

ILLINOIS STATE BOARD OF EDUCATION  
IMPARTIAL DUE PROCESS HEARING

SEP 27 2017

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Student, a minor by and through  
her Parents<sup>1</sup>

v.

Case No. 2017-0471

District<sup>2</sup>

Leah Trinkala  
Impartial Hearing Officer

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**FINAL DETERMINATION AND ORDER**

**JURISDICTION.**

The undersigned has jurisdiction over this matter pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S. C. §1400 et seq. and the Illinois School Code, 105 ILCS 5/148.02a et.seq.

**PROCEDURAL BACKGROUND.**

The Petitioners are the parents (Parents) of a fifteen year old daughter (Student) with a disability. On June 7, 2017, the Parents filed a due process complaint (Complaint) against the District.<sup>3</sup> The Complaint arose over a dispute concerning the appropriate times the homebound services should be provided to the Student. The Parents are represented by [REDACTED] and [REDACTED] of [REDACTED]. The District is represented by [REDACTED] and [REDACTED], attorneys for [REDACTED]. On June 7, 2017, the Illinois State Board of Education (ISBE) appointed the undersigned as the Independent Hearing Officer (IHO) in this

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<sup>1</sup> Personally identifiable information is found in Appendix A

<sup>2</sup> Personally identifiable information is found in Appendix A

<sup>3</sup> IHO Ex. 1

case.<sup>4</sup> On June 8, 2017, the undersigned issued a Preliminary, Order, Rights of Parties, Hearing Process Guidelines and a Standing Order.<sup>5</sup> Then, on June 12, 017, the District filed its response to the Complaint.<sup>6</sup>

The first telephonic status conference call occurred on June 16, 2017. Dates were agreed upon for the Prehearing Conference and the hearing.<sup>7</sup> The hearing dates were set for August 30, 2017 and August 31, 2017 due to the unavailability of the District's witnesses. The Prehearing Conference was set for August 10, 2017. A continuance order was issued to extend the 45-day timeline due to scheduling conflicts.<sup>8</sup> Then, on June 19, 2017, the parties waived the resolution meeting because the parties believed settlement would not be a possibility due to the District's guidelines on homebound services.

A second telephonic status conference call occurred on June 23, 2017 because the Parents requested earlier hearing dates. The hearing dates were changed to August 7, 2017 and August 8, 2017 and the Prehearing Conference was rescheduled for July 3, 2017.<sup>9</sup> The Notice of the Prehearing conference was issued on June 24, 2017.<sup>10</sup> The Prehearing Disclosures from the parties were received on June 30, 2017.<sup>11</sup> On July 11, 2017, the parties requested a continuance of the hearing dates because the Parents' Counsel had a conflict with the hearing dates which could not be rescheduled. A continuance order was issued and the hearing dates were changed to August 7, 2017 and August 10, 2017.<sup>12</sup>

A third telephonic status conference call occurred on July 20, 2017. The District indicated 18 witnesses were either not available for the scheduled hearing or had not confirmed their availability. The parties jointly agreed to reschedule the hearing dates. The hearing dates were rescheduled for September 12, 2017 and September 13, 2017 and a continuance order was granted extending the decision due date to September 23, 2017.<sup>13</sup>

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<sup>4</sup> IHO Ex. 2

<sup>5</sup> IHO Ex. 3

<sup>6</sup> IHO Ex. 4

<sup>7</sup> IHO Ex. 9

<sup>8</sup> IHO Ex. 7

<sup>9</sup> IHO Ex. 11

<sup>10</sup> IHO Ex. 12

<sup>11</sup> IHO Ex. 13 and 14

<sup>12</sup> IHO Ex. 18

<sup>13</sup> IHO Ex. 19

On August 7, 2017, the Parents' Counsel, as instructed at the Prehearing Conference, requested the issuance of five subpoenas for five experts to testify.<sup>14</sup> The subpoenas were signed and were issued on August 9, 2017.<sup>15</sup>

On September 5, 2017, a fourth telephonic status call took place to discuss the necessity to have a third hearing date. The parties were instructed to discuss stipulations in order to reduce the witness list instead of adding a third hearing date.<sup>16</sup> A follow up telephonic status call occurred on September 7, 2017 and the parties indicated a third hearing date was needed and the parties could not agree upon any stipulations. The third hearing date was set for September 14, 2017.<sup>17</sup> Later an email was received that the parties agreed to keep the original two hearing dates of September 12, 2017 and September 13, 2017.<sup>18</sup> The parties also agreed to change the hearing location to the high school<sup>19</sup>

The hearing took place on September 12, 2017 and September 13, 2017 at the high school. The parties provided the exhibit books to the IHO on September 8, 2017. On the first day of the hearing, the District called six witnesses and the Parents called one witness.<sup>20</sup> On the second hearing date, the Parents called three witnesses and the District called three witnesses.<sup>21</sup>

The District admitted the following exhibits into the record: R1 - R1-26, R, 3-1- R3-2, , R 5-1 - R.5, R 11-1 - R 11-11, R 12-1 - R12-5, R 17-1 - R17, R 18-1 - R18-65, R 22-1 - R 22-47, R 33-1, R 37-1 , R 41-1 - R 41-55, R 51-1 - R 51-8., R 55-1, R 67-1 - R 67-63, R 69-1 - R 69-4, R 73-1 - R 73-2, R 82-1 - R 82-9, R 84-1 - R 84-26 , and R 85-1 - R 85-2.

The Parents admitted the following exhibits into the record: P 49-1 - P 49-4, P 50-1 -P 50-9, P 51-1 - P 51-15, P 52-1, P 53-1 - P 53-3, P 54-1 - P 54-2, and P 55-1 - P 55-50.

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<sup>14</sup> IHO Ex. 21

<sup>15</sup> IHO Ex. 23

<sup>16</sup> IHO Ex. 28

<sup>17</sup> IHO Ex. 33

<sup>18</sup> IHO Ex. 31

<sup>19</sup> IHO Ex. 30 & 33. Personally identifiable information is in Appendix A

<sup>20</sup> Personally identifiable information is in Appendix A

<sup>21</sup> Personally identifiable information is in Appendix A

The IHO's exhibits are IHO 1-36. The parties provided courtesy copies of their case law and regulations to the IHO.

