

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Greenwich Board of Education

Appearing on behalf of the Parents: Attorney Howard Klebanoff
Klebanoff & Phelan, P.C.,
Corporate Center West
433 South Main Street - Suite 102
West Hartford, CT 06110.

Appearing on behalf of the Board: Attorney Valerie E. Maze
Greenwich Law Department
Town Hall – 101 Field Point Road
Greenwich, CT 06836

Appearing before: Attorney Mary H. B. Gelfman, Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Are the Individualized Education Program (IEP) and placement proposed by the Board for the year 2001-2002 appropriate to Student's special education needs in the least restrictive environment?
2. If not, is placement at Eagle Hill-Greenwich appropriate to Student's needs?
3. Is the Board responsible for funding Student's placement at Eagle Hill-Greenwich for the school year 2001-2002?
4. Have all issues as to the claimed inappropriateness of the Board's program been raised at a Planning and Placement Team (PPT) meeting?

PROCEDURAL HISTORY:

This hearing was requested on August 30, the Hearing Officer was appointed on September 5, and a pre-hearing conference was held on September 11, 2001. At the pre-hearing conference, the parties requested an extension of time to allow for settlement negotiations assisted by a State Department of Education mediator: accordingly, the

Hearing Officer extended the deadline for mailing of the final decision and order from October 15 to November 14, 2001. Mediation held on October 15 failed to resolve the matter.

The hearing convened on November 2, 2001. Additional dates were requested and scheduled at the November 2 hearing session: November 14, and December 6 and 17, 2001. The Hearing Officer also extended the deadline for the final decision and order from November 14 to December 14, 2001, and then to January 13, 2002, to accommodate these dates. The hearing session scheduled for November 14 was postponed due to the illness of the Hearing Officer.

In lieu of closing arguments, the parties agreed to submit written memoranda by January 7, 2002. The Parents' memorandum was received on January 5, 2002. The Board's memorandum, postmarked January 7, was received on January 10, 2002, and the Hearing Officer closed the record on January 10, 2002. The Hearing Officer extended the deadline for mailing of the final decision and order from January 13 to February 12, 2002.

SUMMARY:

The Parents have requested that the Board fund Student's placement at Eagle Hill-Greenwich for the 2001-2002 school year: the Board has refused to make that placement, contending that the program and placement available in the local school are appropriate to Student's special education needs.

FINDINGS OF FACT:

To the extent that findings of fact may actually represent conclusions of law, they should be so considered, and vice versa, *Bonnie Ann F. v. Callahan Independent School Board*, 835 F.Supp. 340 (S.D.Tex. 1993).

All motions and objections not specifically addressed on the record of the hearing are denied.

1. Student is a ten year old boy who is currently enrolled at Eagle Hill Greenwich, a private school. (Exhibit P-1, Testimony of Parents)
2. Student had been referred for an evaluation during his first grade year, 1997-98, because of problems in learning to read. (Exhibit B-1)
3. The report of a psychological evaluation performed in December, 1997 and January, 1998 showed an average IQ. The evaluator described Student as "impulsive and quite apprehensive throughout testing, distracted by noises in the hall or in the room". His classroom teacher described him as sensitive and anxious, and not especially fidgety or restless. His "sense of failure and unease about himself" was noted. The evaluator provided a summary:

Student is a first grader of average ability overall, but with marked variability in his intellectual profile: subtest scores range from below average to very superior. Visual sequencing and spatial reasoning and visual analytic skills are areas of strength, while perceptual organization and visual motor efficiency are areas of relative weakness. Verbal knowledge and verbal reasoning are average to high average overall. Both long term and short term auditory/verbal memory are solid, while short and long term visual memory appear to be areas of weakness. Student seems painfully aware of his areas of weakness and he is easily overwhelmed by cognitive challenge. When anxious, he becomes quite impulsive and disorganized and this makes things even more difficult for him. He has become resistant to tutoring in reading, which appears to be a punishment to him and a reminder of his inadequacies, and he seems to be making very slow progress in reading and writing. While he will need academic support, he seems also to need support of a counseling nature designed to work directly on the sources of his anxiety and low self esteem. He also needs continued opportunities for release through play and imaginative activities. (Exhibits B-5, B-7)

4. An educational evaluation of Student was performed in December, 1997, and January and February, 1998. This evaluator provided a summary:

Student's academic abilities fall mainly in the low end of the average to the below average range. He has strengths in the areas of math calculations and general knowledge. He has weaknesses in letter recognition, sound/symbol associations, letter and word writing and tolerance for frustration.

