

STATE OF MAINE
SPECIAL EDUCATION DUE PROCESS HEARING

December 26, 1998

CASE # **98.165**

Rome School Department and M.S.A.D. # 47 v Parent, on behalf of the Student

Counsel for parent: Richard L. O'Meara, Esq.

Counsel for school: Eric R. Herlan, Esq.

Hearing Officer: Jeannie M. Hamrin, Ed.D.

THIS HEARING WAS HELD AND THE DECISION WRITTEN PURSUANT TO TITLE 20-A, MRSA, CHAPTER 303, SECTION 7207-B; TITLE 20 USC, SECTION 1415; AND TITLE 29, SECTION 794, AND IMPLEMENTING REGULATIONS.

A Special Education Due Process Hearing was held on December 1, 3, 4, & 6 1998 to resolve a conflict between the Rome School Department & M.S.A.D. # 47 and the Parents on behalf of the Student. In preparation for this hearing a pre-hearing conference was held on November 24, 1998. Four-hundred and seventy-one pages of documentation were entered into the record and fourteen witnesses presented testimony. The record was held open until December 14, 1998 for the submission of written final arguments.

This hearing was requested by the Rome School Department and M.S.A.D. # 47 to resolve the dispute regarding:

1. *Whether the 1998-99 IEP is reasonably calculated for the Student to receive benefit in the Least Restrictive Environment. If not, what is the appropriate remedy?*
2. Were there procedural flaws which denied the Student a **Free Appropriate Public Education**? If there were, what is the appropriate remedy?
3. Did the Rome School Department and M.S.A.D. # 47 deny the Student a **Free Appropriate Public Education**
 - by failing to identify him prior to January 1996 and
 - after identifying him, by failing to provide him with an appropriate IEP from 1996 to 1998?

If the school did fail to offer the Student a **Free Appropriate Public Education**, is he entitled to compensatory education?

4. Are the compensatory education claims time barred?

I. PRELIMINARY STATEMENT

The student is an xx old male attending Valley View School in North Brookfield, MA. He is a resident of the Town of Rome with contracts for school services with MSAD #47. The student attended Belgrade Central School from kindergarten through May 22, 1997 of his third grade

year. The student repeated kindergarten, was in a combined 1-2 classroom against parental wishes, and spent most of his third grade year in a regular classroom. He was first identified as a student with a speech and language disability in the second grade. He was identified during the middle of second grade as a student with a learning disability. The student was "dismissed" from special education without re-evaluation in September 1997. The student became a special education student, eligible for services in learning disabilities, in April 1998 without any evaluations.

II. ISSUES

1. *Is the 1998-99 IEP reasonably calculated for the Student to receive benefit in the Least Restrictive Environment. If not, what is the appropriate remedy?*
2. Were there procedural flaws which denied the Student a **Free Appropriate Public Education**? If there were, what is the appropriate remedy?
3. Did the Rome School Department and M.S.A.D. # 47 deny the Student a **Free Appropriate Public Education**
 - by failing to identify him prior to January 1996 and
 - after identifying him, by failing to provide him with an appropriate IEP from 1996 to 1998?If the school did fail to offer the Student a **Free Appropriate Public Education**, is he entitled to compensatory education?
4. Are the compensatory education claims time barred?

III. TIME-LINE INFORMATION

The school initiated its request for a due process hearing on October 22, 1998. Dr. Jeannie Hamrin was appointed as the hearing officer on October 29, 1998. The pre-hearing conference was scheduled for November 10, 1998 and the hearing for November 19, 1998. The pre-hearing conference was rescheduled to November 24, 1998 and the hearing was held on December 1, 3, 4, and 6, 1998 at the request of the parents' attorney due to scheduling conflicts. Parents' attorney also requested that the process be postponed until after the new year, as the step-father was out of the country until then. This request was denied by the hearing officer. The record was held open until December 14, 1998 for legal briefs.

IV. STIPULATIONS

There were no stipulations.

V. SUMMARY OF TESTIMONY

1. The student is an xx year old male student who resides in Rome which is within the MSAD # 47 school district (the District). [S63, S121; Testimony of Ms. Bucknam & Parent]
2. He currently attends the Valley View School in North Brookfield, MA after being placed there by his parents on 7/6/98. [Testimony of Parent]
3. While a student in the District, the student was diagnosed with speech and language disabilities in the second grade and then later in that year, he was diagnosed with learning disabilities. [Testimony of Mrs. Bucknam; school records]
4. From kindergarten through May 22, 1997 of the third grade year, the student attended the Belgrade Central School. [Testimony of Ms. Bucknam & Parent]
5. The student has a long history of out of control behaviors. He was asked to leave five preschool/child care placements, the first time was before he was two years old. The reasons given were that he was biting, hitting, would not share and would not nap. He also had two "Nannies" who left, one after two weeks of service and one after six months. [Testimony of Parent; S47]
6. He began kindergarten [1992-93] and his mom volunteered two days a week. Outside of school, there were several incidences where the student was hitting and fighting. He also tried to choke a ten year old girl and bury a frog. He was regularly biting his sister and hit his cousin with a golf club. In school, his mother observed that the student was asked to leave circle time daily. He had a chair outside the circle which worked sometimes and sometimes he needed to put his head down on his desk. The school implemented a sticker chart. The parent had become concerned about his academic progress and his behavior. A Guidance Report 1992-93 indicated the student had problems with hyperactivity, poor listening behaviors, impulsive with his work, and could be disruptive. Classroom modifications included: 1. a chair away from circle time and 2. placement away from distractions for worksheet time. He was to have a weekly behavioral contract, a daily contract to be discussed on a weekly basis and rewards at school. Ms. Flaschner recommended that at the end of his first kindergarten year "...start the PET process by the end of first quarter if academic progress is still minimal. Try home/school notebook on weekly basis with daily contact." [P29; S123]
7. The student attended a second year of an all-day kindergarten [1993-94. His mother continued to volunteer one day per week and on special days. She volunteered in Ms. Rae's class as Mrs. Sprague could control him. According to his mother he was still aggressive and non-compliant. His progress report from 1/27/94 states: "The student gets along well in the morning kindergarten. He has had some difficulty in the afternoon. By lunch time we are seeing some of the old aggressiveness occur..." [S190] There were only six students in the afternoon kindergarten. Mrs. Sprague, kindergarten teacher, could not remember the comment, or its meaning, and Ms. Rae has moved out of state. [Testimony of Mrs. Sprague]

