

**STATE OF MAINE**  
**SPECIAL EDUCATION DUE PROCESS HEARING**

**December 4, 2007**

**08.020H—Parents v. Maine School Administrative District #61**

**REPRESENTING THE FAMILY:**           **Frank D’Alessandro, Esq.**

**REPRESENTING THE SCHOOL:**       **James Schwellenbach, Esq., and Sara Hellstedt, Esq.**

**HEARING OFFICER:**                   **Shari Broder, Esq.**

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This hearing was held and this decision issued pursuant to Title 20-A MRSA §7202 et. seq., and 20 U.S.C. §1415 et. seq., and accompanying regulations. The hearing was held on October 18 and 24, 2007 at the Casco Memorial School in Casco, Maine, and on November 5, 2007 at the offices of Drummond, Woodsum and MacMahon in Portland, Maine. In addition to counsel and the hearing officer listed above, those present for the entire proceeding were: the Mother; Karen Kane, a legal intern assisting Mr. D’Alessandro; and Lisa Hanson, Director of Special Education for Maine School Administrative District #61 (“District” or SAD #61).

Testifying at the hearing were:

the Mother	
June Conley	Principal, Songo Locks School
Nancy Givren	Case Manager, Community Counseling Services
Lisa Hanson	Director of Special Education
Gail Hamilton	Special Education Teacher, Director of the TLC program
Janet Libby	Case Manager, Child Development Services (CDS)
Harold Longnecker	School Psychologist, Margaret Murphy Center for Children (MMCC)
Christine Nazaroff	Speech and Language Pathologist, MMCC
Marian Rabe	Educational Technician

All testimony was taken under oath.

## **I. PROCEDURAL BACKGROUND:**

The Parents requested this due process hearing on August 30, 2007. The case involves their son (henceforth “the Student”), whose date of birth is xx/xx/xxxx.

On October 11, 2007, the parties and their counsel attended a prehearing conference at the Oxford County Courthouse. Participating in the conference were: the Mother, the Father; Frank D’Alessandro, Esq., counsel to the Parents; Karen Kane, legal intern assisting Mr. D’Alessandro; James Schwellenbach, Esq., and Sara Hellstedt, Esq., counsel to SAD #61; Lisa Hanson, Director of Special Education; and Shari Broder, Esq., hearing officer.

Documents and witness lists were exchanged in a timely manner. The Parents submitted 246 pages of exhibits, and the District submitted 114 pages of exhibits. All exhibits are numbered sequentially, without a separate designation for Parent and District exhibits.<sup>1</sup>

The hearing took place over the course of three days. Both parties requested and were granted leave to file written closing arguments, which were postmarked on November 19, 2007, and the record closed at that time. The Parents submitted a 33-page memorandum, and the District submitted a 19-page memorandum. On November 26, 2007, the Parents submitted an emergency motion for enforcement of the Student’s stay-put placement. The Student’s placement is addressed herein, and therefore, the motion will not be addressed separately.

## **II. ISSUES:**

- a. Is the District’s proposed Individualized Education Program (IEP) reasonably calculated to provide the Student with a free, appropriate public education in the least restrictive environment?
- b. If not, what remedy is appropriate?

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<sup>1</sup> Numbers appearing in brackets in this decision refer to page numbers of exhibits.

### III. FINDINGS OF FACT

1. The Student is xx years old (DOB: xx/xx/xxxx), and lives with his parents and siblings in Sebago, Maine. He is eligible for special education and related services as a child with Autism. The Student's twin brother has attended Sebago Elementary School, a District school, since the beginning of the 2006-2007 school year.