The following is a list of recommendations the PPT may wish to consider:

1. A multi-sensory approach to letter recognition and sound/symbol associations.
 2. Direct instruction in phonemic awareness and phonics to improve reading and spelling ability. This should be a systematic multi-sensory approach with exposure to related children's literature.
 3. Direct instruction in the correct formation of letters and numbers.
 4. Direct instruction in the area of verbal responses to teach Student to respond to questions orally in a complete sentence. (Exhibit B-8)
 5. A speech and language evaluation was also performed in January, 1998. This evaluator noted that Student had been identified in kindergarten screening as raising concerns about his limited verbal output, slowness to respond to questions and possible auditory discrimination issues that might arise in the future. The speech/language evaluator also provided a summary:
5. Student performs in the average range in most receptive and expressive areas with the exception of rote auditory memory for following directions. Strengths are in the area of oral vocabulary and grammatic understanding. Developmental articulation errors are evident. Student continues to breathe through his mouth creating an open mouth posture.

- Suggestions for intervention: Student will be monitored for concerns in the area of auditory discrimination and sequencing. Speech/language therapy is not recommended at this time. (Exhibit B-9)
6. A “Criteria Worksheet for the Multidisciplinary Team Evaluation Report” prepared for a PPT meeting scheduled for February 10, 1998, listed significant speech/language concerns and a need for intensive work with the reading specialist, as well as classroom modifications. An observer reported that Student spent considerable time watching peers and had a hard time working independently without teacher input – he appeared easily frustrated and lacked self confidence. Student was reported as having a significant discrepancy between his basic reading skill and his math reasoning, and a processing disorder involving long term visual memory. He was recommended as eligible for special education as learning disabled. (Exhibit B-11)
 7. After evaluations were completed, the Board’s Planning and Placement Team (PPT) met on February 10, 1998. Student was determined to be eligible for special education because of a specific learning disability, and an IEP was written that included an hour a day of resource room support, 30 minutes of social work services once a week, and speech/language consultation. (Exhibit B-12)
 8. IEP goals listed on Student’s February 10, 1998, IEP were:
 - To improve accuracy and fluency of non-phonetic (sight word) reading and spelling.
 - To improve the ability to analyze the structure of spoken words.
 - To improve penmanship.
 - To improve accuracy and fluency of word reading and spelling of phonetically controlled words.
 - To function in school with a diminished degree of anxiety. (Exhibit B-13)
 9. Student’s final 1997-1998 first grade report card shows “needs improvement” for reading and writing. In oral language, Student was graded as “good”. In social development, he received four “very goods” and two “goods”. In work habits and attitudes, he received one “excellent”, seven “very goods” and two “goods”. (Exhibit B-42-10)
 10. The Board’s PPT met on September 3, 1998, and revised Student’s IEP to increase resource room support from one to two hours a day, and to include small group reading instruction. (Exhibit B-15)
 11. During December, 1998, and January, 1999, his parents took Student to be evaluated at the Yale Center for the Study of Learning and Attention Disorders. The report of this evaluation includes a summary that confirms many of the Board’s previous findings. This evaluation ended with many specific recommendations for instruction and classroom modifications. (Exhibit B-16)

12. By letter dated January 4, 1999, Ann Terezakis, an educational consultant, discussed her review of Student's records and made recommendations. She also commented:

It is often the case that auditory processing deficiencies look like attention disorders, and it is often the case that auditory and/or language processing difficulties contribute to significant anxiety in school settings. It is therefore critical to base programming decisions on comprehensive assessment.

Student also appears to have some difficulty with working memory, motor encoding and perceptual organization.