8. Ms. Flaschner, Guidance Counselor, recommended that the student be evaluated by the Pediatric Psychology Services at Mid-Maine Medical Center in Waterville. [Testimony of the parent] The reason for referral states that the student has a "longstanding history of excessive hyperactive behavior and had received medication from Dr. Dorothy Eisengart, his primary care physician, at approximately 4 months of age. Since then, he had received no specific intervention though mother was concerned regarding the degree to which this condition might impact his education and behavioral status." [S153]

9. This evaluation was completed on 12/15/93 and was shared with the school. [S153-159] Ms. Rae, reports that the student was performing at grade level "with the exception of his somewhat below grade level performance in the area of penmanship." Ms. Rae's responses on the Achenbach Child Behavior Checklist indicated "relative concern in the area of attention difficulties, particularly in terms of impulsivity, excessive motor activity and inattention." She also observes elevated aggressive behavior which consists of arguing, disturbing others, fighting, and teasing others." [S157] Mr. Longenecker, II, M.A. made the following recommendations: 1. Refer to primary care physician for consideration of pharmacological strategies to manage attention deficit hyperactivity disorder; 2. "...also note that the student does present with some pre-conduct disorder symptoms which would emphasize the need for consistent behavioral contingencies for his externalizing behaviors;" and 3. "...share results of this evaluation with the public school so that they can be more aware of the student's overall behavioral and emotional presentation as well as becoming active participants in managing behavioral contingencies." This is a school document. [S158-159]

10. Parent states that the school took no action, except that Ms. Flaschner wanted the student on medication. The student was placed on medication and had regularly weekly visits to Mr. Longenecker for behavior control. There was regular contact with the school re: meds and their effect on behavior. [Testimony of Parent]

11. The student was promoted to a multi-age first/second grade class. The parent continued to volunteer through October. On the last day that she volunteered she stated that a boy "cut in front of the student" and the student pushed the boy and was punished. The parent left and did not volunteer any more. The parent spoke about her perception of the "unfairness" with which the student had been treated with Mrs. Wintle, the student's teacher. Mrs. Wintle stated that she didn't see it but would apologize to the student and that he "automatically gets blamed" when she doesn't see what happened. [Testimony of Parent] Mrs. Wintle testified that she could not imagine herself saying that. Mrs. Wintle also does not remember any major disruptions. She stated the second grade year was a "blur." [Testimony of Mrs. Wintle]

12. Parent testified that there was a home-school notebook but it was used in a court hearing as evidence and she was unable to get it for this case. According to the parent there were lots of incidences of hitting, kicking, being mean, and punching. The student was also becoming more violent at home. He threw a rock and hit a girl in the head. His medication was increased until he was overmedicated and not functioning. A social skills group was formed and the student took part in the group three or four times and also met with Mr. Davis, Guidance Counselor. [Testimony of Parent] School does not remember Mr. Davis' involvement. [Testimony of Mrs.

Wintle]

13. Mr. Longenecker and the parent referred the student to the Pediatric Behavioral Medicine Clinic for an evaluation by Dr. Salvato. The evaluation took place on 3/14/95. The family reports self-injurious behavior and destruction of property. The student was not receiving any special services and it was reported that he is able to attend, sit quietly, and participate positively in activities. Teachers have commented that medication made a difference. There is a family history of alcoholism and the student's father was much like the student at his age. The biological father was expelled from his home and left school at a young age. The student's biological father reports physical and verbal abuse on his part towards his ex-wife and the student may be modeling that. Dr. Salvato found the student to have some "mild oppositional behavior with aggression" and ADHD. He also mentioned his difficulty with social skills and in making friends. [P7]

14. Dr. Jensen was first contacted in June 1995. He finds that the student meets the diagnostic criteria for the older label ADHD and is one symptom short of meeting the diagnostic criteria for the newer label *Attention Deficit Disorder-Hyperactive, impulsive type*. Dr. Jensen feels this leads to a diagnosis of *Oppositional Defiant Disorder* at a minimum and probably the more serious diagnosis of *Conduct Disorder* could be fairly applied. He recommends a trial and error study around medications to find one that works best, a speech and language evaluation to explore the 20 point discrepancy between verbal and performance IQ, and the importance of a behavior management program. [P25] Dr. Jensen goes on to state that "If the student's aggression escalates and he continues to fight, utilize weapons, torture small animals, etc., he is at major risk for serious problems as an adolescent and young adult." Dr. Jensen noted that meds don't really help with *Conduct Disorder*. [P25; Testimony of Dr. Jensen]

15. The parent requested that the student not continue in the multi-age classroom but continue with a regular second grade classroom. The student remained in the multi-age classroom. Dr. Jensen wrote a letter of support for this change on 8/11/95. [Testimony of parent; P24] A Guidance Services Report 1994-95 indicated that the student had behavior problems with peers at school and at home. The social skills group is recommended as well as behavioral consultation for the mother with Mr. Davis. [S124] The parent stated that the school and Dr. Jensen did have contact, especially around medication issues, which were monitored every two weeks by Dr. Jensen. Also Mrs. Wintle contacted Dr. Jensen to find out how to teach the student. [Testimony of the Parent]

16. The student was evaluated by Lynda Mazzola, M.S., CCC/Sp, on 7/31/95 at the request of Dr. Jensen. Ms. Mazzola recommended that the student be referred to his school PET to determine eligibility as an exceptional student in the area of speech/language and to determine what special education support services are needed in order for him to be successful in his present academic program. [S135-39]

17. A notice of a 504 meeting was sent to the parents for a meeting on 9/7/95. [S127 & S143] This meeting was to discuss the student's ADHD and the impact on learning under Sec. 504. The parent provided the group with the Speech and Language evaluation and all agreed to convene a

PET and proceed at that time. The parent waived her right to a 7 day notice. [S125 & S130] The Literacy Specialist had evaluated the student's reading skills which were almost a full grade below his current grade. A classroom observation indicated "constant physical activity" during the discussion. An IEP was completed along with support services including a behavior management plan. Consent for placement was signed. [S128] The student would participate in 98% mainstreamed classes with the exception of 50-60 minutes/week of speech and language classes. He would have a "star catcher" for positive reinforcement, a sterile environment, daily communication with home, and with behavior specialist and speech clinician to observe and consult with the student, classroom teachers and parents as needed. [S131-32]

