about nine hours per week. [Testimony Ms. Jutcawitz] While it is desirable for the special education teacher to provide additional assistance as needed to the Student, the Student's needs should have been further reviewed and addressed in his IEP, based on the needs he demonstrated to the special education teacher.
23. Initially the Student progressed in his program when the changes were made to his IEP following the November 13, 2003 PPT meeting by exhibiting improved motivation and work completion. [Testimony Ms. Jutcawitz] After the changes in the IEP, the Student was getting in his homework more consistently, he seemed to be happier in class, and he had positive changes. [Testimony Ms. Zeiner] However, by late January 2004, the Student's motivation again began to decrease, and his work completion again declined. [Testimony Ms. Jutcawitz] The Student's lack of focus in the classroom and his socialization issues returned. [Testimony Ms. Zeiner]
24. In late January 2004, the Board determined that the Parent needed to be contacted regarding the issue of behavior and work completion. Rosemary Martin, school counselor for the Student, was delegated the task of contacting the Parent to set up a meeting to discuss this issue. [Testimony Ms. Jutcawitz, Ms. Martin] The

- Student was more talkative in the classroom, out of his seat more, less attentive to tasks. Homework completion was also an issue. [Testimony Ms. Martin] The school staff attempted to contact the Parent, but the Parent did not return to calls of the school staff to set up a conference. [Testimony Ms. Martin, Ms. Jutcawitz; Exhibit B-5]
25. On February 23, 2004, a PPT notice was sent inviting the Parent to an annual review PPT meeting on March 9, 2004 [Exhibit P-31] The Parent did not attend the PPT, but the Student did attend. At that March 9 PPT meeting, the Board members of the PPT recommended a behavior intervention plan (BIP) to improve organization, preparation for class, and work completion. The team also recommended new goals and objectives for the 2004-2005 school year and an increase in resource room support to 4.5 hours per week. [Testimony Ms. Jutcawitz, Exhibit P-31] Although the members of the PPT decided on an increase in hours due to the Student's demonstrated needs, they inexplicably decided to wait until August 2004 to implement these changes. Moreover, while the team indicated that the Student's concerns/needs included "off task, lack of effort," there was no recommendation for further evaluation to review the Student's demonstrated attention/organization issues.
26. The day after the PPT meeting, the Parent attended a parent conference with the Student's team teachers, including Ms. Jutcawitz and Ms. Martin. Notes of that meeting reflect that the team's concerns regarding the Student's behavior were reviewed with the Parent, and that the team also reviewed the recommendations from the March 9 PPT meeting. The school based team expressed their concerns to the Parent that the Student was not motivated to focus on his school work, was more interested in the social aspects of middle school, and was not completing the work needed to improve his skills in reading and writing. [Testimony Ms. Jutcawitz, Ms. Martin]
27. The BIP was implemented between March 15 and April 4, 2004. The Student's organization, class preparation and work completion showed improvement during the period of time that the BIP was in use. [Testimony Ms. Jutcawitz, Exhibit P-34]
28. In the afternoon of April 7, 2004, the Student was involved in an incident on the school bus in which he was accused of sexual harassment of a female peer. An investigation of this incident was conducted by the assistant principal Carol Aloï, who determined as a result of her investigation that the Student made inappropriate comments to the female student and touched her inappropriately, pushing her head down toward his groin area and making a comment suggesting that the female student should perform oral sex on him. [Exhibit P-22]
29. The Student was suspended from school for ten school days due to this incident, and a PPT notice was issued on April 15, 2004 for a manifestation determination PPT to be held on April 29, 2004. [Exhibit P-32] The Student had not been

- suspended on any occasion in the 2003-2004 school year prior to this incident. [Testimony Mr. Vespe, Exhibit P-34]
30. The PPT meeting was held on April 27, 2004, instead of April 29. The Parent waived her right to receive 5 days written notice of this PPT meeting. [Exhibits P-33, P-34] This manifestation review PPT was not conducted appropriately. The functional behavior analysis was insufficient, as it merely stated “see discipline record,” under the form section marked “Functional Behavior Analysis.” The evaluative/diagnostic and observation data considered merely stated “see report card.” The appropriate members of the PPT were not present. The assistant principal first signed in under the category of “other.” Then, it is concluded that because there was no regular education teacher present, she crossed out her name under the category of “other” and signed in under “Student’s regular education teacher.” The assistant principal was not a regular education teacher for the Student. [Testimony Dr. Vespe, Exhibit P-34]
 31. The Board members of the PPT concluded that the Student’s conduct on April 7, 2004 was not a manifestation of the Student’s disability. [Exhibit P-34]
 32. An expulsion hearing was held before the Stratford Board of Education on Monday, May 5, 2004, at which time the Student was expelled from school for the remainder of the 2003-2004 school year. The Student was excluded from school grounds, and from all school sponsored activities. The Student was to be provided with an alternative educational opportunity during the period of expulsion. [Exhibit P-38]
 33. No PPT meeting was convened after the expulsion decision to determine the appropriate alternative educational opportunity for the Student. [Testimony Ms. Jutcawitz]
 34. Following the Student’s expulsion from school, the Parent was informed by letter that the Student had been assigned tutorial instruction during his period of expulsion. In this correspondence, the Parent was informed that the Student would receive 10 hours of instruction per week under the direction of Alex Rubin. This correspondence further noted that the work completed during this period of instruction will be provided by the classroom teachers at the school, and will be coordinated by the school counselor at the middle school. It noted that the classroom teacher would be correcting and grading all assignments. [Exhibit P-39]
 35. The special education teacher testified that she met with the tutor to review the Student’s IEP with the tutor so that instruction would be delivered by the tutor that was consistent with the Student’s IEP. No meeting was held to determine what type of tutoring the Student should receive. The special education teacher was unsure whether the tutor was a special education teacher, and did not speak to him after that initial meeting, although the school received very few samples of