2. In September 2005, the Student began attending the Margaret Murphy Center for Children (MMCC), after being on a waiting list for over one year. [Testimony of Mother] He was xx years old at the time, and was placed there by CDS because his pediatrician recommended a program for children with Autism. [Testimony of J. Libby] The Student began attending on a half-day basis, and his mother attended with him while he adjusted to the program. [Testimony of Mother] The Student had a difficult time adjusting, and it took several months before he became sufficiently comfortable with his providers to be able to learn from them. [Testimony of H. Longnecker] The Student has considerable difficulty with transitions and change generally. After a while, he began attending this program five days per week for six hours each day. [Testimony of J. Libby, Mother] This program uses Applied Behavior Analysis (ABA) as a teaching method. [Testimony of H. Longnecker] Although only a few of the staff at MMCC are certified in ABA, all of the Student's teachers have training in this method. [Testimony of H. Longnecker] On a weekly basis, the Student also receives two hours each of occupational therapy (OT) and speech and language therapy, and one hour of psychological services. [45, 193] His class consists of eight to ten children with Autism. The program is year-round, except for one week during the summer when MMCC closes.

3. Although the Student's progress at MMCC was initially very limited, in the past three to six months, he has made noteworthy gains. [Testimony of Mother, H. Longnecker, 131] For

example, he has begun talking, and now interacts with his brothers. [Testimony of Mother] The Student now responds to people, and is more alert to what is going on around him. [Testimony of Mother] He can also feed and dress himself. [Testimony of Mother]

4. When the Student turned xx in xx of 2006, he was eligible to attend school in the District. District personnel first spoke with the Parents about the Student in the spring of 2006. [Testimony of L. Hanson] Because of the Student's xx birthday, his parents were able to continue his eligibility under CDS for another year, and elected to do so. The Student continued to attend MMCC, rather than attending xx in the District. [Testimony of L. Hanson]

5. In February 2007, Ms. Hanson and Gail Hamilton, a special education teacher with the District, went to MMCC, where they observed the Student in his program. [Testimony of G. Hamilton, L. Hanson] Ms. Hamilton observed that this program was similar to the Therapeutic Learning Center, known as TLC program, offered by the District, which also uses ABA methodology. [Testimony of G. Hamilton]

6. In April, 2007, the District began working with the Parents to develop an appropriate program for the Student for the 2007-2008 school year. [Testimony of L. Hanson] There was a PET meeting on May 1, 2007 with the District and CDS to share information regarding the Student's program at MMCC and his needs. [Testimony of L. Hanson] The team agreed that the Student needed to be educated in a special education setting, and also needed speech and OT services. [Testimony of L. Hanson, 35] The PET agreed to reconvene before the end of the school year to develop an appropriate IEP for the Student. [Testimony of L. Hanson, 35]

7. The District's TLC program began providing services for students with Autism in 1993. [Testimony of L. Hanson] Historically, the TLC program has been located at Stevens Brook Elementary School in Bridgton (Stevens Brook). [Testimony of L. Hanson] After

completing the initial transition meetings with CDS in May, it became apparent that, for the 2007-2008 school year, the District would be serving too many students in the TLC program at Stevens Brook, so the District decided to add a program at Songo Locks Elementary School (“Songo Locks”) because it was located near where more students in need of this program lived.

[Testimony of L. Hanson]

8. In early summer, 2007, the District began hiring staff for Songo Locks, many of whom had worked in the TLC program at Stevens Brook, but Ms. Hanson was not at liberty to share the names of the staff until the School Board approved the hiring decisions. [Testimony of L. Hanson] For this reason, at the second IEP meeting for the Student, held on June 14, 2007, the District could not provide the names of the TLC program teachers who would be working with the Student. [Testimony of L. Hanson] At this meeting, the PET discussed goals and objectives for the Student. The Parents did not want the Student to be with nondisabled peers [Testimony of L. Hanson, 35] The District proposed providing the Student with direct instruction for the entire day in the special education setting in the Songo Locks TLC program, with 45 minutes of social work services, 90 minutes of OT, and 120 minutes of speech therapy each week. [35-36] Although the methodology was not listed in the draft IEP, the TLC program used ABA. In the program, the Student would also receive 60 minutes of psychological services per month, and a one-to-one aide at all times. [35-36] This program incorporated many of the goals and objectives in the Student’s current educational program, and provided a comparable level of instruction and support as he receives at MMCC. [Testimony of L. Hanson, M. Rabe] At the close of the meeting, the Parents tentatively agreed that the proposed IEP would meet the Student’s needs, and expressed no objections to the program, but wanted a couple of days to review it in detail. [36] In reality, however, the Parents had already decided that they would not accept the program,