18. The parent officially requested by letter dated 11/16/95, that the school transfer the student to the standard second grade. She stated that his progress has been minimal and that psychologists and psychiatrists who worked with the student feel that he needs a structured environment with a stern teacher. She asked for a reply no later than 11/27/95 considering the importance of this move and its effect on the student. The parent reported that the student took a knife to school on two occasions. Principal Kopp does not remember the incidences but stated that she had a whole drawers full of jack knives as it was a fairly common occurrence for boys of that age to bring knives to school. Ms. Kopp would call the parent and release the knife to the parent. [Testimony of Ms. Kopp] The parent stated that it happened twice, that it wasn't a jack knife, but a 9" buck knife which he received from his father and took to school in his backpack. Mrs. Wintle then found it in his book bag and gave the knife to the principal. [Testimony of Parent; Ms. Kopp; P23]

19. Ms. Kopp denied the request for a change of classroom on December 4, 1995 and provided the parent with information about how to pursue her request at the next higher level. [S114-117] It was denied at the higher level. There were other incidences reported to Ms. Kopp that the parent does not feel were handled to her satisfaction. In the Spring of 1997, "Mrs. Buzzle threatened to punch the student's teeth out if the student did it again." The student also punched a girl in the mouth on the bus once. This was reported, but no consequences were given. One bus driver reportedly called the student "the devil in disguise." There was no satisfactory follow-up. [Testimony of Parent] Cheryl O'Heir, M. Ed., Ed.S. conducted educational testing with the student on 12/15/95 and finds him to be within the average range for math and knowledge and within the low average range in reading and written language. He is "somewhat below grade level in the latter areas, but not significantly below his measured verbal cognitive ability." [S110-113]

20. A classroom observation by Mrs. Fabian, Resource Room teacher, noticed that the student had an inability to focus, inability to settle down, difficulty putting ideas into words and difficulty transferring ideas and words to paper. [S106]

21. On 1/11/96 a PET was held and the student was identified as a student with a learning disability (language processing). [S100-101] There was no discrepancy between achievement and ability primarily as the result of emotional disturbance. This was based on the Evaluation by Glen Davis in 12/1993 when the student was in the second year of a developmental kindergarten. [S153-159] The student received 120-150 minutes/week for reading in addition to the services

listed on his September IEP. The goals of the new IEP are for six months to one year gain in reading and an approximate one grade level gain in receptive and expressive language. [S104-105]

22. There was much testimony around the intensity and frequency of Mr. Davis' involvement with the student. Although Mr. Davis had great difficulty recalling dates and specific incidences, there was one document, dated 2/2/96, that was shared with Mr. Longenecker, the student's psychologist outside of school. Mr. Davis stated that he has been involved with the student since mid-October and initially saw "what seemed to be a significantly depressed mood with little affect or spontaneity and a gloomy, pessimistic tone in this interaction." [P20] He also wrote that he asked the student on January 26 about the incident in which the student put a belt around his neck. The story the student told him was similar to the incident that the parent told. Mr. Davis went on to say that the student "made a clear commitment ... not to kill himself." [P20] Parent also reported to Mr. Davis that the student had taken a knife to his sister. Mr. Davis referred them to the Child/Family Crisis Center and the family took the student there. Parent testified that she had many talks with Mr. Davis throughout the year. [Testimony of the Parent] Mr. Davis is less clear about how many, when, and the content. He does not seem to remember much about the student or his family and he did not keep any notes, records or plans although he was involved. [Testimony of Mr. Davis] About this time, the student switched therapists to a Dr. Katz. This was because Mr. Longenecker had reported the student's suicide attempt to the State of Maine and the student would no longer speak to him. The student also saw Jacqueline Clark for expressive play therapy for about one half year. [Testimony of the Parent]

23. The student's 3rd quarter Progress Report indicates that "Behavior issues are affecting progress in some areas." Academically he is making progress. [S121-122] There were several behavioral incidences at home and while the family was visiting relatives. These included calling "911," getting kicked out of the swimming pool repeatedly for not following rules, recklessly pushing a wheelchair with his cousin in it, killing a duck, and being sent home from neighbors. [Testimony of the Parent]

24. Before the third grade school year started the parent spoke with Ms. Kopp about her concerns over the student's behavior and academic progress. She also met with Mr. Lisa who had not received any prior knowledge about the student. The student's present level of educational performance on his 9/18/96 IEP list his Woodcock Reading Mastery Test at 1.7 and word attack at K.9. His goals were to increase both reading and work attack by one whole grade level. The student would receive the Wilson Reading program for reading. There was no specific goal for writing which the school states was contained within the Wilson Reading program and the student was receiving instruction for writing every day along with reading. [S82-86] The student had met his goals in speech/language and the clinician will now only see the student on a consult basis. Minutes of the PET indicate that "Suspension/Detention/Discipline Issues" are agreed to. However, there is no discussion around these issues, nor could anyone remember the student being particularly difficult or what that referred to. [Testimony Ms. Fabian, Mr. Lisa; S80-81] A "Parental Notice/Proposed Change of Program, File: Continuation" was sent to the parent on 9/19/96. [S90]

25. A Complaint for Protection from Abuse was filed on 11/6/96 by the student's mother against the student's father. The biological father reportedly had touched the student's genitalia. This was told to the student's mother and treating psychiatrist, Dr. Katz. [S78-79] A Temporary Order for Protection from Abuse and Notice of Hearing was issued on January 24, 1996. [S-118] An Order for Protection from Abuse was granted on 2/14/97. The biological father's rights of visitation were ceased. [S119-120] The student testified against his father at the hearing. [Testimony of the Parent; Mr. Davis; Mr. Lisa] Mr. Lisa noticed some behavior changes for the worse around Thanksgiving. [Testimony of Mr. Lisa] The home/school notebook for third grade October to March is the property of the court as evidence. It was similar in nature to the March through May notebook, notably lacking in detail. [Testimony of the Parent] The parent stated that she reported to Mr. Davis and Children's Services that she could not leave the student by himself in a room. She was constantly worried about his safety. The Oakland police became involved in January of 1997.