The decision of the IHO is due within 10 days of the conclusion of the hearing.<sup>22</sup> As such, the IHO did not have the benefit of a transcript and one was not needed. This decision is based on the IHO's copious personal notes and recollection of the testimony provided at the hearing. In rendering this decision, the IHO considered all the documents admitted into evidence, the testimony of the witnesses, the parties' closing arguments, the parties' suggested case law and statutes, as well as the IHO's own independent research. This decision was issued within ten days of the conclusion of the hearing as required by Illinois law.<sup>23</sup>

### **ISSUES AND REQUESTED REMEDIES**

The issues to be determined are as follows:

1. Whether the District allegedly failed to provide specially designed instruction to allow the Student to participate in the general education curriculum since the District allegedly refused to provide homebound tutoring outside the hours of 4 p.m. to 6 p.m. which allegedly resulted in the denial of a free and appropriate education (FAPE) to the Student for the years of 2016-2017 and 2017-2018 and for the extended school year for 2016 and 2017?
2. Whether the District allegedly failed to provide an IEP and services that are appropriate in light of the Student's circumstances and allegedly failed to offer instruction specifically designed to meet the Student's unique needs in order to transition from eighth grade to high school and enable the Student to progress from grade to grade in high school?

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<sup>22</sup> 105 ILCS 5/14-8.02a(g55)(5)

<sup>23</sup> 105 ILCS 5/14-8.02a(g55)(5)

3. Whether the Student is owed compensatory educational services in the form of tutoring as the result of the alleged failure to provide an individualized education plan for the Student and if so how much compensatory education the Student is entitled to receive?

The Parents' remedies are as follows:

1. Order the District to provide compensatory education for the failure to provide home bound tutoring for the 2016-2017 school year and extended school.
2. Order the District to provide home bound instruction as needed for the Student for the extended school year of 2016 and 2017 and for the upcoming school year of at least fifteen hours per week to be provided during the school day.
3. Order the District to be flexible in scheduling those hours when the Student is too ill to benefit from instruction and not penalize the Student by reducing the number of available hours.
4. Any and all other relief the hearing officer deems appropriate.

### **BURDEN OF PROOF**

The Parents must prove their case by the preponderance of the evidence.<sup>24</sup> The District also has a statutory duty under the Illinois School Code to present evidence that the District appropriately identified the Student's special education needs and proposed a special education program and related services to adequately and appropriately meet the Student's needs.<sup>25</sup>

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<sup>24</sup> Schaffer ex rel Schaffer v. Weast, 546 U.S. 49, 44 IDELR 150 (2005)

<sup>25</sup> 105 ILCS 5/14-8.02a(g-55).

## FINDINGS OF FACT.

After considering all of the evidence as well as the arguments of the parties, the IHO's Findings of Fact are as follows:

### **A. The Student's Medical History.**

1. The Student is currently 15 years old and is eligible for special education and related services due to an Other Health Impairment, Emotional Disability and Specific Learning Disability.<sup>26</sup> The Student was diagnosed with Cyclical Vomiting Syndrome (CVS) in 2010.<sup>27</sup> The CVS was well controlled in the beginning and limited to one hospitalization a year for three to four days. Before CVS occurs, the Student gets more anxious, headaches and is exhausted.<sup>28</sup> The Student has now also developed a chronic complex regional pain syndrome where her color changes, the veins can be seen, and the condition is painful.<sup>29</sup> Due to the severity of the CVS, the Student has been out of school for approximately two years and as a result the Student repeated the 8<sup>th</sup> grade.<sup>30</sup>
  
2. In addition, the Student suffers from a generalized anxiety disorder and status migrainous.<sup>31</sup> Status migrainous is a condition where a migraine continues for more than 72 hours.<sup>32</sup> This condition affects the Student's emotion functioning because of the headaches and vomiting.<sup>33</sup> The Student also has a mood disorder known as sun downing.<sup>34</sup> Sun downing causes the Student to be angry and manifests itself later in the day.<sup>35</sup> The recommended treatment included activities that temper the Student's mood and relieve anxiety.<sup>36</sup> This disorder

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<sup>26</sup> R 67-1

<sup>27</sup> Testimony of the Parent

<sup>28</sup> Testimony of Parent

<sup>29</sup> Testimony of Parent

<sup>30</sup> Testimony of Parent and Case Manager 2R 22-43.

<sup>31</sup> Testimony of Pediatric Gastroenterologist, Clinical Psychologist 2, and Physician

<sup>32</sup> Testimony of Pediatric Gastroenterologist

<sup>33</sup> Testimony of Pediatric Gastroenterologist

<sup>34</sup> Testimony of Physician

<sup>35</sup> Testimony of Physician

<sup>36</sup> Testimony of Physician

makes it harder for the Student to stay in control of her anger and anxiety and harder to focus.<sup>37</sup> Moreover, the condition makes it physically difficult for the Student to attend school all day and maintain her attention.<sup>38</sup> The Student is unable to attend school.<sup>39</sup> The testimony provided from the Parent, Special Education 1 and Clinical Psychologist 2 collaborated the Student's diagnosis.

3. Clinical Psychologist 2 has been treating the Student since the fall of 2012 in order to work on the Student's anxiety, social skills and family issues.<sup>40</sup> In the Clinical Psychologist 2's opinion, the Student is unable to go to school due to the diagnosis of CVS.<sup>41</sup> The Student demonstrates anxiety at school and in social situations and exhibits inappropriate social responses.<sup>42</sup> The Student, during an interview for the District's testing, explained she only has one friend at school who is a year younger than her.<sup>43</sup> Special Education Teacher 1 observed the Student having anxiety at school by having difficulty partnering up with the other children.<sup>44</sup>
4. The Student requires extra-curricular activities to improve her social skills, to work on her inappropriate social responses and to improve her anxiety and mood stability.<sup>45</sup> The Physician had prescribed outdoor activities for the Student and the Special Education Teacher 1 also encouraged the Student to get involved in activities after school to work on her social skills.<sup>46</sup> The Student was involved in an afterschool project to work on the sets for plays.<sup>47</sup> The Student has made progress with her social skills because the Student is now involved in extra-

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<sup>37</sup> Testimony of Physician

<sup>38</sup> Testimony of Physician

<sup>39</sup> Testimony of Physician

<sup>40</sup> P 50-1 – P 50-9R 11-7

<sup>41</sup> Testimony of Clinical Psychologist 2

<sup>42</sup> Testimony of Clinical Psychologist 2

<sup>43</sup> R 11-3

<sup>44</sup> Testimony of Special Education Teacher 1

<sup>45</sup> Testimony of Clinical Psychologist 2 and Physician

<sup>46</sup> Testimony of Physician & Special Education Teacher 1

<sup>47</sup> Testimony of Special Education Teacher 1

curricular activities such as dance, yoga, cheerleading and has made some friends.<sup>48</sup> The progress has been seen in counseling sessions and by the Parent.<sup>49</sup>