as they wanted the Student to continue at MMCC for another year. [Testimony of Mother] The Parents also asked about a summer program, and Ms. Hanson replied that the District typically offered extended school year (ESY) services to children who require it. [36] As the IEP was to be reviewed in late November, the District planned to consider ESY services at that time.

[Testimony of L. Hanson, Mother] Ms. Hanson added that if the Parents accepted the plan, the service providers could meet to discuss the Student's transition to public school. [36] The Parents would not give signed consent to release any information about the Student from MMCC, which would have been used in transition planning, but said they would give the District their response about the proposed IEP within one week. [36]

9. The Parents never responded to the District. [Testimony of L. Hanson, Mother] Ms. Hanson waited a while, and when over a month passed, she wrote the Parents a letter dated July 26, 2007, explaining that the District was looking forward to having the Student attend the Songo Locks program, and that Ms. Hanson would be contacting the Parents regarding transitioning the Student. [Testimony of L. Hanson, 5] In response to the letter, the Parent called Ms. Hanson around 4:30 p.m. one day, and reported that he did not accept the Student's educational program. [Testimony of L. Hanson] Ms. Hanson was not clear about the Parents' objections, and asked the Parents to put them in writing. [Testimony of L. Hanson] She received a letter from the Parents on August 13, which was dated August 1, 2007, saying that they would not allow their son to "be taken into a program that is not equipped nor prepared" for him. [4] The Parents mentioned that transition was a "monumental responsibility" to prevent regression. [4] They further stated that they felt it was in the Student's best interest to continue "his ongoing treatment at MMCC." [4] The letter made no mention of having the Student attend MMCC at the District's expense.

10. Ms. Hanson responded to the Parents' letter that same day, stating that the District remained willing to implement the Student's IEP proposed at the June 14, 2007 meeting, that she was confident that the program would meet the Student's needs, and that the District had great success educating students with Autism. [Testimony of L. Hanson, 3] Ms. Hanson and June Conley, principal of Songo Locks, wrote to the Parents on August 16 offering them an opportunity to visit the program. [Testimony of L. Hanson, 1] The Parents did not respond to either of these letters. [Testimony of L. Hanson]

11. The TLC program at Songo Locks was fully staffed by mid-July 2007, and was led by Gail Hamilton, a special education teacher. [Testimony of G. Hamilton, L. Hanson, 111] She has over 20 years of experience in the District working with students with Autism, and is certified for both special education and working with the severely impaired. [Testimony of G. Hamilton] Ms. Hamilton is also trained in ABA. [Testimony of G. Hamilton] Marian Rabe is the classroom teacher for the Songo Locks TLC program. She has a master's degree in special education, considerable training in discrete trials, and is preparing to sit for the ABA qualifying exam in November. [Testimony of M. Rabe, 110] Like Ms. Hamilton, she holds state certification in both special education and working with the severely disabled. [Testimony of M. Rabe, 110] She supervises the educational technicians and does data analysis and classroom observations. [Testimony of M. Rabe] Ms. Rabe observed the Student at MMCC, and prepared a schedule for the Student's day in the TLC program. [104] The educational technicians who would work with the Student are Lisa Andrews and Lenay Hartford. [Testimony of L. Hanson, G. Hamilton] Ms. Andrews, an Educational Technician II, has worked in the TLC program at Stevens Brook since its inception, and worked at Spurwink for many years with children with Autism. [Testimony of L. Hanson, 113] Lenay Hartford, an Educational Technician I, also worked at

Stevens Brook in the TLC program, and has experience working with children with Autism, including those who are also deaf. [Testimony of L. Hanson, 112] Related service providers are all veteran staff with at least 12 years of experience, and are certified or licensed or both.