26. A PET is scheduled for April 15, 1997 to discuss the addition of behavior goals/objectives and 40 minutes/week with Behavior Specialist due to the student's non-compliance and lack of focus. [Testimony of Ms. Bucknam; S71] Mr. Lisa, third grade teacher, stated that he would like to discuss the district's alternative program or a one-on-one aide in the class. Ms. Bucknam described the alternative class and felt that the aide would be too restrictive a setting at this point as the student had only just begun to work with the Behavior Specialist and a new Behavior Plan. Ms. Bucknam suggested more testing and to reconvene the PET in June. The parent described the military summer school that the student would be attending. [P69,70] There was no Behavior Plan submitted as evidence. Mr. Lisa thought there was a "behavior card" on the student's desk. [Testimony of Mr. Lisa] The parent reports that the student sat at a circular table, not a desk, and there was no card. [Testimony of the Parent]

27. Mr. Lisa completed the Achenbach Teacher Report Form on 5/12/98 which found the student functioning within the clinically significant range in the following characteristic clusters: withdrawn, attention problems, delinquent behavior, and aggressive behavior. His narrative concerns included: poor behavior, poor motivation, very angry and lack of remorse. [Testimony Mr. Lisa; S66 & 67; S216-219] The parent or outside therapists were not asked about violence or for any input. A PET was scheduled for May 28, 1997. [S65] The meeting was not held. The student was withdrawn from school by his parent on May 22, 1997 after an incident on the playground. The student had taken a wrench to school and was trying to disassemble the playground equipment. When approached by a teacher, the student threw the wrench over the playground fence. [Testimony of the Parent]

28. Mr. Morris [*sic*], Superintendent, is notified by Blithe Christian Academy that the student is receiving grade-appropriate instruction being overseen by the Academy. [S64]

29. The student received passing grades for the third grade year, pro-rated for the fourth quarter although he was withdrawn in May. [S63; Testimony Mr. Lisa & Ms. Kopp] There was much confusing and contradictory testimony over who actually graded the reading and writing portion and what the grades encompassed. [Testimony of Mrs. Fabian, Mr. Lisa and the Parent]

30. A "Parental Notice/Proposed Change of Program, File: Dismissal" is sent to the parent on 9/15/97. It states that the proposed change(s) are that special education services are no longer warranted because the student has achieved all of his IEP goals. Reading is no longer having an adverse effect on his education. This is based on the Woodcock Reading Mastery Test [no date given]. [S60]

31. A brief discussion around the student's home school plans, a review of the last evaluations [un-named], approximately one year behind in reading, the student has met his speech goals. It states that the parent did not want to have the student participate in special services at this time. "If the parent should change her mind, she should contact Ms. Bucknam at the central office." There was contradictory testimony over the meaning of "Dismissal" on top of the Proposed Change of Program form sent to the parent on September 15, 1997 and what that meant. The parent states there was no offer of an IEP or services. She recalls being told she was welcome to bring the student in for any portion of the day, to gym class in Readfield on Friday. She did withdraw her consent for special education placement. [Testimony of Ms. Bucknam, Mrs. Fabian, the parent; S59] The school stated that it didn't really mean "dismissal." [Testimony of Ms. Bucknam]

32. The home schooling worked well until about January. The student was becoming more violent. He attacked his step-dad with an ax, took a fire poker to his uncle, punched his sister in the mouth, went after people with a hockey stick. She had to call the police to get him in control on one occasion. On the advice of Mr. Longenecker, the parent took the student to the Pediatric Behavioral Medicine Clinic for evaluation on 3/24/98. The consensus diagnoses were: Conduct Disorder, Childhood Onset Type, ADHD, Combined Type, History of Childhood Abuse, Learning Disabilities in writing and possibly reading. Recommendations included: Continue with Jacqueline Clark, behavior management counseling with Mr. Longenecker, alternative school placement is recommended if the student shows any aggressive, destructive, or potentially dangerous behavior at school or home that appears related to school issues, and return to school with a one:one aide and specific target behaviors. [S41-52]

33. A PET was held on April 13, 1998 at parental request. The parent stated that there was no IEP at the present time. The school stated that there was an IEP in place, that services were offered but the parent refused them. There were 10 PET determinations, including private transportation, one:one ed tech, an interim behavior plan, updated behavior plan at the May 4 PET, etc. Under "Suspension/Discipline Issues: Behavior Plan" [S21-22] The parent requested a residential placement. The student went into a rage and said he would kill himself before he would go back to Belgrade. He attacked the dogs and his sister. The police, Dr. Jensen, Mr. Longenecker, Dr. Katz and Dr. Nurick were called. The consensus was not to send him to Belgrade. The parent told Ms. Bucknam that she wasn't sending the student back. [Testimony of the Parent] A *draft* IEP was developed, dated 4/13/98 but was first sent to parent on 9/10/98. His disability determination is Learning Disabilities. His present level of broad reading was 2.9 and written language was 2.5. He was scheduled to enter fifth grade. There were some goals that address behavior concerns such as on task behavior, decrease aggression, and increase social skills. [S7-15]

34. The district conducted further evaluations by Dr. Hoch [5/28 and 6/1/98] [S16-20], Lorie Wyman, OTR [6/98] and Celeste Chaput, M.S., CCC-SLP [9/98] Ms. Wyman and Ms. Chaput testified that the student's behavior was fine during the testing and he didn't need services for OT or Speech and Language. [Testimony of Ms. Wyman & Ms. Chaput]

35. A PET was scheduled for July 6, 1998 but the school canceled it because they were not prepared. The PET was held on July 30 or July 22, 1998[?] to review the evaluations and complete the IEP. The meeting was contentious and consensus was not reached. [Testimony of Ms. Bucknam & the Parent; S4-6, P9] The IEP is not given to the parents until 9/10/98. [Testimony of Ms. Bucknam & the Parent]

36. A PET was held on August 27, 1998. [S1-3; P7] Although the transcripts of the meeting are very different, the minutes submitted as school's documents [S1-3 & S4-6] appear to be identical.