5. Late afternoon/early evening activities were difficult for the Student as demonstrated in the counseling sessions. The Student participates in counseling sessions between the hours of 4 and 5 pm and sometimes was not as engaged and was tired.<sup>50</sup> Some sessions ended early due to the Student's headaches and nauseous.<sup>51</sup> When the Student was feeling sick during the sessions, there was nothing to do to keep the Student engaged in the counseling sessions.<sup>52</sup> The Student participates in dance and other afterschool activities and is not consistently able to engage in the entire session.<sup>53</sup>
6. The District's testing collaborates the Student suffers from anxiety and somatization and that these conditions as well as depression, manifest themselves and are observable in the classroom resulting in trips to the school nurse.<sup>54</sup> Moreover, the District's testing exemplified that the Student has significant issues with emotional self control and has a tendency to become easily upset, frustrated or angered in response to stressful situations and environmental changes.<sup>55</sup> The lack of emotional self control has also manifested itself during the District's testing when the Student started crying during the testing completed in the home.<sup>56</sup>
7. Due to illness and hospitalizations, the Student missed 81.50 days out of 191 attendance days for the 2015-2016 school year and for the 2016-2017 school year as of March 13 2017, the student was absent 104.50 days out of 116 school days.<sup>57</sup>

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<sup>48</sup> Testimony of Clinical Psychologist 2 & Parent

<sup>49</sup> Testimony of Clinical Psychologist 2& Parent

<sup>50</sup> Testimony of Clinical Psychologist 2

<sup>51</sup> Testimony of Clinical Psychologist 2

<sup>52</sup> Testimony of Clinical Psychologist 2

<sup>53</sup> Testimony of the Parent

<sup>54</sup> R 11-6 to R 11-7

<sup>55</sup> R 51-6 R 11-9

<sup>56</sup> Testimony of Psychologist 1

<sup>57</sup> R 51-1



The Student had long term hospitalizations from October 31, 2016 to November 24, 2016 and then approximately 11 weeks from April, 2017 to May 2017.<sup>58</sup>

### **B. The District's Homebound Services Program/Policy.**

1. The [REDACTED] has the Home and Hospital Instruction Program (HHIP) through the Office of [REDACTED]s ([REDACTED]).<sup>59</sup> HHIP provides students with access to continuous instruction when the instruction is interrupted due to a medical or psychiatric condition.<sup>60</sup> The instruction is provided by a certified teacher.<sup>61</sup>
2. The primary outcome of HHIP is to "maintain a student at the student's former level of performance while recovering from the temporary diagnosis so as not to jeopardize the student's future performance upon returning to a full day of classroom instruction.<sup>62</sup> The HIPP results are to ensure the students are "prepared to return to a full day of classroom instruction at their former level of performance."<sup>63</sup>
3. A medical referral is required every one to three months depending on the child's medical condition.<sup>64</sup> The parent or doctor is obligated to provide a diagnosis and clear statement explaining the impact of the diagnosis on the child to attend school.<sup>65</sup> Homebound students receive 1/2 day of school attendance credit on the days instruction is provided at the home or in the hospital.<sup>66</sup>

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<sup>58</sup> Testimony of Parent

<sup>59</sup> R 84-1

<sup>60</sup> R 84-6

<sup>61</sup> R 84-6

<sup>62</sup> R. 84-7

<sup>63</sup> R. 84-7

<sup>64</sup> R 84-24.

<sup>65</sup> Testimony of Manager of HHIP

<sup>66</sup> R 84-24

4. The homebound teacher is required to have an Lbs1 certification and teaching certificate and be currently staffed in a teaching position with the District.<sup>67</sup> The homebound teachers must be on staff because they are paid out of the extended day budget.<sup>68</sup> The teachers volunteer for this assignment and they are paid overtime.<sup>69</sup>
  
5. The homebound instruction is only provided after regular school hours and must end before 7 p.m. due to the safety of the tutor.<sup>70</sup> HHIP only provides for one hour of instruction based on a regular five day school week.<sup>71</sup> The parent must be present and the services are provided in the parent's home.<sup>72</sup> The approved teacher provides one hour of instruction based upon an agreed educational plan. The instructors are only available after school hours because they provide instruction in school during the day.<sup>73</sup> If instruction provided before school, the instruction would have to be at 6 a.m. in the morning.<sup>74</sup> No makeup homebound sessions offered because this is a temporary program.<sup>75</sup>
  
6. The instruction is provided and based upon a plan developed by a team consisting of a homebound coordinator, the school nurse, the classroom teacher, the homebound teacher and the parent.<sup>76</sup> The team is tasked with reviewing and discussing documents to determine the tutoring to be provided, the subject areas to be covered and if modifying grading will be used.<sup>77</sup> The team then develops a plan for instruction.<sup>78</sup> This plan does not take into account the IEP and the plan does not include related services unless the team determines the related services are necessary for the student to access the homebound instruction.<sup>79</sup>

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<sup>67</sup> Testimony of Manager of HHIP

<sup>68</sup> Testimony of Manager of HHIP

<sup>69</sup> Testimony of Manager of HHIP

<sup>70</sup> Testimony of Manager of HHIP and R 85-1

<sup>71</sup> R 85-1

<sup>72</sup> Testimony of Manager of HHIP

<sup>73</sup> Testimony of Manager of HHIP

<sup>74</sup> Testimony of Manager of HHIP

<sup>75</sup> Testimony of Manager of HHIP and R 85-2

<sup>76</sup> Testimony of Manager of HHIP

<sup>77</sup> Testimony of Manager of HHIP

<sup>78</sup> Testimony of Manager of HHIP

<sup>79</sup> Testimony of Manager of HHIP

7. The Manager of HIPP received requests from the elementary school for homebound services.<sup>80</sup> The Student was approved for homebound services from September 7, 2016 to December 23, 2016.<sup>81</sup> The Special Education Teacher 1 was the approved provider of the homebound services.<sup>82</sup> Services were approved for the 2016-2017 year school year and the 2017-2018 school year.<sup>83</sup> The Student was hospitalized during the 2016-2017 school year and received some services while hospitalized.<sup>84</sup> There were no makeup homebound sessions because this is a temporary program.<sup>85</sup>