At his age, acquiring reading/writing/spelling skills – that is, mastering “the code” – is crucial to his self esteem; intensive development, not peer competition but personal development, is warranted early. (Exhibit B-18)

13. The Board's PPT met on January 5, 1999. Parents questioned Student's progress, which Board staff described as “slow but steady”. There was some discussion of fluid in Student's ears and various attempts to address resulting in intermittent hearing problems. A recently hired tutor reported on Student's progress. The PPT agreed to perform additional speech/language evaluations and to re-convene to discuss evaluation results. (Exhibit B-20)

14. The January, 1999, speech/language evaluation report noted Student's increased cooperation in testing. This evaluator's summary:

Student presents with a history of [otitis media] OME, which can cause mild to moderate hearing loss, as long as the fluid is present. OME causes him to receive a partial or inconsistent auditory signal and he may consequently encode information incompletely and inaccurately. This puts Student at a disadvantage for learning. This, in turn, impacts academic achievement, particularly in reading and other language based subjects. Additionally, if Student hears a decreased or inconsistent auditory signal, he may tune out and become inattentive further reducing the chances that he will receive important auditory information in the classroom.

This evaluator recommended: Student's hearing should be carefully monitored. Classroom strategies should be put in place for optimizing the listening and language/learning environment. Direct/consultative speech/language service should be delivered. (Exhibit B-21)

15. The Board's PPT met on February 9, 1999, and informed the Parents that the speech/language evaluation showed no need for a central auditory processing evaluation. The PPT revised Student's IEP to provide two hours per day of resource room for reading, writing, spelling and language and continued social work support for self esteem. (Exhibit B-24)

16. The PPT met again on April 1, 1999. Student was reported to be making progress, and Parents and Board staff members agreed that he responds well to praise.

Student's nasal congestion, which interferes with his hearing, was also discussed. (Exhibit B-27-3)

17. The PPT met again on May 12, 1999, as planned. Student's Mother reported several continuing medical consultations concerning orthodonture and adenoid problems. Student's special education teacher reported improvement "both academically and socially". Student's reading would now be provided in a collaboratively taught group in the resource room. The PPT suggested a summer program "as support for retention of learning skills." Student's Mother responded that the family would be traveling in the summer, and would work with Student. (Exhibit B-27-3)
18. The PPT met on June 14, 1999. Testing at school showed "good gains" and the tutor also reported progress. There was discussion of possible surgery to put tubes in Student's ears: his Mother was seeking another medical opinion. A Child Advocate attending this PPT meeting suggested that Student's Mother encourage more reading to help with vocabulary development. This Advocate also inquired about a self-contained program for Student. The Board's Administrator at this PPT meeting stated that Student would receive services in a small group setting and have the support of an aide in math class. The PPT decided to provide aide support for Student in science and social studies as well as math. (Exhibit B-30-3)
19. Services to be provided in 1999-2000 were listed on the record of the June 14, 1999, PPT meeting: Special Education Teacher in the Resource Room, two hours a day; Instructional Assistant [Aide] in the [regular] classroom, two hours a day; Social Worker, one on one, ½ hour a week; Speech Therapist, two individual ½ hour sessions a week and consultation with the classroom teacher. (Exhibit B-31-5)
20. Student's final report card for second grade, 1998-1999, showed overall reading, writing and oral language grades of "good", with "very good" for effort in the three areas. All grades in social development and work habits and attitudes were "very good". (Exhibit B-42-14)
21. The PPT met on November 16, 1999, to discuss parental concerns about Student's progress. His Mother reported that although he had started the year with enthusiasm, he was now complaining that science and social studies were "too much to grasp" and she could not read his homework. She asked for an Orton-Gillingham approach. Student's special education teacher reported that Student had made progress from last year. The Parent's Advocate noted progress when Student received one on one instruction. The Board's Administrator responded that Student was supported by small group instruction in the resource room and an aide when he was in a regular third grade class. The PPT agreed to address the issues raised by Parents and to meet again soon. (Exhibit B-33-2)
22. On November 29, 1999, the PST [Pupil Study Team?] made the following recommendations for Student:

Attendance at morning CCC computer lab to improve basic math and reading skills. It is suggested that Student attend 3 times per week. This self-directed program is customized to the students' current levels of performance. During the time Student attends Resource Room, his program will be further refined to meet his needs. The first hour will be devoted to reading instruction with a small group of students and two adults. The second hour of each day will be modified to provide less formal writing and more reading instruction and practice. Whenever possible the Resource Room teacher would work directly with Student on specific reading issues. She would also prepare lessons which would be monitored by the Instructional Aide. At least one hour per week would be spent helping Student to achieve the automaticity he needs to be a better reader.