37. The student started the summer session of Valley View School in North Brookfield, MA on July 7, 1998. The parent found Valley View School through "Educational Resources." The parent had called Department of Human Services [DHS], the Department of Mental Health, Mental Retardation & Substance Abuse Services [DMHMRSAS] and various legislators to obtain help. The parent testified that it was not safe to have the student at home. Peter Walsh of the Department of Human Services told the parent that there was nothing in the State of Maine and advised the parent to call Dr. Opuda and request a Due Process Hearing. DMHMRSAS told her that there were no funds or persons available. The parent testified that Dr. Hoch told her husband that Belgrade did not have services like they did at Valley View. [Testimony of the Parent]

38. The notice for the 8/27 PET meeting was sent with procedural safeguards from 1994. [P33] The parental rights and procedural safeguards were updated by M.S.A.D. #47 on August 25, 1998. [S204-209]

39. The student has been at Valley View since July 7, 1998. Reports show that he is slowly making progress with behavioral compliance and work completion. The family visited Valley View in April and made the first payment on May 1, 1998

40. Valley View school is a small, private, residential treatment center providing a year-round therapeutic environment for boys between the ages of eleven and sixteen who are having difficulty coping with their family, the world around them, and themselves. The school's staff is equal to the number of students in order to offer a comprehensive program integrating the range of services--educational, psychotherapeutic, medical and recreational. [P2] Typical Valley View students may be boys who challenge authority to the point of psychologically intimidating their parents; others have difficulty in channeling their physical energy in meaningful ways; and a few may appear overly lethargic, bored or depressed. The majority have had difficulty in traditional schools because of their ADD and oppositional behaviors. The primary objectives of the school is to provide the students with the skills they need to function effectively, to help them like themselves better and to achieve a higher level of success. There is an average of six students per class which allows for intensive remedial instruction. The boys are held accountable for their actions and are expected to assume responsibility for obtaining rewards. The student required the

consistent therapeutic structure because his escalating behaviors of non-compliance and violence directed at animals, people and himself to meet all his needs. Valley View does not accept boys who are overtly psychotic or boys who are "streetwise" with a history of antisocial behavior or drug-related problems. [Testimony of Mr. Newland; P1, P2]

41. The IEP for the 1998-99 school year was sent to the parent on 9/10/98. It did not contain a behavior plan although the parent had notes of a proposed plan. [Testimony of Ms. Bucknam & the Parent; S7-15]

VI. DISCUSSION

Was the 1998-99 IEP Appropriate? Were the previous special education services appropriate?

In determining whether the student was receiving a *free appropriate public education* at the time he was unilaterally placed by his parents, this Hearing Officer is guided by the following two-fold inquiry set forth in *Board of Education of Hendrick Hudson Cent. School Dist. V. Rowley*, **458 U.S. 176, 102 S.Ct. 3034 (1982)**:

First, has the State complied with the procedures set forth in the Act? And second, is the [IEP] developed through the Act's procedures reasonably calculated to enable the child to receive educational benefits?

Regarding the first inquiry, this Hearing Officer finds that the Rome School Department and MSAD # 47 have not complied with the procedures set forth in the Act. School's attorney argues that the procedural irregularities did not "seriously harm" the student's right to education. This Hearing Officer does not agree. The right to a *free appropriate public education* belongs to the student and not to the parent or the school. The PET should not have "respected the parent's wishes by not developing an IEP" in September 1997. The school then dismissed him from special education services without re-evaluation. Had the school developed an IEP, when the parent requested that the student return to school in April, he would have immediately had services in place. This did not happen, but rather when mother sought to re-enroll her son, the school was going to provide private transportation by the behavior specialist who was then going to be with the student for two-three weeks to complete a functional behavioral assessment and make a plan. [Testimony of Ms. Bucknam, Mr. Davis] This treatment of a non-identified student [school witnesses rather unanimously testified had rather "normal" behavior] makes no sense. A student that does not require special education would just have been admitted like any other student. This did not happen.

When the student was withdrawn from school because of a dispute between the family and the school, the school **must** take action to resolve that dispute--such as through the request for a due process hearing to determine who was correct regarding programming, See *Murphy v. Timberlane Regional School Dist.*, 22 F.3d 1186, 1196 (1st Cir. 1994). The following conclusions from this case law are clear. The Rome School Department and MSAD #47 would

not be found responsible if the IEP had been developed and were reasonably calculated. Once it becomes clearly evident that an IEP is not working, the school must take affirmative steps to offer other services that are more appropriate. Schools face legal risks if a family withdraws a student from school programming because of an active debate over the merits of the program. This risk is in not attempting to resolve the issue by acquiescing to the parent. School personnel testified that they were not in agreement with the student's withdrawal and yet they did nothing.

School's attorney relies on the Sixth Circuit's *Doe v. Defendant I* [898 F.2d 1186]. This case is about a student with an undisputed writing disability entering junior high school. Parent's requested that the PET ordered consultation services be suspended until the end of the first six week marking period so the school's special education teacher could determine how well the student did on his own. A PET was held and an IEP developed. School offered to arrange for the tutor and have the student re-tested. The parent refused the re-testing and arranged for their own tutor. The parent then billed the school for the tutorial service. This hearing officer did not find that Rome and SAD # 47 had an IEP in place from September 1997 when they dismissed the student from special education until August 27, 1998 when they presented their IEP, still without completed behavior plan, nor did the parent refuse re-testing.

The student was withdrawn from school on May 22, 1997. A PET was not convened until September 1997. This is considerably more than 10 school days and thus a significant change in program which required a PET meeting. The main topic at such a PET meeting should be what type of programming changes need to be made? Should other agencies be involved? Should there be further evaluations by social worker, psychologist, etc.? After a thorough assessment, the PET should reconvene to reach determination about programming modifications. These are major procedural flaws, not the "laundry list of items given in section 1401 (19)."

The second part of the *Rowley* inquiry 'whether the student's IEP was reasonably calculated to enable the student to receive educational benefit' was not met. The school claims that the student received passing grades and was not really disruptive. This hearing officer disagrees. While the school was sincere in its desire to help the student, they didn't have a clue regarding coordination of services, consistent behavior plans and communication with the home. No one from the school checked in on the student during his home-school year. There is no evidence that the school informed the parent of their responsibility to offer a *free appropriate public education*, reviewed the special education needs of the student, developed a proposed IEP for the parent's consideration or advised the parents of the procedural safeguards. [MRSA § 4.7]

The parents enrolled the student in the Valley View program in the beginning of July. The school was first notified that parents were considering a residential placement 4/13/98. [S22] The student was not receiving services under any IEP since May 1997. The student was dismissed from services in September of 1997. *It was at the August 27, 1998 PET meeting that the parents were first saw a copy of the student's proposed IEP which was lacking a finalized behavioral plan.* The IEP without a finalized behavior plan were sent to the parents on September 10, 1998. Placement options were not discussed as this discussed *draft* IEP was presumed to be carried out at Belgrade Central School.

The IEPs from second and third grades were inadequate to meet the student's behavioral needs. There were no behavioral plans and they were not based on an evaluation of the student's total needs. [MRSA § 8.12]

The student should have been evaluated for possible special education services long before second grade. In fact the student's primary physician is remiss in not referring the child to the Child Development Services System when she first became aware of his behavioral difficulties in the pre-school setting. The CDS system is not required to wait until a child "fails" before providing services.