### **C. The Student's IEPS.**

1. The May 20, 2016 IEP corroborates the homebound services were not implemented consistently during the 2015-2016 school year due to the Student's ongoing illness and demonstrates the IEP goals had not been met.<sup>86</sup> The IEP team agreed to increase the direct service minutes since the Student was functioning significantly below grade level.<sup>87</sup> The IEP and the Parent agreed to have the Student repeat the 8<sup>th</sup> grade.<sup>88</sup> The IEP team, however, denied extended school year (ESY) services for the Student despite the Student missing so much school.<sup>89</sup> The May 20, 2016 IEP had the least restrictive environment in a general education setting and had not changed the least restrictive environment to home/hospital setting.<sup>90</sup>

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<sup>80</sup> Personally identifiable information is found in Appendix A. Testimony of Manager of HHIP

<sup>81</sup> R 33-1

<sup>82</sup> Testimony of Manager of HHIP

<sup>83</sup> Testimony of Manager of HHIP

<sup>84</sup> Testimony of Manager of HHIP

<sup>85</sup> Testimony of Manager of HHIP and R 85-2

<sup>86</sup> R 22-43, R 22-8

<sup>87</sup> R 22-8 – R 22-9

<sup>88</sup> R 22-43

<sup>89</sup> R 22-39

<sup>90</sup> R 22-37

2. Another IEP meeting was held on December 8, 2016.<sup>91</sup> Per the IEP, the Student was not in school throughout the year due to illness.<sup>92</sup> The Student was hospitalized for 30 days from October 31, 2015 to May 3, 2016.<sup>93</sup> This IEP did not modify the placement to a home/hospital setting and did not include the homebound services being offered.<sup>94</sup> Despite the failure to attend school, the IEP team found the Student not eligible for ESY services.<sup>95</sup>
3. On March 16, 2017, the Student was found eligible for special educational services under an additional category of Emotional Disability.<sup>96</sup> This corroborates the testimony provided by the Pediatric Gastroenterologist, the Clinical Psychologist 2 and the Psychologist 1 that the Student has difficulty controlling her emotions.
4. Additional meetings were held on March 22, 2017 and May 3, 2017 due to the Parent's concerns regarding the homebound services not meeting the Student's needs.<sup>97</sup> This IEP indicates the Student has not attended school for the 2016-2017 school year due to illness and has not received any speech/language therapy since November 24, 2015.<sup>9899</sup> For the first time, this IEP finally included the hours for the homebound instruction to reflect 1.5 hours of homebound instruction.<sup>100</sup>
5. The IEP was finally revised in May 2017 to reflect a fully homebound setting.<sup>101</sup> This revision to the 2016-2017 school year did not take place until the 2016-2017 school was almost over. None of the other IEPs have provided for a full home setting despite the Student missing two years of school in the school setting. The IEP also finally recommended ESY services for the Student.<sup>102</sup>

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<sup>91</sup> R 41-1

<sup>92</sup> R 41-7

<sup>93</sup> R 41- 9

<sup>94</sup> R 41-44 – R 41-45.

<sup>95</sup> R 41-50

<sup>96</sup> Testimony of Psychologist 1 & R 67-3

<sup>97</sup> R 67-3

<sup>98</sup> R 67-10.

<sup>99</sup> R 67-8

<sup>100</sup> R 67-49

<sup>101</sup> Testimony of Case Manager 3, R 67-49

<sup>102</sup> R 67-59

#### **D. Tutoring Services Provided and the Student's progress.**

1. The Student initially received intermittent homebound services and then was approved for homebound services from September 2016 through the 2017-2018 school year.<sup>103</sup> The homebound tutoring provided in the home was not provided on a consistent basis due to scheduling conflicts and the Student's illness.<sup>104</sup> The Special Education Teacher 1 was only paid for 9 to 12 sessions for the 2015-2016 school year and has not been at the household since March 2017.<sup>105</sup> The Special Education Teacher 1 worked with the Parents to try to get a schedule to work and indicated they were receptive when the Student was healthy.<sup>106</sup> In the Special Education Teacher 1's opinion, the Student is performing below grade level and required specific remediation.<sup>107</sup>
2. The one hour tutoring services provided in the hospital and during the day were provided on a more consistent basis. The Homebound Instructor 1 provided the tutoring services to the Student at the hospital for four times from February 16, 2016 to May 9, 2016.<sup>108</sup> Then, the Homebound Instructor 1 provided 35 sessions in the hospital for the 2016-2017 school year.<sup>109</sup> The Student was alert for these tutoring sessions because the Homebound Instructor 1 found the Student was able to participate in the hospital sessions and they only ended early due to dizziness or nausea.<sup>110</sup>
3. Based on the Homebound Instructor 1's knowledge of the Student, the Student is functioning at about a two year delay in math and was working on 6<sup>th</sup> grade math during the hospital sessions.<sup>111</sup> In reading, the Student's decoding skills and

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<sup>103</sup> Testimony of Manager of HHIP

<sup>104</sup> Testimony of Special Education Teacher 1

<sup>105</sup> Testimony of Special Education Teacher 1

<sup>106</sup> Testimony of Special Education Teacher 1

<sup>107</sup> Testimony of Special Education Teacher 1

<sup>108</sup> Testimony of Homebound Instructor 1 and R 82-1 – R82-8

<sup>109</sup> Testimony of Homebound Instructor 1 and R 82-1 – R82-8

<sup>110</sup> Testimony of Homebound Instructor 1

<sup>111</sup> Testimony of Homebound Instructor 1

fluency are good.<sup>112</sup> The Student is currently at a 6<sup>th</sup> or 7<sup>th</sup> grade level.<sup>113</sup> Deficits exist since the Student has missed so much school due to her illness.<sup>114</sup>

4. For the regular school year of 2016-2017, Homebound Instructor 2 provided the Student with 14 days of homebound services.<sup>115</sup> Homebound Instructor 2 was late for four of these sessions and some of these sessions ended early at 4:50 p.m. because the student had a dance class. For five sessions, the tutoring sessions were only for 30 minutes.<sup>116</sup> Homebound Instructor 2 found the Student was lethargic for some of the sessions and sometimes her stomach bothered her.<sup>117</sup>
5. The Director of Instructional Quality and the Chief Officer of [REDACTED] agreed to provide the Student with 1.5 hours of ESY homebound support for the Student during the summer of 2017 and would be provided Monday through Thursday.<sup>118</sup> The ESY services were not provided until after the Parent had repeatedly followed up regarding her request for two hours per day.<sup>119</sup>
6. The Homebound Instructor 2 provided the ESY instruction consistently for the 2016-2017 school year.<sup>120</sup> The ESY services were provided from 9 am to 10:30 am in the morning and 20 sessions were conducted.<sup>121</sup> Two sessions were missed due to the Parents taking the Student on a vacation.<sup>122</sup> In the Homebound Instructor 2's opinion, the Student was more alert in the mornings than in the afternoons.<sup>123</sup>
7. During the ESY, the Homebound Instructor 2 worked on the Student's IEP and worked on reading math and English.<sup>124</sup> In the Homebound Instructor 2's