[Testimony of L. Hanson]

12. Ms. Rabe drafted the Student's proposed IEP, which was designed to replicate, to the extent possible, the Student's program at MMCC, and to allow him to carryover his program to the public school setting. [Testimony of M. Rabe] She explained the learning time as primarily consisting of discrete trials, the same as used in the MMCC program. Students in the TLC program are assigned a homeroom, which is available if they want to attend, but not compulsory. [Testimony of M. Rabe] The program provides a predictable routine, and includes limited distractions, with areas for individual work and group work. There is an area for gross motor breaks, with a small trampoline, water table, easels, and play sets. There are defined areas to meet the needs of the Student. [Testimony of M. Rabe] The Student would be taught functional communication, activities of daily living, and socialization, with tasks being broken down into small steps so the Student could feel successful and receive immediate positive reinforcement. [Testimony of M. Rabe] The program tracks interfering behaviors. [105, 106] Teachers schedule field trips to help students generalize the skills they have learned. [Testimony of L. Hanson] Although the District planned to start the program with two students, because the Student is not attending, there is currently only one child in the program at Songo Locks.

13. Ms. Rabe has been involved in the transitions of other students into the TLC program, including students from MMCC. [Testimony of M. Rabe] She has experience with children with a range of abilities. While all of the students have successfully transitioned, there is sometimes some regression. [Testimony of M. Rabe] Ms. Rabe felt her staff, including the occupational and



speech therapists, would need a chance to observe the Student for a week or two, then begin interacting with him for a week or two longer while he attended MMCC. [Testimony of M. Rabe] She also thought it would be useful for MMCC staff to then come to Songo Locks to provide input and help with the transition there. [Testimony of M. Rabe]

14. On August 10, 2007, Janet Libby of CDS wrote to the Parents to inform them that the Student was being discharged from CDS on September 1, 2007 because the public school system was responsible for his special education services at that point. [165] The first day of school at Songo Locks was August 29, 2007, but the Student did not attend. [Testimony of L. Hanson] He continues to attend MMCC.

#### **IV. DISCUSSION AND CONCLUSIONS**

##### **Brief summary of the position of the Parents:**

The IEP does not contain all special education and related services necessary to provide the Student with a free appropriate public education (FAPE) because it does not have a transition plan, which is very important for the Student. It is also not appropriate because it does not contain ESY programming. Furthermore, it fails to describe the methodology to be employed in meeting the Student's goals and objectives. The program should use the ABA methodology, as the Student has experienced considerable success using this model.

The District's program also fails to offer the Student a placement in the least restrictive environment (LRE). The Student would be in a self-contained classroom with only one other child. He would have no interaction with nondisabled peers, which would make it difficult for him to achieve his goals. This program is actually more restrictive than MMCC.

Lastly, the District has failed to specify adequately trained and credentialed instructional staff.

As the program the Student currently attends is appropriate, and he is making gains there, the Student should remain in that program until the District is able to modify the IEP so that it provides the Student with FAPE.

**Brief summary of the position of the District:**

The District's proposed placement in the TLC program at Songo Locks is reasonably calculated to provide the Student with educational benefit in the least restrictive environment. It is apparent from the evidence that the Student can derive demonstrable benefit from the program set forth in the proposed IEP, and that this program can be delivered by the qualified staff at Songo Locks. The IEP incorporates much of the Student's program at MMCC.

Nothing in state or federal law requires that a student's IEP contain a detailed transition plan. The regulations specify in detail the required contents of an IEP, and there is no mention of a written transition plan for a child's entry to public school. His plan did not contain ESY services because the IEP team was to meet in November to review the Student's progress, and an initial decision was to be made at that time.