Tuition Reimbursement

The primary issue for this hearing is the matter of whether the parents are entitled to reimbursement from the Rome School Department and MSAD #47 for the educational services costs including transportation that were incurred by them at an out-of-state unapproved school. The parents seeks reimbursement of tuition costs [\$42,700] and transportation costs [\$2,160] incurred during the 1997-98 school year. [P4; Testimony of parent]

In *School Committee of the Town of Burlington, MA v. Depart. Of Education of the Commonwealth of MA*, **105 S/Ct 1996 (1985)**, the Supreme Court found that reimbursement of special education expenses under the IDEA was an appropriate remedy if it was found that the public school's placement was not providing the child with a "*free appropriate education*" and that the parent's alternative placement was "*proper*" under the act.

In *Florence County School District Four v. Carter*, **20 IDELR 532 (U.S. 1993)**, the United States Supreme Court held that the IDEA's requirement that special education placement must meet state standards *cannot be applied to unilateral parental placements*. The Court reasoned that it would be inconsistent with the goals of the IDEA to forbid parents from placing their child at a private school that otherwise offers an appropriate education simply because the private school has not been authorized by the same public school system that failed to provide the student with a *free appropriate public education*.

Accordingly, for the parents to prevail on this issue, they must establish by a preponderance of the evidence that the student was not being provided with a *free appropriate public education* by the Rome School Department and MSAD # 47 and that Valley View was a proper placement under the act during the 1998-99 school year. Because the parent has established that the student was not receiving a *free appropriate public education* at that time he was unilaterally placed and for the entire year preceding, is his mother entitled to reimbursement of his tuition and related expenses at the Valley View school?

Consideration of reimbursement for his tuition and related expenses hinges on whether the unilateral placement school was proper under the Act. This Hearing Officer finds the Valley View school to be a proper placement for the student's behavioral needs [his inability to learn that cannot be explained, inability to build or maintain satisfactory interpersonal relationships, inappropriate behavior, his suicide attempt and his extreme anxiety over returning to Belgrade

Central School] but not for his learning disabilities. The student has a mental health diagnosis of Attention Deficit Disorder and Conduct Disorder. The student has never been considered by the PET to be a student with behavior impairments.

School's attorney raises the issue of *least restrictive environment* as a major reason why Valley View school is not an appropriate placement. This Hearing Officer looked to the *Burlington* and *Florence* decisions for guidance. They stated that a private school's failure to comply with the mainstreaming requirement can not be used as a reason to bar reimbursement. This Hearing Officer also looked to *Roland M. v. Concord School Comm* (1st Cir., 1990) and *Milford Sch. Dist. v. William F.* (D.N.H., 1997) for guidance. Whereas, it is true that this is an all male school and the student is the youngest student at age xx, there are at least a half dozen twelve year olds. It is not particularly relevant for latency-age children to be placed with females as they generally ignore them.

The question becomes when should the school have known that the student had behavior problems as well as learning problems that needed to be addressed in his IEP? Certainly there were no PETs which made any specific recommendations that addressed the student's social, emotional and behavioral needs. The school did not begin to act upon the documented behavior problems until the summer of 1998-99 and even then, the school stated they could not do a plan until the student attended school and they could observe him.. [Testimony of Ms. Bucknam]

The issue is whether the student should have been identified prior to his second grade year and whether the subsequent IEP were appropriate? From the evidence presented, this Hearing Officer finds that the student's IEP, as periodically modified were appropriate and reasonably calculated to *only* provide the student with educational benefit for his learning disabilities but were totally inadequate in providing for his interfering behaviors. The school failed to properly respond to the student's increasing behaviors by considering to modify his IEP, by providing counseling, by working with DMHMRSAS, and providing him with an ed tech which would have provided the student with considerable structure and support. The regulations demand that all areas of suspected disability be evaluated to determine the effect on the student's present levels of performance in all affected academic and *non-academic areas*. The student's behavior had been of concern since his kindergarten year and even prior to kindergarten, and yet, he never received a multi-disciplinary evaluation for special education for behavior support. His local team never accessed additional medical, mental health, and/or other community social services to help with the student's behaviors. If the student had a behavior support plan, other child serving systems are available to provide services effectively integrated with school services [mental health services, respite care, counseling, after-school activities, etc.] The school first proposed a functional behavioral assessment in April 1998. Testimony at the hearing was that they were unable to complete a behavior plan because they did not have access to the student to gather relevant information to make a plan. However, there are three general methods of collecting information: 1) through interview; 2) through observation, and 3) through experimental analysis. Certainly the school had a responsibility to gather information from the parent and Valley View. The school has not contacted nor visited Valley View to see how the student is performing. The student's ADHD was first diagnosed in 1993. It was first during his 3rd grade year that modifications for ADHD were added to his IEP. Mr. Lisa, 3rd grade teacher, requested an aide to

assist in behavioral control and programming. This was denied as "too restrictive."

In response to the student's writing deficit, he was given individualized instruction in written language through the Wilson Program. Although, he has fallen behind in writing due to processing speed, motor problems, his standard scores did not indicate a major disability. In fact he went from a SS=87 in Broad Written Language (1994) to a SS=92 in 1995. This indicates that the support was appropriate at this time. It was first in 1996 that his Broad Written Language score plummeted.

Thus we have two neither wholly appropriate programs for 1998-99. The issue in this case is not whether the MSAD # 47's IEP is appropriate because it educates the student with females, in the mainstream and offers much more than the other IEPs; but rather, does the district's program adequately balance the student's educational, social, emotional and behavior needs for educational benefit in the least restrictive environment?

Under the Act, mainstreaming is preferred. Schools must educate handicapped and non-handicapped children together "to the maximum extent appropriate." The Valley View School is not a special education placement but an "alternative" school which is approved by the local school district. Valley View is certainly not the same as the "neighborhood" school as most of the boys are immature for their age, have experienced failure in the past, are impulsive, manipulative, irresponsible, suffer from low self-esteem. Their labels are ADD, Oppositional Defiant Disorder, Conduct Disorder, passive-aggressive and ADHD. They are not necessarily special education students. They need consistent and close supervision in a controlled environment. The school has failed to show why the student needs to be educated with females.