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<sup>112</sup> Testimony of Homebound Instructor 1

<sup>113</sup> Testimony of Homebound Instructor 1

<sup>114</sup> Testimony of Homebound Instructor 1

<sup>115</sup> R. 82-9 and P 54-1 – P 54-2

<sup>116</sup> P 54-1

<sup>117</sup> Testimony of Homebound Instructor 2

<sup>118</sup> Testimony of Manager of HHIP and P 55-1

<sup>119</sup> P 55-9, P 55-13 – P 55-15

<sup>120</sup> Testimony of Homebound Instructor 2

<sup>121</sup> P 53-3

<sup>122</sup> Testimony of Homebound Instructor 2 P 53-3

<sup>123</sup> Testimony of Homebound Instructor 2

<sup>124</sup> Testimony of Homebound Instructor 2

opinion, the Student is at 6<sup>th</sup> grade reading level.<sup>125</sup> Writing is at a 3<sup>rd</sup> grade, math is at 4<sup>th</sup> grade and science and social studies are at a 5<sup>th</sup> or 6<sup>th</sup> grade level.<sup>126</sup>

8. Two hours of homebound services were approved for the 2017-2018 school year.<sup>127</sup> Special Education Teacher 2 and Special Education Teacher 3 are the assigned instructors. No services have been provided yet for the 2017-2018 school year. Three sessions were cancelled by the Parent due to the cub game day traffic, a scheduled class for the Student and a counseling session.<sup>128</sup>
9. The Parent has requested the tutoring sessions be held earlier in the day when the Student is more alert and has more mental stamina.<sup>129</sup> The Parent also wants the tutoring sessions held earlier due to the Student's extra-curricular activities which occur at 5 p.m. or 5:30 p.m. and the family has counseling on Mondays at 4:00 pm.<sup>130</sup>

### **CONCLUSIONS OF LAW AND DISCUSSION OF THE ISSUES**

Based upon the above Findings of Fact, the arguments and suggested legal authority provide by counsels, as well as the undersigned's own legal research, the undersigned's Conclusion of Law and Discussion of Issues is as follows:

A school district must provide children with disabilities with a free appropriate public education ("FAPE") and to the "maximum extent appropriate with nondisabled children."<sup>131</sup> Children with disabilities shall only be removed from the regular educational environment "when the nature or the severity of the disability is such that the education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."<sup>132</sup> IDEA creates a strong preference in favor of

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<sup>125</sup> Testimony of Homebound Instructor 2

<sup>126</sup> Testimony of Homebound Instructor 2

<sup>127</sup> Testimony of Special Education Teacher2, Manager of HIPP and the Parent

<sup>128</sup> Testimony of Parent

<sup>129</sup> Testimony of Parent

<sup>130</sup> Testimony of Parent

<sup>131</sup> *Beth B. v Van Clay*, 282 F.2d 493 (7<sup>th</sup> Cir.2002). See also, 20 U.S.C. {1412(a)(1) and 1412(a)(5)

<sup>132</sup> 20 U.S. C {1412(a)(5)

mainstreaming handicapped children by educating them in the least restrictive environment.<sup>133</sup>

A school district must provide a free education that is appropriate and tailored to their individual needs.<sup>134</sup> A free and appropriate education is one specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child to benefit from the instruction.<sup>135</sup> The Supreme Court in *Rowley* provided a twofold test.<sup>136</sup> The first determination is whether the State complied with the procedures set forth in the Act.<sup>137</sup> The second determination is whether the individualized educational program developed through the Act's procedures is reasonably calculated to enable the child to receive educational benefits. *Id.* For a procedural violation, the violations must have impeded the child's right to a FAPE, significantly impeded the parent's opportunity to participate in the decision-making process regarding the provisions of a FAPE to the child or caused a deprivation of educational benefits.<sup>138</sup>

The Supreme Court in *Endrews v. Douglas County School District* further clarified the standard previously provided in the *Rowley* case, and requires the school district to “offer an IEP reasonably calculated to enable the child to make progress appropriate in light of the child's circumstances” in order to meet the substantive obligations under the IDEA.<sup>139</sup> The school district must also offer instruction that is “specially designed to meet the child's unique needs through an individualized education program.<sup>140</sup> The IEP cannot be a form document but must be designed after considering the child's present levels of “achievement, disability and potential for growth.”<sup>141</sup>

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<sup>133</sup> *S. v. Reedsburg School District*, 302 F. Supp. 2d 959 (W.D. Wis. 2003)

<sup>134</sup> *Florence County School District Four v. Carter*, 126 L.Ed.2d 284, 114 S.Ct. 361, 365 (1993), *Bd. of Education of Murphysboro Comm. Unit Sch. Dist. No. 186 v. ISBE*, 41 F.3d 1162, 1166 (7<sup>th</sup> Cir. 1994); *Dell v. Bd. of Educ. Tp. High Sch. Dist. 113*

<sup>135</sup> *Murphysboro*, 41 F.3d at 1166 (quoting *Bd. of Educ. V. Rowley*, 458 U.S. 176, 188-89, 73 L.Ed.2d 690, 102 S.Ct. 3034 (1982)).

<sup>136</sup> *Bd. of Education v. Rowley*, 458 US 176 (1982)

<sup>137</sup> *Bd. of Education v. Rowley*, 458 US 176, 206-207 (1982), See also, *Beth B. v Van Clay*, 282 F.2d 493 (7<sup>th</sup> Cir.2002)

<sup>138</sup> 20 USC § 1415(f)(E)(ii)I-II)

<sup>139</sup> *Endrews v. Douglas County School District RE-1*, 580 U. S. \_\_\_\_ (2017)

<sup>140</sup> *Endrews v. Douglas County School District RE-1*, 580 U. S. \_\_\_\_ (2017)

<sup>141</sup> *Endrews v. Douglas County School District RE-1*, 580 U. S. \_\_\_\_ (2017)



- A. Whether the District allegedly failed to provide specially designed instruction to allow the Student to participate in the general education curriculum since the District allegedly refused to provide home bound tutoring outside the hours of 4 p.m. to 6 p.m. which allegedly resulted in the denial of a free and appropriate education (FAPE) to the Student for the years of 2016-2017 and 2017-2018 and for the extended school year for 2016 and 2017?