Placement in an out-of-district program, such as MMCC, when not necessary to provide FAPE, would violate the IDEA's mandate for LRE. The obligation for least restrictive programming will even outweigh placement in a more restrictive setting that may offer greater academic benefits, as long as the less restrictive setting meets the IDEA educational benefit standard. The law is clear in this respect, and the Songo Locks program meets the LRE requirement.

The Student should enter the Songo Locks program after a brief transition period. This would have happened, had the Parents cooperated with the District's efforts.

**I. Is the District's proposed Individualized Education Program (IEP) reasonably calculated to provide the Student with a free, appropriate public education in the least restrictive environment?**

There is no dispute about the type of services the Student needs, or the fact that transitions are very difficult for him. The dispute centers around the Parents' desire to keep the Student in a CDS placement that is working well for him, despite the fact that the Student no longer qualifies for CDS services, and the public school has offered the Student an IEP that appears virtually identical to the programming the Student is receiving at MMCC. The Parents waited a long time for the Student to get into MMCC, and then waited a long time for him to begin making progress there. Now that the Student is finally comfortable and learning at MMCC, the Parents do not want to remove him from that environment, regardless of whether the District is able to offer and implement an appropriate IEP. The Parents' concern about regression is understandable, especially because the Student's progress has been hard won, and it is common for children with Autism to regress temporarily when their program is changed.

The issue is not, however, whether the program at MMCC is better than the Songo Locks program. The issue to be decided is whether the District's program is reasonably calculated to provide the Student with FAPE. Every student who is eligible for special education services is entitled under state and federal law to receive a "free and appropriate public education ... *designed to meet their unique needs* and prepare them for employment and independent living." 20 USC 1400(d)(1)(A) (emphasis added). The First Circuit elaborated that a student's educational program must guarantee "a reasonable probability of educational benefits with sufficient supportive services at public expense." *See G.D. v. Westmoreland School Dist.*, 930 F.2d 942, 948 (1st Cir. 1991). It is well established that a school is not obligated to offer an IEP that provides the "highest attainable level (of benefit) or even the level needed to maximize the

child's benefit" in order to comply with the IDEA. *Id.* Furthermore, "parental preference alone cannot be the basis for compelling school districts to provide a certain educational plan for a handicapped child." *Brougham v. Town of Yarmouth*, 823 F. Supp. 9 (D. ME 1993). The educational benefit must be meaningful and real, and not trivial or de minimus, in nature.<sup>2</sup> The family has the burden of proof that the proposed IEP is inappropriate. *See Schaffer v. Weast*, 126 S. Ct. 528, 537 (2005).

Thus, the hearing officer must examine whether the Student's proposed educational program contained in his IEP was "reasonably calculated to enable the student to receive educational benefit." *Board of Educ. v. Rowley*, 458 U.S. 176, 207 (1982). In *Town of Burlington v. Department of Education*, the First Circuit explained that an appropriate education must be directed toward "the achievement of effective results – demonstrable improvement in the educational and personal skills identified as special needs – as a consequence of implementing the proposed IEP. 736 F.2d 773, 788 (1<sup>st</sup> Cir. 1984), *aff'd*, 471 U.S. 359 (1985).

As noted above, the Student's current program and the District's proposed IEP are very similar. They utilize the same methodologies, and provide similar levels of related services. The goals and objectives are the same, so the Student would continue to work on skills he is now trying to master. Only the location and service providers would be different.