The PST also felt that taking time from science/social studies would be beneficial. This time would be used to work on reading skills. (Exhibit B-35)

23. By letter dated January 28, 2000, the Parents were notified by the Board's Administrator that changes in Student's program discussed at a January 17, 2000, PPT meeting would be implemented unless the Parents contacted the School. The notice for the meeting showed reasons for the recommended changes as:
 - Previous IEP goals and objectives have been satisfactorily achieved.
 - Educational performance supports the action recommended.
 - More opportunity for intensive instruction.The proposed changes were:
 - To complete standardized testing in the area of reading.
 - To complete skills checklist as part of IEP current levels of performance.
 - An additional ½ hour daily of special education support.Actions listed as "refused by the District":
 - To pay for testing already completed by Lindamood-Bell
 - To pay for 6-8 week Lindamood-Bell program
 - To pay for full time placement at Eagle Hill. (Exhibit B-37-3)
24. The PPT met again on February 29, 2000, for the annual review of Student's progress. A draft IEP for 2000-2001 was presented and Student was found eligible for the extended year program. The PPT again refused Parents' requests to fund a private school placement and a six week Lindamood program. (Exhibit B-40-3)
25. The evaluation section of the 1999-2000 IEP included with the record of the February 29, 2000, PPT meeting showed all but 11 of 44 academic objectives had been achieved. (Exhibits B-40-24 through B-40-33)
26. The 1999-2000 goal "To function in school with a diminished degree of anxiety" included three objectives, one of which is marked as achieved. The Social Worker's notes show progress on the two remaining objectives not met. (Exhibit B-40-34)
27. By letter dated May 12, 2000, the Board's Administrator confirmed the Parents' rejection of an extended year program for Student. (Exhibit B-47-1)

28. Student's 1999-2000 third grade report card showed his reading and writing as below grade level, with a "modified or alternative program". There were grades for the first two of three marking periods:

Reading Writing Oral Language

Effort NI VG Effort S VG Effort S VG

Skills NI S Organization S S Discussion S VG

Comprehension VG VG Content/ Presentation S S

Interpretation Elaboration/

Of texts S S Revision S S

Grammar/

Mechanics/

Editing S S

Spelling in

Written Work NI S

Handwriting S S

Social Development Work Habits

Behaves Responsibly S VG Listens & Follows Directions NI S

Works well with others S S Has materials organized S S

Expresses feelings and Uses time constructively NI S

Needs appropriately NI S Works carefully & neatly S S

Works independently NI S

Takes responsibility for

Homework S VG

Math Social Studies Science

On grade level Effort S S Effort S

Modified Understands Understands

Effort S VG Concepts S S Concepts S

Concepts S S Participates S S Participates S

Problem-solving S VG

Communication/

Math ideas S VG

Computation S VG

Basic facts S S

[E-excellent; VG-very good; S-satisfactory; NI-needs improvement; U-unsatisfactory] (Exhibit B-45)

29. Health records entered on the record of this hearing showed an entry dated 5/21/97 "Rarely seen in H[ea]lth O[ff]ice excluded once for ear infection" and "pass" for hearing screening in October, 1997. On health questionnaires filled in and signed by Student's Parent in 1996 and 1999, "Does your child have any problems with vision, hearing or speech (glasses, contacts, ear tubes, hearing aids)? "NO" is checked. Reports of school physical exams in 1996 and [illegible date, after 1998] show no record of hearing problems. (Exhibit B-43)