- the work that the Student had completed while with that tutor, and the work that was received was incomplete. [Testimony Ms. Jutcawitz] Despite this meeting, the tutor did not deliver the instruction in an appropriate manner, and did not provide sufficient services necessary for the Student to progress in the general curriculum and appropriately advance toward achieving the goals set out in his IEP.
36. The tutor's logs indicate that the tutoring, usually completed as a 2 hour per day session, totaled 24 sessions. One week is completely unaccounted for in the tutor's documents, although the tutor claimed he worked that week and that he met with the Student every day for tutoring, according to the Board documents. Of those 24 sessions, the tutor's logs indicate that only 3 sessions were focused in English/language arts, the area of the Student's demonstrated weaknesses in reading and written expression. [Exhibit P-40] The Board could not demonstrate that the Student even received these minimal educational services by the records submitted, or testimony from other witnesses. Mr. Rubin was not called as a witness by either party.
37. In June 2004, the Student IEP goals were either marked "O" which was identified as "unsatisfactory progress due to lack of effort" or "N" which was for "no progress." Prior to that final marking period, the Student's IEP goals were progressing from "limited-satisfactory" to "unsatisfactory." [Exhibit P-41] The Student's 4th quarter grades consisted of 3 Fs, one C- and one C. [Exhibit P-42]
38. On May 11, 2004, Attorney Jennifer Bergsieker of Connecticut Legal Services requested a copy of the Student's records from the Stratford Board of Education and provided a release signed by the Parent permitting the Board to send records directly to her. [Exhibit B-8] In response to this request, Dr. Angelo Vespe directed his staff to collect the Student's records from both central office and from Flood Middle School, and to send those records to Connecticut Legal Services. The records were sent in two batches, one being a set of records from the Pupil Services office, and one being a set of additional records obtained from Flood Middle school that were not contained in the previous disclosure. Dr. Vespe received no response from Connecticut Legal Services following the mailing of the records. [Testimony Dr. Vespe]
39. On June 25, 2004, Attorney Catherine Williams of Connecticut Legal Services filed a complaint with the State of Connecticut Department of Education, alleging various failures on the part of the Stratford Board of Education, including the failure to provide a complete copy of the Student's educational records. In her letter, Attorney Williams acknowledged receiving two sets of records on May 18, 2004 and May 20, 2004, but indicated that she had not received any records associated with the Student's expulsion. [Exhibit B-9] In response to this letter, Dr. Vespe contacted the Superintendent's office to determine whether there were, in fact, records of the Student in the possession of the Board relating to the Student's expulsion from school, determined that there were such records,