What is the proper balance between *free appropriate public education* and *least restrictive environment*? The desirability of mainstreaming must be weighted in concert with the Act's mandate for educational improvement. Appraising an appropriate educational plan, therefore, requires a balancing of the marginal benefits to be gained or lost on both sides of the academic gain/least restrictive fulcrum. Neither side is automatically entitled to extra ballast.

[Roland M. v. Concord School Comm. (1st Cir., 1990)]

The parent assumed a financial risk by unilaterally placing the student at Valley View. The parents are entitled to reimbursement only if the school's proposed program was determined appropriate.

The parent informed the district that she was enrolling her son at Valley View, more than two weeks prior to the July PET meeting. Consensus was not reached on all goals and objectives at this PET and there was no discussion regarding placement.. IDEA-97 gives parents even greater powers as a member of the PET with regards to programming and placement.

At this point, the school had the option to demonstrate that their IEP was appropriate by going to hearing. They did not, nor did they follow-up to see if the private school were providing a *free appropriate public education*.

In fact there had not been any conversation between Valley View and MSAD #47 staff at any time prior to the hearing. We have a child whose programs were inadequate during his years at Belgrade Central, even though some educational progress was documented in reading. No PETS suggested evaluation, behavior plans or more services to this falling-apart child.

What type of program does the student need? He needs a program that is language-based, multisensory and offers structure and clear limits, diverse ways to fulfill assignments, competence and achievement, meaningful participation in the school and community, positive social interactions with adults and peers, and frequent opportunities to release physical energy. These developmental needs are critical to any program that will be successful with the student.

There clearly was no discussion of any placement which occurred "after and pursuant to the development and approval of an individualized education program." The Valley View School program meets some of those needs, but not all.

Transportation

Regarding transportation, this Hearing Officer finds that the parents are entitled to reimbursement for the transportation expenses incurred for trips to and from Valley View school from July 7, 1998 to such time there is an appropriate program for the student closer to home. .

Are the Claims Time Barred?

School's attorney raised the issue at the pre-hearing but offered no testimony around this point, aside from a few paragraphs in the Post-Hearing Memorandum. This Hearing Officer lacks conclusive evidence to make a ruling.

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Student is a child with Learning Disabilities, Attention Deficit Hyperactivity Disorder, and Conduct Disorder who qualifies for special education services. **[34 CFR Reg. 300.7(b)(8)]**.
2. The Rome School Department and M.S.A.D. # 47 have the responsibility of providing the student with a *free appropriate public education*. **[20 U.S.C. § 1400 et seq.]**
3. The Rome School Department and M.S.A.D. # 47 have failed to consider to identify the student as a student with behavior impairments. The IEP as developed at the August 27, 1998 PET meeting was inappropriate for failing to provide the highly structured environment the student needed to adequately address his complex academic, emotional, social and behavioral needs. *[Board of Education Of Hendrick Hudson Cent. School Dist. v. Rowley. 458 U.S. 176; 102 S.Ct 3034 (1982)]*.
4. There was no IEP developed for the 1997-98 school year as the student was "dismissed" from special education services without re-evaluation data. If the school made FAPE available to the student then Sec. 300.451 would not require the LEA to pay for the cost of education.
5. No IEP from the second and third grades included any behavioral goals or plans for addressing the student's behavioral needs.
6. The student requires a highly structured program of consistent education, social, positive behavioral and emotional supports as is provided at Valley View. The student also needs a program for his demonstrated disabilities in reading and written language. This is not available at Valley View. *[School Comm. Of Burlington v. Dept. Of Education of Mass., 471 U.S. 359 (1985); 34 CFR Reg. 300.302]*
7. Valley View is not approved for special education placement by the state of Maine or Massachusetts. Valley View is an approved school by the local board of education for attendance and graduation purposes. *[Testimony of Mr. Newland; P1]*

- 8. Valley View school is a partially appropriate placement. It is not appropriate to meet his needs for learning disabilities. There is no one certified in learning disabilities. [*Florence County School District Four v. Carter*, 20 IDELR 532 (U.S. 1993)]
- 9. The family is entitled to partial tuition reimbursement from the Rome School Department and MSAD # 47 for the educational costs associated with the student’s placement at Valley View from July 7, 1998 until the Rome School Department and MSAD # 47 develop an appropriate program and placement together with the Department of Mental Health, Mental Retardation & Substance Abuse Services that is within the state of Maine and preferably close to home. Payment of the partial tuition reimbursement shall satisfy all claims for compensatory education.
- 10. The parents are entitled to reimbursement for transportation equal to the number of trips taken for which they shall submit documentation to the school department.

VIII. ORDER

After due consideration of the record, the foregoing findings of fact and conclusions of law, this Hearing Officer ORDERS the Rome School Department and MSAD # 47 to reimburse the parents on a 75-25% funding formula basis for the placement for the school year 1998-99. This satisfies all claims for compensatory education due to the failure of the Rome School Department and MSAD # 47 to provide the student with *a free appropriate public education* during 1997-98 and 1998-99. The Rome School Department and MSAD # 47 shall reimburse the parents 75% of the costs thus far incurred for tuition.

The school must continue to reimburse the parents 75% of the costs associated for the student’s placement and program until such time that they have developed an individualized program and placement to meet the student’s complex needs by providing *FAPE* in the *least restrictive environment* .

The school district must reimburse the parent at the rate of 100% for any transportation costs associated with trips to and from the school.

All other relief not expressly granted, including the request for full reimbursement for tuition, is DENIED.

So ordered,

Jeannie M. Hamrin, Ed.D.
Hearing Officer

**#98.165, "Rome School Department & M.S.A.D. # 47 v. Parent"
List of Witnesses**

mother of the student

Karen Bucknam, Director of Special Services

Celeste Chaput, Speech Pathologist

Shannon Corzek, the student's present science and language arts teacher

Stan Davis, Guidance Counselor and Behavior Specialist

Martha Fabian, Special Education teacher

Scott Hoch, Psychologist

Thomas S. Jensen, MD, Child Psychiatrist

Melinda Kopp, Belgrade Principal

John Lisa, Grade 3 and 4 teacher

Jim Newland, Assistant Academic Director at Valley View

Linda Sprague, Kindergarten teacher

Susan Wintle, Grade 1 and 2 teacher

Lorie Wyman, Occupational Therapist

**#98.165, "Rome School Department & M.S.A.D. # 47 v. Parent"
Index of Documents**

School's Documents

- S1 Amended PET meeting minutes, dated 8/27/98
- S4 PET meeting minutes for 8/27/98 (misdated)
- S7 1998-99 IEP
- S16 Psychological evaluation by Dr. Hoch, dated 6/98
- S21 PET meeting minutes, dated 4/13/98
- S24 Draft IEP, as reviewed and modified on 4/13/98
- S31 Notes from PET meeting of 4/13/98
- S36 Letter from Dr. Katz to Parent (undated)
- S39 Letter from Dr. Jensen to Valley View School, dated 4/1/98
- S41 Evaluation by Pediatric Behavioral Medicine Clinic, dated 4/98
- S59 PET meeting minutes, dated 9/15/97
- S60 Change of program form, dated 9/15/97
- S61 Classes attended
- S63 Third grade report card
- S64 Letter from Blithe Christian Academy to M.S.A.D. # 47, dated 5//26/97
- S65 Scheduling for PET meeting, dated 5/20/97
- S66 Behavior evaluation, dated 5/12/97
- S68 Test form
- S69 PET meeting minutes, dated 4/15/97
- S71 Change of program form, dated 4/16/97