The federal regulations and the Illinois Administrative Code (Code) require the school district to provide a continuum of alternative places to meet the needs of the child with a disability for special education and related services.<sup>142</sup> When the child has a medical condition that will cause an absence for two or more consecutive weeks or ongoing intermittent absences, the IEP team is required to consider the need for home or hospital services.<sup>143</sup> Under 105 ILCS 5/14-13.01, ongoing intermittent basis is defined as “the child’s medical condition is of such a nature or severity that is anticipated that the child will be absent from school due to the medical condition for periods of at least 2 days at a time multiple times during the school year totaling at least 10 days or more of absences.”<sup>144</sup>

Under the Code, the home or hospital services shall be based on a written statement from the licensed physician and specify, “1) the child’s medical condition; 2) the impact on the child’s ability to participate in education (the child’s physical and mental level of tolerance for receiving educational services); and 3) the anticipated duration or nature of the child’s absence from school.”<sup>145</sup> The services are required to commence not later than 5 school days after the school district receives the statement.<sup>146</sup>

The Code requires the amount of instructional or related services provided at home shall be determined “in relation to the child’s educational needs and physical and mental health needs.”<sup>147</sup> The instructional time must not be less than 5 hours per week unless the physician recommends less instructional time.<sup>148</sup> If the child misses the instructional time due to illness or teacher absence, the school district is required to

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<sup>142</sup> 34 C.F.R. §300.115. 23 Ill. Adm. Code § 226.300

<sup>143</sup> 23 Ill. Adm. Code § 226.300(b)

<sup>144</sup> 105 ILCS 5/14-13-01(a)

<sup>145</sup> 23 Ill. Adm. Code § 226.300(b).

<sup>146</sup> 105 ILCS 5/14-13.01.

<sup>147</sup> 23 Ill. Adm. Code § 226.300(d).

<sup>148</sup> 23 Ill. Adm. Code § 226.300(d).

work with the parents and the IEP team to arrange time to make up the missed hours as long as this is medically advisable for the child.<sup>149</sup> The instructional time shall only be scheduled when school is regularly in session unless the parties reach another agreement.<sup>150</sup> The special education and related services required by the child's IEP are required to be implemented as part of the child's home or hospital instruction unless the IEP team determines modifications are necessary due to the child's condition.<sup>151</sup>

Under the Code, the IEP team is required to determine the amount of instructional time through the home or hospital program in relation to the child's educational needs and the physical and mental health needs. From a review of all of the IEPs and the testimony of the District's witness, the Manager of HHIP, the IEP team did not consider the unique needs of the Student in determining and developing a homebound program.<sup>152</sup> The homebound services were based upon the District's HHIP only.<sup>153</sup> The number of the hours provided for the 2015-2016 school year and the 2016-2017 were based solely on the HHIP.<sup>154</sup> There is no discussion in the IEPs regarding the appropriate number of hours for tutoring. The number of hours provided for the tutoring is purely based on the HHIP guidelines.<sup>155</sup>

Moreover, the Code requires the hours to be made up unless the child's medical condition prevents the child from making up the session. The HHIP guidelines clearly contradict the Code: the guidelines do not allow for sessions to be made up.<sup>156</sup> These guidelines are more appropriate if a child is hospitalized or misses school for a brief period of time. This is not the case here. This Student has undisputedly not been in school for approximately two years.<sup>157</sup>

The HHIP guidelines also have strict times for when the homebound tutoring is provided.<sup>158</sup> The time of the tutoring sessions were not specially designed to meet the

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<sup>149</sup> 23 Ill. Adm. Code § 226.300(d).

<sup>150</sup> 23 Ill. Adm. Code § 226.300(f)

<sup>151</sup> 23 Ill. Adm. Code § 226.300c.

<sup>152</sup> FOF #B & B6

<sup>153</sup> FOF #B5 & B6

<sup>154</sup> FOF #B5

<sup>155</sup> FOF #B5

<sup>156</sup> FOF #B5

<sup>157</sup> FOF #A1

<sup>158</sup> FOF #B5

unique needs of the Student as required in *Endrews*.<sup>159</sup> The record clearly showed the Student was more alert during the day and more mentally available to participate in the tutoring sessions during the day.<sup>160</sup> The Physician testified that the Student has sun downing which causes the Student to be angry and this occurs later in the day and makes it harder for the Student to focus.<sup>161</sup> The District did not offer any testimony to contradict the Physician's testimony and opinion. Furthermore, the results of the District's own testing clearly showed the Student becomes easily upset, frustrated or angered in response to stressful situations and environmental changes.<sup>162</sup> These findings are supported by the testimony provided by the Special Education Teacher 1 and the Parent.<sup>163</sup> Homebound Teacher 2 also found the Student was more alert in the mornings than in the afternoons.<sup>164</sup> There was testimony the hours conflicted with the Student's extra-curricular activities, however, uncontroverted testimony shows the Student required these activities to work on her social skills and reduce her anxiety.<sup>165</sup>

Overall, the HHIP guidelines used for the homebound services for this Student were not designed to meet the unique needs of the Student. Based on the foregoing, the District denied a FAPE to the student because the homebound instruction provided for the 2016-2017 school year and the homebound instruction being offered for the 2017-2018 school year were not based on the child's educational needs and physical and mental health needs. For the 2016-2017 school year, the District did offer ESY services to the Student and they were offered during the day when the Student is more readily available to benefit from the instruction and thus did provide a FAPE to the Student.

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<sup>159</sup> *Endrews v. Douglas County School District RE-1*, 580 U. S. \_\_\_\_ (2017)

<sup>160</sup> FOF #A2, #A5, #D2, #D4, #D6

<sup>161</sup> FOF #A2

<sup>162</sup> FOF #A6

<sup>163</sup> FOF #A6

<sup>164</sup> FOF #D6

<sup>165</sup> FOF #A2, #A4

**B. Whether the District allegedly failed to provide an IEP and services that are appropriate in light of the Student's circumstances and allegedly failed to offer instruction specifically designed to meet the Student's unique needs in order to transition from eighth grade to high school and enable the Student to progress from grade to grade in high school?**

Under the federal regulations, a school district is required to review a child's IEP periodically but not less than annually and shall revise the IEP to report any lack of progress on goals, the results of an evaluation, the child's anticipated needs or other matters.<sup>166</sup> The record clearly shows that a physician statement was received prior to September 2016 for the 2016-2017 school year.<sup>167</sup> The December 8, 2016 IEP does not include the homebound services in the IEP.<sup>168</sup> The IEP team also did not revise the IEP to include the home/hospital setting as the least restrictive placement until May, 2017.<sup>169</sup>

The IEP team was aware this Student had missed approximately two years of school due to illness and there is no dispute the Student is ill and has numerous hospitalizations.<sup>170</sup> Despite their knowledge, the IEP team did not design a homebound program to reflect the unique needs of the Student and merely provided the homebound services based upon their own policy. The Code requires the amount of instructional services be determined in relation to the child's educational needs and physical and mental health needs.