- gathered copies of the records, and sent them to the State Department of Education along with copies of all of the other records in the possession of the Board, in response to the complaint. Dr. Vespe believed in so doing, that he would be providing copies of the expulsion records to the Parent through her counsel because he believed that the State Department of Education would supply a copy of any response he filed to the Parent and her counsel. [Testimony, Dr. Vespe]
40. In responding to the complaint filed with the State Department of Education, the Board acknowledged that it had inadvertently failed to provide a complete copy of all of the Student's educational records to the Parent's attorney, in that the expulsion records had not been provided in either of the two batches of records sent to Connecticut Legal Services. The State Department of Education found that the Board had provided an acceptable corrective action plan that should prevent this issue from reoccurring in the future and declined to issue a corrective action plan with respect to this issue. [Exhibit B-12]
41. With respect to Attorney Williams' allegation that there might be additional records from either Bridgeport or Stratford that had not been provided to her, the State Department of Education ordered as follows:*If the Stratford Public Schools received any additional information from [the Student's] previous school district in Florida or from the Bridgeport Public Schools since responding to Attorney Williams' original request for records and has not provided Attorney Williams with a copy of any additional records that it has received, the Stratford Public Schools shall notify Attorney Williams that it has received additional education records within five school days after receipt of this report at which time Attorney Williams may choose to submit a written request for a copy of those additional records. Within five school days after the receipt of this report, the Stratford Public Schools shall provide the Bureau of Special Education with notice as to whether or not the school district has: a) received any additional records from either of [the Student's] previous two school districts; and b) if it has, inform Attorney Williams that additional records do exist.* [Exhibit B-12]
42. The Board complied with this order by sending a letter dated August 24, 2004 to the State Department of Education indicating that an attempt had been made to obtain additional records, but no additional records were available. [Testimony Dr. Vespe, Exhibit B-28]
43. In the complaint review regarding this document dispute, the State Department of Education further recommended: *If Attorney Williams believes that the Stratford Public Schools has failed to provide her with a complete copy of [the Student's] educational records as requested under RCSA Section 10-76d-18(b)(2), Attorney Williams may request, after proper notification and gaining parental consent, to personally inspect and review [the Student's] education records in accordance with the requirement of RCSA Section 10-76d-18(b)(1).* Exhibit B-12]

44. No such request was ever made by Attorney Williams. On October 6, 2004, the Board received a letter from Mr. John Purdy at the State Department of Education indicating that upon review of the documentation, any noncompliance issues resulting from the complaint were resolved. [Testimony Dr. Vespe, Exhibit B-15]
45. The PPT reconvened on September 23, 2004 for a manifestation determination and development of a functional behavior plan. [Exhibit P-45] The assistant superintendent joked that this was a do-over PPT. [Testimony Dr. Vespe] This PPT was convened as required by the Department of Education corrective plan, which required that the Board convene a duly constituted PPT with one of the Student's regular education teachers participating in the meeting to conduct: an FBA in accordance with the requirement of 34 CFR Section 300.520 (b)(i) and (ii); a manifestation determination review in accordance with the requirements of 34 CFR 300.523(c)(1); and a determination of the extent to which educational services are necessary to enable the Student to appropriately advance in the general curriculum and appropriately advance toward achieving the goals set forth in the Student's IEP in accordance with 34 CFR Section 300.121. [Exhibit B-12]
46. At the September 23 PPT, a functional behavior analysis was developed. The Board members of the team determined that the Student's behavior was not a manifestation of his disability, and further determined that the two hours per day of services was appropriate. [Exhibit P-45] At the time the FBA was considered, the team had enough information to determine whether the Student's conduct was a manifestation of his disability. The Student was able to exhibit normal typical social judgment, and his judgment was not impaired by the disability. The Student's social judgment/behavior has been characterized as typical of a middle school student, based on the observations of the Board staff. [Testimony Dr. Vespe]
47. In order to address the Parent's concerns regarding the adequacy of the tutoring services and the Student's progress in reading, the Board offered to provide the Student with 10 45-minute after school reading tutorial sessions as compensatory education. [Testimony Dr. Vespe, Exhibit P-45] The Parent never contacted the Board to set up these tutorial sessions or otherwise accept this offer. [Testimony Dr. Vespe]
48. At the September 23 PPT meeting, the Parent's attorney for the first time indicated that she had not been provided with a copy of the materials previously sent to the State Department of Education in response to her complaint, including copies of various educational records. Dr. Vespe immediately agreed to provide, and did provide Parent's attorney with a complete copy of all records provided to the State Department of Education. [Testimony Dr. Vespe]
49. After the September 23 PPT meeting, the Parent's attorney requested that additional evaluations of the Student be performed by the Board to assess his progress in the area of reading. The Board agreed to hold another PPT meeting