- S72 IEP addendum, dated 4/15/97
- S73 Behavior plan, dated 4/15/97
- S74 Parental notice, dated 5/7/97
- S75 Court documents, dated 11/96
- S80 PET meeting minutes, dated 9/18/96
- S82 IEP, dated 9/18/96 for 1996-97 school year
- S88 Learning Disabilities Evaluation report, dated 9/18/96
- S90 Proposed change of program and notice form, dated 9/19/96
- S91 Psychoeducational re-evaluation, dated 9/12/96
- S98 Classroom observation (undated)
- S99 Notice of re-evaluation, dated 9/9/96
- S100 PET meeting minutes, dated 1/11/96
- S102 Parental waiver
- S103 IEP, dated 1/11/96
- S106 Classroom observation, dated 1/9/96
- S107 Consent for placement, dated 1/11/96
- S108 Learning Disabilities Evaluation report, dated 1/11/96
- S110 Educational assessment, dated 12/15/95
- S114 Letter from Principal Kopp to Parent, dated 12/4/95
- S118 Court orders
- S121 Progress reports
- S123 Guidance reports

- S125 Letter from Ms. Bucknam to Parent, dated 11/13/95
- S126 Parental notice for 504 meeting, dated 8/22/95
- S128 PET meeting minutes, dated 9/20/95
- S130 Parental waiver
- S131 IEP for 1995-96 school year, dated 9/20/95
- S134 Consent for initial placement, dated 9/20/95
- S135 Evaluation by Ms. Mazzola, dated 7/31/95
- S140 Classroom observation, dated 9/18/95
- S141 Consent for placement, dated 9/20/95
- S142 Referral form, dated 9/20/95
- S143 Notice of 504 meeting, dated 8/22/95
- S144 Title I information
- S147 Letter from Parent to Ms. Kopp, dated 11/16/95
- S148 Multi-age observation material
- S152 Mid-Maine Pediatric Center *Pediatric Behavior Medicine report*, dated 2/13/95
- S153 Psychoeducational evaluation, dated 12/15/93
- S160 Progress report for 1994-95
- S162 Kindergarten report for 1993-94
- S164 Kindergarten report for 1992-93
- S166 Kindergarten progress report, dated 6/13/94
- S169 Assessments of language arts skills
- S171 Screening material
- S172 Literacy assessment record

- S174 Kindergarten progress report, dated 11/10/93
- S176 Kindergarten quarterly checklist, dated, 6/93
- S178 Kindergarten fall quarterly skills checklist, dated 11/13/92
- S179 Early screening inventory
- S186 Guidance report, 1992-93
- S188 Title I service record
- S189 Kindergarten progress report, dated 1/27/94
- S191 Kindergarten quarterly skills checklist
- S192 Kindergarten quarterly skills checklist
- S193 Evaluation report dated 5/20/97
- S194 Woodcock Reading Mastery Tests, dated 5/20/97
- S195 Summary of Evaluation
- S196 Woodcock Reading Mastery Tests, dated 9/12/96
- S199 Draft of Behavior Plan & Modifications discussed at 8/98 PET
- S204 Parental Rights and Procedural Safeguards, dated 8/25/98
- S210 Parental Notice, dated 8/13/98 with Procedural Safeguards, dated 8/30/94
- S216 Teacher's Report for Achenbach, dated 5/12/97

Parents' Documents

- P1 Valley View School Brochure and Description
- P2 Valley View School Catalogue
- P3 Letter "To Whom It May Concern" from Michelle Truman, Tutor, dated 11/12/98
- P4 Summary of Money Sent to Valley View by the Family
- P5 K-TEA Evaluation Results, dated 10/24/98
- P6 Valley View Mid-Quarter Scholastic Evaluation Reports, dated 10/9/98
- P7 Transcript of PET Meeting, dated 8/27/98
- P8 Valley View Summer Report, dated 8/18/98
- P9 Transcript of PET meeting, dated 7/22/98
- P10 Letter from Richard O'Meara to Karen Bucknam, dated 7/15/98
- P11 Student's Writing Sample for Scott Hoch, dated 6/3/98 and received 10/22/98
- P12 OT Evaluation, dated 6/3/98
- P13 Speech/Language Evaluation, dated 6/1/98
- P14 Transcript of PET meeting, dated 4/13/98
- P15 Educational Evaluation, dated 3/3/98
- P16 Letter from Dr. Jensen to Parent, dated 2/5/98
- P17 Woodcock Reading Mastery Tests-Revised, dated 5/20/97
- P-18 CTBS/4 Individual Test Record, dated 5/9/97
- P19 Home-School Notebook, dated 3/28/97-5/22/97
- P20 Behavior Specialist Report, dated 2/2/96
- P21 Letter from Dr. Jensen to Parent, dated 1/22/96
- P22 Home-School Notebook, dated 8/30/95-6/14/96

- P23 Letter from Parent to Melinda Kopp, dated 11/16/95
- P24 Letter from Dr. Jensen to Parents, dated 8/11/95
- P25 Letter from Dr. Jensen to Parents, dated 6/20/95
- P26 Letter identification score sheet (undated)
- P27 Mid-Maine Medical Center Evaluation, dated 3/14/95
- P28 Multi-Age Observation (1994-95)
- P29 Guidance Report (1992-93)
- P30 Valley View Report Card (11/98)
- P31 Letter from Parent (11/98)
- P32 Valley View Student Newspaper
- P33 Notice of August 27, 1998 PET meeting and Parental Rights and Procedural Safeguards