After being held back a year to repeat the 8<sup>th</sup> grade, the Student still missed most of the 8<sup>th</sup> grade when repeated and only received approximately 49 hours of tutoring for the 2016-2017 school year.<sup>171</sup> From the testimony of the Homebound Instructor 1, the Student was at a 6<sup>th</sup> or 7<sup>th</sup> grade level and from Homebound Instructor 2, the Student was at a 3<sup>rd</sup> grade level in writing and a 4<sup>th</sup> grade level in math.<sup>172</sup> The Special

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<sup>166</sup> 34 CFR 300.324(b)

<sup>167</sup> FOF #B7

<sup>168</sup> FOF #C2

<sup>169</sup> FOF #C5

<sup>170</sup> FOF #A1, #A7, #C1, #C2, #C4

<sup>171</sup> FOF #C1, #C2, #C4, #D2, #D4

<sup>172</sup> FOF #D3, #D7

Education Teacher 1 indicated the Student requires specific remediation.<sup>173</sup> Again, the IEP was not revised to adjust the homebound services provided to the Student or to address the Student's unique needs in order to transition from the eighth grade to high school. Moreover, the IEPs did not provide for extended school year services despite the Student's failure to attend school.<sup>174</sup> The School did finally allow extended school year services for the 2016-2017 only after the Parent's frequent requests.<sup>175</sup> Based on the foregoing, the District denied the Student a FAPE by failing to design an IEP to include homebound services that met the unique needs of the Student in order to prepare the Student to progress to the 9<sup>th</sup> grade.

C. Whether the Student is owed compensatory educational services in the form of tutoring as the result of the alleged failure to provide an individualized education plan for the Student and if so how much compensatory education the Student is entitled to receive?

Under the theory of compensatory education, the Courts have awarded educational services prospectively in order to compensate for past deficient programs.<sup>176</sup> Not every IDEA violation "warrants compensatory education relief.<sup>177</sup> The 7<sup>th</sup> Circuit has not provided any guidelines concerning the approach to use to award compensatory education. The Third circuit has adopted a quantitative approach which provides a child is entitled to compensatory education "for a period equal to the period of deprivation but excluding the time reasonably required for the school district to rectify the problem."<sup>178</sup> Under this approach, the calculation for compensatory education is very formalistic. For the calculation, the period of time for the FAPE denial must be assessed and it must be determined when the school district knew of should have known of the denial of the FAPE.<sup>179</sup> The calculation must exclude the time reasonably required for the school district to remedy the problem.<sup>180</sup>

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<sup>173</sup> FOF #D1

<sup>174</sup> FOF#C1, #C2

<sup>175</sup> FOF #C5

<sup>176</sup> *Reid v. District of Columbia*, 43 IDELR 32 (D.C. Cir. 2005)

<sup>177</sup> *Teton Cmty. Consol. Sch. Dist. No. 65 v. Michael M.*, 356 F.3d 798 (7<sup>th</sup> Cir. 2004)

<sup>178</sup> *Mary T. v. School District of Philadelphia*, 575 F.3d 235, 248 (3<sup>rd</sup> Cir. 2009). See also, *M. C. on Behalf of J. C. v. Central Regional School District*, 81 F.3d 389 (3<sup>rd</sup> Cir. 1996)

<sup>179</sup> *Mary T. v. School District of Philadelphia*, 575 F.3d 235, 248 (3<sup>rd</sup> Cir. 2009)

<sup>180</sup> *Mary T. v. School District of Philadelphia*, 575 F.3d 235, 248 (3<sup>rd</sup> Cir. 2009)

The D.C., Sixth, Ninth and Eleventh Circuits have rejected this approach. The D. C. Circuit has adopted a qualitative standard for determining the award of compensatory education. In *Reid*, the Court rejected the cookie cutter approach of the Third Circuit and explained this approach “runs counter to both the broad discretion afforded by IDEA’s remedial provision and the substantive FAPE standard that provision is meant to enforce.<sup>181</sup> The award should be fashioned on individualized assessments and not a mechanical hour counting.<sup>182</sup> The *Reid* Court explained that some children may only require short programs which focus on a specific problem or deficiency while other children may need more extensive programs which exceed the hour for hour calculation.<sup>183</sup> Under *Reid*, the determination is based on the facts of each individual case and the award should be reasonably calculated to provide the educational benefits that likely would have accrued if the school district had initially provided the child with the necessary special educational services.<sup>184</sup> The Hearing Officer must make a fact-intensive analysis that is qualitative.<sup>185</sup> Under this approach, the Hearing Officer is also required to consider the school district’s conduct and the parent’s conduct in calculating the reward.<sup>186</sup> The Hearing Officer must also determine the period the child was denied FAPE and what the denials of FAPE where.<sup>187</sup>

The Northern District of Illinois, also, has rejected the 3<sup>rd</sup> Circuit approach and indicated a “flexible, individualized approach is more consonant with the aim of IDEA, as articulated in its statutory language and Supreme Court jurisprudence.<sup>188</sup> The Court found the proper question is how much compensatory education is necessary to restore the child in the position the child would have been if the school district had provided the child with a FAPE during the time period in which the child was deprived of a FAPE.<sup>189</sup> The Central District of Illinois has agreed with the reasoning of the Northern District and found the qualitative approach is more in line with the principles of IDEA.<sup>190</sup> The

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<sup>181</sup> *Reid v. District of Columbia*, 43 IDELR 32 (D.C. Cir. 2005)

<sup>182</sup> *Reid v. District of Columbia*, 43 IDELR 32 (D.C. Cir. 2005)

<sup>183</sup> *Reid v. District of Columbia*, 43 IDELR 32 (D.C. Cir. 2005)

<sup>184</sup> *Reid v. District of Columbia*, 43 IDELR 32 (D.C. Cir. 2005)

<sup>185</sup> *Branham v. D. C.*, 427 F. 3d 7, 11 (D. C. Cir. 2005)

<sup>186</sup> *Reid v. District of Columbia*, 43 IDELR 32 (D.C. Cir. 2005)