- for the purpose of reviewing this request. [Testimony Dr. Vespe, Exhibits B-13, B-14]
50. A PPT notice was issued on September 29, 2004 for a PPT meeting to be held on October 6. The Parent signed a waiver of her right to five days notice of the PPT meeting. The PPT meeting was conducted on October 6, 2004 and the team reviewed the Parent's request for additional testing. It was agreed that the team would conduct individually administered achievement tests, and the Parent signed consent for this evaluation. [Exhibit P-47]
51. The Student continued to have inconsistent effort and grades in the D range in language arts class in eighth grade, according to an October 2004 progress report. The language arts teacher credits the Student's lack of submission of homework and inconsistent effort as the reason for his poor progress in eighth grade. [Testimony Ms. Bares, Exhibit P-46]
52. The due process hearing request was submitted on October 13, 2004. [Exhibit H.O.-1] At the time the due process hearing was filed, the issue of missing records resurfaced. In response to the Parent's attorney's further representation that she did not believe that she had been provided with a complete copy of all of the Student's records as she was missing records from Bridgeport and Florida, and a copy of the tape recording of the May 3, 2004 expulsion hearing, on October 26, copies of all such records in the possession of the Board were again photocopied and sent to Parent's attorney. [Exhibit B-16] A copy of the tape recording from the expulsion hearing of May 3, 2004 was provided on October 20, 2004. [Exhibit P-63]
53. In the due process hearing request, counsel for the Parent indicated that "Provision of an independent evaluation by an expert in learning disabilities, particularly reading and writing disabilities, compensatory education, and an appropriate educational plan and placement to the satisfaction of [the Parent] will resolve this complaint." [Exhibit H.O. -1]
54. On November 9, the Board agreed to conduct an independent evaluation by an individual chosen by the Parent in order to resolve this matter. Helen Krueger was chosen by the Parent as individual to conduct the independent educational evaluation (IEE). It was agreed that it would not be necessary to reconvene the PPT in order to have the Parent present her request for an IEE, because the Board was willing to provide an IEE at public expense, regardless of the outcome of the Board's achievement testing. [Testimony Dr. Vespe, Exhibit B-17]
55. The Board's achievement testing was completed in November 2004. The Student achieved the following standard scores on the WIAT (Wechsler Individual Achievement Test): Reading composite 61, Math composite 78, Written language composite 59, Oral language composite 90. The Student's score in word reading was at a 3:1 grade equivalence, and his pseudoword decoding was at a 1:8 grade

- equivalence. The Student's score in spelling was at a 2:8 grade equivalence, and his written expression was at a 3:0 grade equivalence. [Exhibit P-51] An informal reading inventory (IRI) was also conducted by the reading teacher at the Board middle school, and concluded that the Student was experiencing significant difficulty comprehending grade level materials and would benefit from a reading support program. [Exhibit B-25]
56. Ms. Krueger's reading evaluation was conducted on November 29, 2004 and her report was written on December 6, 2004. Ms. Krueger administered the Gray Oral Reading Test (GORT), the Wilson Assessment of Decoding and Encoding (WADE), and the Burns and Roe Informal Reading Inventory. She reported no standard scores on any of these assessments. Generally, she concluded that the Student continued to manifest a severe discrepancy between perceived cognitive ability and academic achievement in the areas of reading decoding and encoding (spelling). She made a series of recommendations, the most significant of which was a recommendation to enroll the Student in a program like the Wilson Reading Program in order to address his learning disability and enable him to make more significant progress in reading decoding and encoding. [Exhibit B-23] Ms. Krueger was aware that socialization got in the way of the Student's school work. [Testimony Ms. Krueger]
57. A PPT meeting was convened on December 22, 2004 to review the results of the IEE by Ms. Krueger. Ms. Krueger attended the PPT meeting and reviewed the results of her evaluation. The Parent attended this PPT meeting with her attorney. As a result of this PPT meeting, the team, including the Parent, agreed to make a referral to the New School program, a private program located in Stratford for students with learning disabilities established in cooperation with the Stratford Public Schools. The PPT also agreed to conduct a speech and language evaluation at the request of Ms. Krueger. The PPT recommended that Ms. Krueger and the Parent visit the New School program and that the team develop draft goals and objectives for the next PPT meeting. [Exhibit B-24]
58. The Parent signed consent for the speech and language evaluation. [Exhibit B-26]
59. Another PPT meeting was held on January 14, 2005. In an attempt to resolve the due process hearing request, the Board team recommended that the Student enroll at the New School to take part in the Wilson Reading Program recommended by Ms. Krueger in her evaluation of the Student. [Testimony Dr. Vespe, Exhibit B-36] Despite the belief of the Board members of the PPT that the program being provided to the Student at Flood Middle School continued to be appropriate for him, the team was willing to agree to the request being made by the Parent to enroll the Student in a more intensive reading program in an attempt to resolve this matter. [Testimony Ms. Jutcawitz, Dr. Vespe]
60. The PPT reconvened on January 28, 2005 to review the results of the speech and language evaluation and to review the Student's progress adjusting to the New