Because the Parents decided at the outset that they wanted the Student to remain at MMCC, they were unwilling to give the District's program a fair chance. They were opposed to

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<sup>2</sup> As the First Circuit stated in *Lenn v. Portland School Comm.*, "The law does not "[sic] promise perfect solutions to the vexing problems posed by the existence of learning disabilities in children and adolescents. The Act sets more modest goals: it emphasizes an appropriate, rather than an ideal, education; it requires an adequate, rather than an optimal, IEP. Appropriateness and adequacy are terms of moderation. It follows that, although an IEP must afford some educational benefit to the handicapped child, the benefit conferred need not reach the highest attainable level or even the level needed to maximize the child's potential.[sic] 998 F.2d 1083, 1086 (1st Cir. 1993). In *Roland M. v. Concord School Comm* the First Circuit described the goal is to provide the student with "demonstrable" benefits. *Roland M.* 910 F.2d 983, 991 (1st Cir. 1990).

moving the Student before they even knew the details of his proposed IEP at Songo Locks, and without observing the program or meeting the teachers. Although at the June 14 PET meeting they did not know who would be teaching in the program, the program was fully staffed in mid-July, and they could have met the staff at that time. They were opposed, however, to sending the Student to a new program. The evidence showed that the IEP was appropriate and the TLC program had staff who were qualified to implement it. It was apparent from Ms. Rabe's testimony that she was very familiar with the Student's needs. She and her staff have considerable experience working with students with Autism and using ABA methodology. As noted above, the Student's actual services, goals and objectives were almost identical to what he is receiving at MMCC. His day would look very similar to his day at MMCC. The program, on its face, is reasonably calculated to allow the Student to make educational progress.

The Parents contend that the teaching staff is not adequately trained and credentialed. Although they were not satisfied with Ms. Rabe's supervisory experience, Ms. Rabe had the proper certification to provide the services in the Student's IEP. The educational technicians have a good deal of experience working with children with Autism. There was no evidence to support the Parents' allegation that Ms. Hartford would be introducing new learning, or that either educational technician would not be properly supervised in accordance with the Maine Unified Special Education Regulations (MUSER) §X(2)(A)(6). This is purely conjecture. The Parents, not the District, have the burden of proof on this issue, and have not met that burden with actual evidence in the record.

The family also takes issue with the fact that the IEP does not specifically mention that ABA methodology would be used. This objection was not raised prior to the hearing, and is hollow for several reasons. The Student's IFSP from MMCC also does not mention the use of

ABA, nor have the Parents cited any authority that this is required. There is a wealth of authority to the contrary which demonstrates that courts are reluctant to arbitrate disputes about educational methodologies, and that school districts have broad discretion in deciding which methodologies to use, as long as the district is providing a basic floor of opportunity to receive educational benefit. *M.M. and B.M. ex rel. C.M. v. School Bd. of Miami-Dade County, Fla*, 45 IDELR 1 911<sup>th</sup> Cir. 2006); *Lachman v. Illinois Bd. of Educ.*, 441 IDELR 156 (7th Cir. 1988) ("*Rowley* and its progeny leave no doubt that parents, no matter how well-motivated, do not have a right under the [statute] to compel a school district to provide a specific program or employ a specific methodology in providing for the education of their handicapped child.") This argument is irrelevant, however, as it was clear from the evidence at the hearing that the TLC programs use the ABA method, and that the teachers have adequate experience and training in ABA. The lack of mention of ABA in the IEP does not render the IEP inappropriate.

The Parents also contend that the IEP is inappropriate because it does not contain a transition plan for the Student to adjust to his new school. MUSER §IX(3) sets forth what must be included in an IEP, and transition plans from CDS to public school are not required. Nonetheless, there was ample evidence that the District was willing to create an appropriate transition plan, and remains willing to do so, once the Parents approve the Student's educational program, and cooperate with the District by allowing the District to have access to information about the Student from MMCC. The District's process was to first have an IEP, then address how to transition the Student into it. [Testimony of M. Rabe] This makes sense, as it is first necessary to have a program into which the Student can transition. There was no dispute that MMCC should be involved in the transition, but the Parents placed a roadblock preventing the District from developing a transition plan when it would not allow MMCC to release information

to the District, then objected to the District's failure to have a plan. The inability to develop such a plan was therefore partly due to the Parents' lack of cooperation. The transition considerations contained in Ms. Rabe's testimony are reasonable, and would, with the cooperation of the family, provide a transition for the Student that would address the concerns expressed by all of the professionals who testified at the hearing.