30. After observing Student's increasing frustration with school work and decreasing self-esteem, struggling to help him with his homework and requesting several revisions of his IEP, Parents enrolled him at Eagle Hill Greenwich after third grade, for the 2000-2001 school year. At some point, the Board assumed financial responsibility for this placement in a sealed settlement agreement that was not entered on the record of this hearing. (Exhibit B-13, Testimony of Parents)
31. Student's progress was reported by Eagle Hill in December, 2000. While the style of the Eagle Hill report shows more detailed information than those provided by the Board, some items had been reported as mastered in the prior school year. General progress was similar to that reported by the Board in prior years: slow and steady. However, the Parents saw a significant change in Student's attitude toward school, reporting that he was happier and that problems with homework had been solved. (Exhibit B-58, Testimony of Parents)
32. By letter dated April 30, 2001, the Board's Director of Pupil Personnel Services informed the Parents of their right to a free appropriate public education for Student. This letter did not specifically address Student's particular status or current placement. (Exhibit B-48)
33. The PPT convened on May 17, 2001, to discuss a triennial evaluation for Student. Parent provided consent for the evaluation, and it was agreed that the PPT would reconvene later to discuss a program for 2001-2002. Parent requested that the Board fund continued placement at Eagle Hill. (Exhibits B-50, B-53)
34. Board staff members observed Student at Eagle Hill on May 22, 2001, and discussed his program and progress with Eagle Hill staff members. The special education teacher who had taught Student in 1999-2000 reported that Student was handling the material presented in his Tutorial class "easily" while his two classmates "struggled". Student greeted his former teacher warmly. (Exhibit P-2, Testimony of Onofrio, Libby)
35. The PPT convened on June 7, 2001, to discuss the Board's proposed program for 2001-2002. Parent repeated the request for funding of placement at Eagle Hill, and asked that the final 2000-2001 Eagle Hill report be included in the triennial. The PPT refused to fund placement at Eagle Hill. (Exhibit B-54-3)
36. Present levels of classroom performance presented at the June 7, 2001, PPT meeting were taken from the December, 2000, reports from Eagle Hill. That information was used to develop the following statements about the impact of Student's disabilities:
How does the student's disability impact on his/her involvement and progress in this general curriculum area?
Academic/ Cognitive: Reading/ Language/ Written Expression. Student's disability impacts upon his ability to participate in the regular classroom because he cannot read the grade level material presented. When asked to write in class,

Student requires extra time and assistance to put his ideas in writing and then edit and revise.

Academic/ Cognitive: Math. Student's concerns impact upon his ability to participate in the regular classroom in math because he has difficulty problem solving. He requires extra teacher assistance and verbal cueing to complete some math problems. He also needs extra time to complete math problems because his basic [math] facts are not automatic.

Social/ Emotional. Based on Eagle Hill's report, it appears that Student continues to need help and cueing in channeling his competitive drive. It can be adaptive when he uses it to strive for improving his own performance rather than competing with others.

Communication. Difficulties with identifying the main idea can impact understanding in the classroom. Spelling is compromised by weaknesses in phoneme synthesis.

The following parental concerns were recorded:

Parents' and student's input, concerns and/or preferences. Parent still has concerns about Student's recognition of p and b. She also reports that Student often replaces facts with fantasy when he is trying to recall something he has read – he has difficulty pulling facts from a story. (Exhibit B-54-4, B-54-5)

37. The June 7, 2001, PPT meeting recommended the following goals for 2001-2002:

To read at an ending grade three/beginning grade four level in controlled text.

To improve accuracy of reading and spelling phonetically.

To improve paragraph writing.

To improve reading and spelling of phonetically irregular sight words.

To improve problem solving skills in math.

To improve basic fact recall.

To acquire strategies for learning mainstream curriculum.

To improve auditory processing/critical thinking skills.

To improve phonemic synthesis.

To function in school with a diminished degree of anxiety. (Exhibits B-54-7 through B-54-16)

38. The June 7, 2001, PPT recommended placement in public school in district, with special education in reading and writing, team-taught math, and supported science and social studies. In a block schedule, Student would be in the Resource Room 10 hours a week, general education classes with support 10 hours a week, regular education without support 12 hours per week, and counseling one hour a week. He was to be provided with support of computer, laptop, and a Franklin Speller. Modifications and adaptations for general education were also listed. (Exhibit B-54-17, B-54-18, B-54-19)

39. Student's triennial evaluation report, dated June 24, 2001, included a review of prior psychological, educational, speech/language and social skills records from 1998 and 1999 and the December, 2000, reports from Eagle Hill. The Board's Social Worker,

Speech/Language Pathologist and Special Education Teacher summarized Student's educational history and his current levels of academic functioning. In testimony, the Board's special education teacher confirmed that the information reviewed was enough to support Student's continuing eligibility for special education.(Exhibit B-55, Testimony of Onofrio)