- School. [Testimony Dr. Vespe, Exhibit B-37] The Student achieved the following standard scores on the Clinical Evaluation of Language Fundamentals (CELF-4): core language score 104, receptive language index 94, expressive language index 101, language content index 100, language memory index 106. The speech and language pathologist also administered the non-standardized Phonological Awareness and Reading Profile. She concluded that the Student did not have a language impairment, but did have a learning disability in reading. She did not recommend any direct speech and language services. The PPT agreed that the IEP was appropriate and the Student did not require the services of a speech and language pathologist. [Testimony Dr. Vespe, Exhibits B-35, B-37]
61. The New School is a private nonprofit program for children with learning disabilities under the umbrella of the Children's Center, headquartered in Hamden, Connecticut. The Stratford program was organized in cooperation with the Stratford Board of Education, and all of the students attending the program are from Stratford. There are currently ten students enrolled in the program, with a maximum enrollment of twelve. Currently, there is one child who is in the fourth grade whose time is divided between the New School and another program, and the rest of the students are in either eighth or ninth grade. The New School uses the Wilson Reading program as its primary methodology for teaching students with learning disabilities in the area of reading decoding. The program is staffed by two full time special education teachers who have been trained in the use of the Wilson Reading program, as well as a half-time social worker. Students who attend the program can attend either for a full day or a half day. Most of the reading and language arts instruction takes place during the morning hours, with content area instruction taking place in the afternoon. Many students are able to continue to take part in the home school regular education program for the entire afternoon or at least part of the day. Flexible transportation services are provided to students returning to their home school for some portion of the day. [Testimony Ms. Feldman]
62. The Wilson Reading program is a phonics-based program designed for children with learning disabilities in the area of reading. It was originally designed for use with illiterate adults, and then modified for use with children with learning disabilities. It is a systematic program of instruction requiring children to proceed through twelve books sequentially in order to learn basic decoding skills for the English language. The New School has successfully used the program with a number of students to increase their reading decoding and encoding and comprehension skills for competency at the high school level. [Testimony Ms. Feldman]
63. As of January 28, the Student was enrolled full time in the New School program, and was participating in the Wilson Reading program and intensive instruction in language arts, in addition to receiving instruction in the basic content areas of the eighth grade curriculum. As of February 16, it was reported that the Student had finished Book One in the Wilson Reading series and was doing well. It is

anticipated that he will remain in that program at least until the end of the 2004-2005 school year, although future programming decisions remain to be made by the PPT, which includes the New School staff and the Parent. [Testimony Dr. Vespe, Ms. Feldman] The average length of stay in the New School program is a year and a half to two years. To the extent that the PPT recommends that the Student participate for part of the day in the mainstream educational program at his home school, the New School is equipped to facilitate a transition or partial transition to a less restrictive setting. [Testimony Ms. Feldman]

CONCLUSIONS OF LAW:

1. The Student is eligible for special education and related services as set forth in the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401, et seq.
2. The Board has the burden of proving the appropriateness of the Student's program and placement, which burden shall be met by a preponderance of the evidence. Conn. Agencies Regs. Sec.10-76h-14.
3. Some of the Parent's claims relate to the time period prior to October 13, 2002, more than two years prior to filing this request for hearing. These claims relate to allegations of child find violations for failure to immediately refer the Student for evaluation and placement in special education upon enrollment at the Board schools based on the Parent's checking off of the special education and remedial services section on the enrollment form. The Parent also claims that the Board failed to provide the Student a free appropriate public education by allegedly improperly excluding the Student from school until September 20, and failing to provide a free health assessment to the child.
4. As to the latter claim, notwithstanding that the failure to provide a free health assessment, and the allegations of exclusion of the child from the Board schools relate to a time period of more than two years prior to the filing of the request for hearing, these issues are not properly before this hearing officer. The application of policies regarding residency and compliance with the state requirement of proof of immunization and physical examination to the Student is not an issue involving identification, evaluation or placement, or the provision of a free appropriate public education to the Student. Therefore, notwithstanding that the claims as barred by the statute of limitations, there is no jurisdiction for these claims in this hearing.
5. The Connecticut General Statutes provide that: "A party shall have two years to request a hearing from the time the board of education proposed or refused to initiate or change the identification, evaluation or educational placement or the provision of a free appropriate public education placement to such child or pupil provided, if such parent, guardian, pupil or surrogate parent is not given notice of the procedural safeguards . . . such two-year limitation shall be calculated from the time notice of the safeguards is properly given. C.G.S. Sec. 10-76h(3) To the

extent that the Parent seeks to raise any claims relating back to the period between August 2002 and October 13, 2002, such claims are more than two years old and are barred by the applicable statute of limitations.