<sup>187</sup> *Petrina W. v. City of Chicago Public School District 299*, 53 IDELR 299 (N. D. IL, 2009)

<sup>188</sup> *Petrina W. v. City of Chicago Public School District 299*, 53 IDELR 299 (N. D. IL, 2009)

<sup>189</sup> *Petrina W. v. City of Chicago Public School District 299*, 53 IDELR 299 (N. D. IL, 2009)

<sup>190</sup> *T. G. ex rel T. G. v. Midland School Dist.* 7, 848 F. Supp. 2d 902 (C.D. IL. 2012)

Central District of Illinois, however, indicated the court would defer to the hearing officer as long as the determination was reasonable and could be supported by the evidence.<sup>191</sup> Hearing officers have been upheld for awarding compensatory education where the school district did not provide the full amount of tutoring services provided in the child's IEP.<sup>192</sup>

Since the Central District of Illinois and the Northern District of Illinois have followed the qualitative approach of *Reid* and the qualitative approach is more reflective of the underlying policy of IDEA, the qualitative approach will be used to determine the compensatory award for the Student.

In the instant case, the Parents are seeking compensatory education as a remedy for the alleged failure to provide homebound services for the 2016-2017 school year and the extended school year. For the 2016-2017 school year, the Student only received 49 tutoring sessions in an 180 day school year.<sup>193</sup> The Student missed 131 tutoring sessions for the 2016-2017 school year. Five tutoring sessions ended early due to parental interference.<sup>194</sup> The Homebound Instructor 2 was late for four sessions during the regular school year,<sup>195</sup> The Student did receive tutoring sessions for the ESY for the 2016-2017 school year and the 2 days missed were due to parental interference due to vacation plans and not due to the fault of the District.<sup>196</sup> For the missed tutoring sessions, the District did not offer to make up any of the days missed as required under the Code. Based on these calculations, the Student missed 126 days of tutoring sessions.

The District did not design a homebound program that was unique to the Student for the 2016-2017 school year and the homebound program was not reasonably calculated to provide the Student with an opportunity to progress. The Homebound Instructor 1 found the Student performing at a 6<sup>th</sup> or 7<sup>th</sup> grade level.<sup>197</sup> The Homebound Instructor 2 found the Student performing at less than a 7<sup>th</sup> grade level and closer to a 5<sup>th</sup> grade level.<sup>198</sup>

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<sup>191</sup> *T. G. ex rel T. G. v. Midland School Dist.* 7, 848 F. Supp. 2d 902 (C.D. IL. 2012)

<sup>192</sup> *Mary McLeod Bethune Day Academy v. Bland*, 534 F. Sup.2d 109 (D. D. C., 2006)

<sup>193</sup> FOF #D2, #D4

<sup>194</sup> FOF #D4

<sup>195</sup> FOF #D4

<sup>196</sup> FOF #D6

<sup>197</sup> FOF #D3

<sup>198</sup> FOF #D7

The Parents are seeking 10 hours per week for compensatory education which comes to a total of 330 hours in order to restore the Student in the position she would have been if the District had provided the Student with a FAPE. Based upon the Student's medical illness, anxiety and emotional stability, this request may be too demanding on the Student to receive an educational benefit from the compensatory tutoring services being provided in such a short time frame. For the past school year, the Student was only receiving one hour of tutoring on an inconsistent basis. Therefore, the 330 hours should be provided over a longer period of time to ensure the Student will be mentally and emotionally available to receive an educational benefit from the compensatory educational services.

**ORDER**

Based upon the above Findings of Fact and Conclusion of Law, it is hereby ordered:

1. The District is hereby ordered to provide the Student with 330 hours of compensatory tutoring services to be provided in the Student's home or at an appropriate mutually agreed upon place and shall only be provided for one hour per day. These services shall be provided between the hours of 9 a.m. to 3 p.m. and must be provided by a certified Special Education Teacher. The compensatory tutoring services shall be completed within two years from the date of this order.
  
2. The Student's IEP is hereby amended to reflect two hours per day of homebound services to be provided for the remainder of the 2017-2018 school year and to be provided by a certified Special Education Teacher between the hours of 9 a.m. and 3 p.m. on regular school days.

In accordance with 105 ILCS 5/14-8.02(h), within 30 school days of receipt of this Order, the school district must submit proof of compliance to:

Andy Eulass  
Due Process Coordinator



Illinois State Board of Education  
100 N. First Street  
Springfield, IL 62777-0001

**NOTICE OF RIGHT TO REQUEST CLARIFICATION**

Pursuant to 105 ILSC 5/14-8.02a(h), either party may request clarification of this decision by submitting a written request to the Hearing Officer within five (5) days of receipt of the decision. The request for clarification must specify the portions of the decision for which clarification is sought. A copy of the request must be mailed to all other parties and the Illinois State Board of Education, Program Compliance Division, 100 North First Street, Springfield, IL 62777. The right to request clarification does not permit a party to request reconsideration of the decision itself and the Hearing Officer is not authorized to entertain a request for reconsideration.

**NOTICE OF RIGHT TO APPEAL**

This is the final administrative decision in this matter. Pursuant to 105 ILCS 5/14-8.02a(i), any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within one hundred and twenty (120) days from the date the decision is mailed to the party.

Dated: September 23, 2017

/s/ Leah Trinkala

Leah Trinkala  
Impartial Hearing Officer

[REDACTED]

**APPENDIX A**

ISBE Case No. 2017-0471

Child/Student	[REDACTED]
Attending School/Location of the Hearing	[REDACTED]
	[REDACTED]
Child's Parents/Petitioners	[REDACTED]
Parent	[REDACTED]
Manger of Home and Hospital Instruction (HPPI)	[REDACTED]
Case Manager at [REDACTED] (1)	[REDACTED]
Case Manager at [REDACTED] (2)	[REDACTED]
[REDACTED] Psychologist (1)	[REDACTED]
Homebound Instructor (1)	[REDACTED]
Social Worker	[REDACTED]
Clinical Psychologist (2)	Dr. [REDACTED]
Physician	Dr. [REDACTED]
Pediatric Gastroenterologist	Dr. [REDACTED]
Special Education Teacher (1)	[REDACTED]
[REDACTED] Case Manager (3)	[REDACTED]
Homebound Instructor (2)	[REDACTED]
Psychologist at [REDACTED] Psychologist( 3)	[REDACTED]s
Special Education Teacher at [REDACTED] (2)	[REDACTED]
Special Education Teacher at [REDACTED] (3)	[REDACTED]
Elementary School	[REDACTED] Elementary School