The Parents objected to the Student's IEP because it did not provide ESY services. The District never rejected ESY services for the Student, but simply wanted to wait until the Student was in school for a few months before examining his ESY needs. There is no requirement under federal or state law or regulations that a school district consider ESY services for the summer before a student enters a school year program. In fact, the regulations anticipate that the Student will have some kind of track record, so to speak, to consider in making this determination. MUSER §X(2)(A)(7). If, at some point, the District rejected ESY services for the Student, his Parents would have a right to challenge this decision through due process procedures. At this point, however, there is nothing to challenge, as no determination has been made about ESY services.

Two differences between the Student's current placement and TLC are that he would be in a public school with nondisabled peers in a classroom with fewer children. This raises the issue of whether TLC is the least restrictive environment for the Student. The law is well established that special education programming must be delivered in the least restrictive environment. 20 U.S.C. § 1412(a)(5); MUSER §X(2)(B). What is least restrictive depends upon an individual's needs. The goal is to educate the Student, whenever possible, with nondisabled students, and as close as possible to the child's home. MUSER §X(2)(B). An out-of-district placement is only appropriate when the District is unable to provide the Student with FAPE.

The Parents were emphatic that they did not want the Student to be with nondisabled peers. The District honored the Parents' concerns and agreed that the Student would be in a self-contained classroom, and would not have to go to homeroom or participate in other activities with nondisabled children if that was the Parents' preference, at least for the time being. It is therefore ironic that the Parents are objecting to this placement on LRE grounds. The reality is that, when the Student is ready, he can begin to interact with nondisabled children on the playground, cafeteria, homeroom, or wherever the opportunity presents itself. This opportunity is not available at MMCC because there are no children there who do not have Autism. Like MMCC, the Student would go on field trips and have the chance to generalize learned skills and possibly interact with nondisabled children. As discussed above, an out-of-district placement like MMCC is not appropriate when the District is unable to provide the Student with FAPE. Because the District's placement is appropriate and can provide FAPE to the Student, this is the least restrictive educational environment.

In conclusion, it is possible that the Student may experience some difficulty in his transition from MMCC to TLC. It is also possible that keeping him at MMCC may provide him greater educational benefit in the immediate future. That is not the standard, however, under the IDEA or Maine law. The Student is no longer eligible for services from CDS, and his local school district has an IEP that is reasonably calculated to provide him with FAPE in the least restrictive environment. If his parents wish to have him educated at public expense under IDEA, TLC at Songo Locks is an appropriate placement. It is inevitable that he must transition from MMCC. If the Parents wish to continue the Student's placement at MMCC, they must do so at their own expense.



## V. ORDER

After consideration of the evidence presented during this due process hearing, the hearing officer orders as follows:

1. The District's proposed IEP is reasonably calculated to provide the Student with a free, appropriate public education in the least restrictive environment.
2. Unless the Parents elect to keep the child at MMCC at their own expense, the District shall begin the process of transitioning the Student to the TLC program at Songo Locks School, in accordance with the plan set forth in Ms. Rabe's testimony, summarized in fact #13 above. This transition process shall begin immediately, with visits by District staff to observe and become acquainted with the Student at MMCC taking place during the month of December 2007. The Student's placement at Songo Locks shall begin on January 2, 2008. Transition activities with the MMCC staff at Songo Locks shall continue through the end of January 2008.
3. The District is responsible for payment of the Student's placement at MMCC from August 29, 2007 through December 31, 2007.

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SHARI B. BRODER. ESQ.  
Hearing Officer