6. To the extent that the Parent now claims that the two year statute of limitations should not be applied in this case because the Parent was not provided with copies of procedural safeguards, such a claim is factually incorrect. Records provided as Parent exhibits in this case establish that the Student was identified as a child requiring special education services by the Bridgeport Public Schools, and that the Parent was provided with copies of her procedural safeguards on several occasions prior to her move to Florida and her subsequent move to Stratford. It is clear that the Parent had notice of her procedural safeguards, and the Parent provided no testimony or exhibits to refute this conclusion. The record is clear that the Parent was provided with copies of her procedural safeguards on at least two occasions prior to October 13, 2002, through receipt of the procedural safeguards from Bridgeport schools on May 27, 1999, and through the notice of a PPT meeting dated May 1, 2000. [Exhibits P-2, P-2.1] Given that the record was clear that the Parent did receive copies of her procedural safeguards in special education prior to coming to the Board schools, there is no reason not to apply the two year statute of limitations to bar the Parent's allegations relating back to September and October 2002.
7. The claim that remains to be decided on their merits is whether the Student has been provided with a free appropriate public education from October 13, 2002 through the current school year 2004-2005.
8. The standard for determining whether a Board has provided a free appropriate public education is set forth as a two-part inquiry in *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176 (1982). It must first be determined whether the Board complied with the procedural requirements of the Act. The second inquiry is a determination of whether the Individualized Educational Plan [IEP] is "reasonably calculated to enable the child to receive educational benefits." 458 U.S. at 206-207.
9. The requirement of a free appropriate public education is satisfied by "providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." *Board of Education v. Rowley*, 458 U.S. at 201 Such instruction and services must be provided at public expense, must meet the State's educational standards, must approximate the grade levels used in the State's regular education, and must comport with the child's IEP. *Board of Education v. Rowley*, 458 U.S. at 203
10. The IEP should be "reasonably calculated to enable the child to achieve passing marks and advance from grade to grade." *Hendrick Hudson v. Rowley* 458 U.S. at 204 When the child is being educated in the regular classrooms of a public school system, the achievement of passing marks and advancement from grade to grade

is one important factor in determining educational benefit. *Mrs. B. ex rel M.M. v. Milford Board of Education*, 103 F. 3d 1114, 1121 (2d Cir. 1997), citing *Board of Education v. Rowley, Id.* This standard, however, contemplates more than mere trivial advancement. *Id.*

11. In the 2002-2003 school year, the Board failed to properly evaluate the Student prior to drafting his IEP. Federal and state laws are quite clear that reevaluations must occur within three years of the date of the last evaluation. 34 C.F.R. 300.536(b); Regs. Conn. State Agencies Sec. 10-76d-9 Prior to entering the Board schools, the Student was evaluated by the Bridgeport Schools in 1998, and the last IEP from Bridgeport stated that the next reevaluation was to be conducted in May 2002. Neither party provided an IEP or evaluation from the Student's enrollment in the Florida school. Therefore, there is no evidence that the Student was evaluated since the last evaluation in Bridgeport, completed in 1998. The Board relies on the KTEA, which was not construed by Bridgeport as a triennial evaluation, but was an assessment of achievement.
12. Evaluations are completed to determine if the student has a disability, to gather information regarding the student's individual educational needs, and to include information needed to design the services and supports the student will need to learn in the general curriculum and regular education classes, and to help determine effective strategies for meeting those needs. 34 C.F.R. Sec. 300.532(b)(d) The Board did not conduct a full evaluation of the Student until May 2003, and did not have sufficient current information to develop the Student's IEP, to ensure that the IEP was reasonably calculated to enable the child to receive educational benefit.
13. While the Student had shown some progress according to the goals set forth in his IEP for the 2002-2003 school year, his IEP was not appropriately drafted after review of a comprehensive evaluation of the Student. Therefore, the Student's program was not appropriate from December 2002 to the conclusion of the 2002-2003 school year.
14. During the Student's seventh grade year, the Student required more services than were included in his IEP, according to the special education teacher. When the PPT convened in response to the teacher's concerns, the Student was merely provided 30 additional minutes of special education services. Moreover, in March 2004, when the members of the PPT agreed that additional hours were necessary for the Student, the implementation of the additional hour per week was deferred to the next school year. While the behavior intervention plan appeared to be of some assistance to the Student, it was only implemented for a few weeks prior to the student's suspension and expulsion. Moreover, it was drafted without conducting a functional behavior analysis of the Student, and was not referenced in the Student's behavior goals in his IEP. [Testimony Ms. Jutcawitz, Exhibit P-31] The Student did not appropriately progress in seventh grade, and was not able to obtain educational benefit.

15. Prior to the expulsion of the Student, the Board failed to convene the appropriate members for the manifestation determination review. The individuals who must carry out the review include, among others, the student's regular education teacher. 34 C.F.R. Sec. 300.344(a), 300.532(b) The team which convened to conduct the manifestation review did not include any of the Student's regular education teachers. The Board was aware of deficit, as the assistant principal initially signed in as "other", and crossed that out in order to sign in as regular education teacher.
16. Also in the manifestation review, the Board failed to develop an appropriate functional behavior assessment. The only evaluative data considered listed the Student's report card. Nevertheless, in a full review of the record, it is clear that based on all of the Student's evaluations, the behavior was not a manifestation of the Student's specific learning disability. Therefore, while the Board erred in the composition of the manifestation review and the conduct of the review itself, it is found that the Student was not denied a free appropriate public education in the Board's actions in the manifestation review. These procedural violations are not egregious and did not result in a loss of a free appropriate education.
17. The Board failed to provide the Student with a free appropriate public education *after* he was expelled from the Board schools for the duration of the 2003-2004 school year. A student who is expelled must be provided sufficient services necessary to permit the student to progress in the general curriculum and appropriately advance toward achieving the goals set out in his IEP. 34 C.F.R. Sec. 300.121(d)(3)(ii) The program provided by the Board was not reasonably calculated to enable the child to receive educational benefits. The tutor did not appropriately provide services, and the Student was not provided sufficient services necessary to permit the Student to progress in the general curriculum and appropriately advance toward achieving the goals set out in his IEP. Moreover, the PPT did not convene to consider the appropriate program for the Student; the Student was merely given the program that all expelled students received. The Student was not provided FAPE during the time of expulsion and is therefore entitled to compensatory education of additional tutorial sessions for the failure to provide FAPE during this period. The Board has offered 10 tutorial sessions. While it was appropriate for the Board to make an offer of additional tutorial sessions, the Student is entitled to additional sessions as his tutoring was found to be completely inappropriate. The Student is entitled to 70 hours of tutoring by an appropriately credentialed tutor selected by the Parent.
18. During the 2004-2005 year, the Student continued to progress poorly. His October 2004 progress report noted that he was in the D range in language arts. His achievement scores continue to show significant deficits in reading and written language. The Student was not provided an appropriate program during the 2004-2005 school year, until the time he was placed at the New School. His

- progress and achievement scores reflected that he was not obtaining educational benefit from the Board's program.
19. The program at the New School, which commenced in January 2005 is an appropriate program for the Student as he requires this intensive program to obtain educational benefit. All members of the PPT agreed that this is an appropriate program, although some of the Student's teachers testified that the Student could be educated at the middle school.
 20. IDEA's preference is for disabled children to be educated in the least restrictive environment capable of meeting their needs. *Walczak, supra*. IDEA sets forth a strong congressional preference for integrating children with disabilities in the regular classrooms. *Oberti v. Board of Education*, 995 F. 2d 1204 (3d Cir. 1993) School districts must evaluate whether a child with a disability can be educated in a regular classroom if provided with supplementary aids and services. *Oberti*, 995 F.2d at 1216, *Mavis v. Sobol*, 839 F. Supp. 968, 985-986. The Act's least restrictive environment requirement is met when the child with a disability is educated in the regular classroom, or when the child who cannot be fully included is mainstreamed to the "maximum extent possible." *Oberti*, 995 F. 2d at 1217 The Student is in need of intensive intervention that can be provided at the New School. The New School provides appropriate transition to the Board schools, and provides mainstreaming opportunities as the Student progresses in the program. Therefore, it is found that the New School program is an appropriate program for the Student.
 21. The Parent is seeking an award of compensatory education for the time that the Student was not provided an appropriate program. The Parent also seeks an award of compensatory education for alleged procedural violations. While compensatory education is not awarded as the procedural violations do not rise to the level of gross or egregious violations, the Student is entitled to compensatory education for the Board's failure to provide an appropriate program from December 2002 through school year 2004-2005, until the Student was placed at the New School. Appropriate relief is the relief designed to ensure that the Student is appropriately educated within the meaning of IDEA. *Parents of Student W. v. Puyallup School District no. 3*, 31 F. 3d 1489 (9th Cir. 1994)
"Relief designed to cure deprivations under 20 U.S.C. § 1412(2)(B) must accord with congressional intent. See *Burlington*, 471 U.S. at 370-371, 105 S. Ct. at 2003. In *Burlington*, the Supreme Court held that tuition reimbursement constitutes appropriate relief under the EHA because it "merely requires the Town to belatedly pay expenses that it should have paid all along and would have borne in the first instance had it developed a proper IEP." 471 U.S. at 370-371, 105 S. Ct. at 2003. Furthermore, tuition reimbursement addresses "[a] child's right to a free appropriate public education," and *satisfies the congressional intent to provide relief which remedies the deprivation of that right*. *Burlington*, 471 U.S. at 370, 105 S. Ct. at 2003, (emphasis in original). *Miener v. State of Missouri*, 800 F.2d 749 (8th Cir. 1986) extended this

rationale to compensatory education, adding that the School District "should [not] escape liability for [educational] services simply because [the parent] was unable to provide them in the first instance. . . . We are confident that Congress did not intend the child's entitlement to a free education to turn upon her parent's ability to 'front' its costs." *Miener*, 800 F.2d at 753. The *Miener* court reasoned that compensatory education, like tuition reimbursement, cures the deprivation of a handicapped child's statutory rights, thus providing a remedy which Congress intended to make available. 800 F.2d at 753; accord *Burr v. Ambach*, 863 F.2d 1071, 1078 (2d Cir. 1988), vacated and remanded on other grounds sub nom. *Sobol v. Burr*, ___ U.S. ___, 109 S. Ct. 3209 (1989), reaff'd, 888 F.2d 258 (2d Cir. 1989), cert. denied, ___ U.S. ___, 110 S. Ct. 1298 (1990) ("We do not believe that Congress intended to provide a right without a remedy"); *Jefferson County Bd. of Educ. v. Breen*, 853 F.2d 853, 857-58 (11th Cir. 1988) (both remedies necessary "to preserve a handicapped child's right to a free education.") *Miener* also noted that compensatory education satisfies Congress' intent to channel available resources to programs benefiting the handicapped. 800 F.2d at 753, citing *Smith v. Robinson*, 468 U.S. 992, 1020, 104 S. Ct. 3457, 3474, quoting 121 Cong.Rec. 19501 (1975)" *Lester H. v. Thomas Gillhood*, 916 F. 2d 865 (3rd Cir. 1990)

22. As the Student was not provided FAPE from December 2002 through school year 2004-2005, the Student shall be placed at the New School through June 2006 as compensatory education, at which time the PPT shall reconvene to review the Student's placement. This placement at the New School shall also include opportunities for mainstreaming in classes in the Board schools, as determined by the New School staff. It is noted that the Board acted commendably in providing this placement during the pendency of this action.
23. The Student shall further be provided 70 hours of tutoring, as the tutoring provided to the Student during the time of his expulsion was not an appropriate program.
24. The Board has now appropriately provided all documents to the Parent's attorney that are within its possession. The Parent has failed to establish that the Board's failure to provide copies of the educational records to the Parent's counsel in an expeditious manner compromised the Parent's ability to meaningfully participate in the PPT process and/or affected the provision of a free appropriate public education to the Student. Therefore there is no finding that the Board failed to provide a complete copy of the Student's educational records.²

² The agency with jurisdiction to consider and resolve Family Educational Rights and Privacy Act [FERPA] related issues is the Family Privacy Compliance Office [FPCO] of the U.S. Department of Education. 20 U.S.C. Sec. 1232g(g); 34 C.F.R. Sec. 99.63-99.67 The FPCO has established specific procedures for the filing, investigation and resolution of FERPA complaints. See C.F.R. Sec. 99.63-99.67 Given that the Parent cannot establish that the Board's failure to provide copies of the Student's educational records to her attorney in an expeditious manner compromised the Parent's ability to meaningfully participate in the PPT process and/or the provision of a FAPE to the Student, the FPCO is the

25. The Parent has made requests for systemic relief against the Board. No such relief can be awarded in this action. The Connecticut General Statutes set forth the types of relief a hearing officer may grant through due process procedures: “The hearing officer . . . shall have the authority to confirm, modify or reject the identification, evaluation or educational placement of or the provision of a free appropriate public education *to the child or pupil* . . . or to prescribe alternate special educational programs *for the child or pupil*. Conn. General Statutes. Sec. 10-76h(d)(1) The statutes are clear that hearing officers have the authority to grant relief with regard to the specific child whose program is the subject of the due process proceedings, and do not have the authority to grant systemic relief or relief otherwise not directly related to the specific program of the child, whose program is the subject of the proceedings.
26. The issue regarding the evaluation is no longer pending in this case, as the parties have resolved that issue. Nevertheless, in light of the consistent issues noted about the Student, in his lack of attention and organization, and behavioral issues, it is suggested that the PPT convene to consider administering the BASC or other similar behavioral assessment to the Student, with reports from the Student’s teachers and Parent to assist in providing services to the Student.

FINAL DECISION AND ORDER:

1. The Board failed to provide a free appropriate public education to the Student from the fall 2002 through the January 2005, at which time the Student was appropriately placed at the New School.
2. The Student is entitled to compensatory education, which shall include placement at the New School through June 2006 and provision of 70 hours of tutoring by an appropriately credentialed tutor selected by the Parent.

COMMENT ON THE CONDUCT OF THE PROCEEDINGS:

Pursuant to Conn. General Statutes 10-76h(d)(1), the Hearing Officer hereby comments on the conduct of the proceedings. The Parent’s attorney presented a case that was unduly prolonged by unnecessary arguments and testimony regarding issues that were part of the complaint process, involved receipt of documents, and involved issues that are not appropriately before this hearing such as a claim that the Board failed to offer the Student a free health assessment. Some of the testimony could have been streamlined if the Parent had testified as to some of the facts that the Parent’s attorney unsuccessfully attempted to elicit from other sources. While the Parent’s attorney was provided substantial latitude in presenting the Student’s case, the matter, including the subsequent briefing of the case should have been more succinct, and needlessly included tangential and immaterial evidence.

proper forum in which the Parent should file if she is concerned regarding potential violations of FERPA as to her right to access the Student’s educational records.