40. Eagle Hill issued a June, 2001, report on Student's progress. Although Student was progressing, he still required significant amounts of pre-teaching, review, teacher encouragement and cueing. (Exhibits P-1 and B-57)
41. In testimony, an Educational Advisor from Eagle Hill described Student's 2001-2002 program. He was receiving intensive instruction in language arts (called tutorial at Eagle Hill); and attended small group classes in history, oral literature, writing, and math. All classes range in size from three to six. She described Student as "vulnerable and sensitive", although he has been exhibiting increasing confidence in the classroom. No direct speech/language services are provided; problems are handled in the context of the classroom. She reported that Student "is still struggling with reading, requiring direct instruction". (Testimony of Quinn)
42. During 2000-2001, Eagle Hill did not provide Student with social work or counseling services beyond the generalized support he received from individual teachers and "lunch bunch", a small group working on social skills. This year, he has been seeing an Eagle Hill Psychologist. (Testimony of Quinn)
43. The PPT reconvened on September 25, 2001, to review Student's triennial evaluation. The PPT confirmed Student's continuing eligibility for special education. Parents did not attend this meeting. (Exhibit B-56)
44. The Parents have been concerned about the "stigma" of "pull out" special education services. In testimony, the Board's Special Education Teacher described the program proposed for 2001-2002 as a "block schedule"; that means that all the students move at the end of each time block. Some will move to another class, some to music or art, and some to the Resource Room. (Testimony of Parents, Onofrio)
45. In testimony, the Board's Special Education Teacher described Student as she had observed him in the Resource Room during 1999-2000, as the Board-designated monitor of his IEP since first grade and during her visit to Eagle Hill in May, 2001. While she had observed frustration and anxiety over the years, she felt that neither rose to a level that would justify a behavior plan. She had observed him in regular classroom settings, where he did very well with support. She described him as "sensitive" and "easily embarrassed". She felt that the Eagle Hill reports were accurate, and showed little significant progress. Because he was good at sports, she felt that participation in gym and recess with regular education students would raise his self esteem. (Testimony of Onofrio)

CONCLUSIONS OF LAW AND DISCUSSION:

1. There is no dispute that Student is eligible for special education because of his specific learning disability, pursuant to Title 34 Code of Federal Regulations Section 300.7(c)(10).
2. The test of appropriateness of a special education program is found in Board of Education of Hendrick Hudson Central School District v. Rowley, 458 U.S. 176, EHLR 553:656 (U.S. 1982). The court found that when a student's program had been developed in compliance with the requirements of federal law and enabled the student to move along from grade to grade, that special education program was appropriate.
3. In order to secure public funding for a parent-initiated private school placement, the Parents must meet two tests under Burlington School Committee v. Massachusetts Department of Education, 105 S.Ct. 1996, EHLR 556:389 (U.S. 1985). First, the program and placement offered by the local school district must be shown to be inappropriate to the child's special education needs; then the private school program and placement selected by the Parent must be shown to be appropriate.
4. The Board held two PPT meetings during the 1997-1998 school year, determining that Student was eligible for special education and designing an initial IEP. This first IEP included goals that addressed the difficulties identified in the evaluation and provided 10 sessions of 30 minutes each per week in the Resource Room to assist Student with his reading and writing. To address his anxiety, he was provided with one 30 minute session per week with the School Social Worker, one on one. An extended year program recommended by the Board was refused by the Parents.
5. Six PPT meetings were held during the 1998-1999 school year. Student's special education services and classroom modifications and support were gradually increased in response to parental concerns. There was discussion of Student's intermittent hearing problems, with reports of medical consultation. Parents again refused an extended year program offered by the Board.
6. Three PPT meetings were held during the 1999-2000 school year. While progress was reported, the PPT continued to add supports in response to parental concerns. Discussion continued about Student's intermittent hearing problems, and Parents again refused an extended year program offered by the PPT.
7. Student's report cards show progress from year to year with special education services, fulfilling the Rowley standard.
8. The Parents presented data on Student's progress at Eagle Hill as part of their case arguing that the Board's program was inappropriate. While there are stylistic differences in the reports from the Board and those from Eagle Hill, it appears that similar techniques were in use and Student's progress was indeed "slow and steady" in both schools. There is, however, a significant difference in peers: in the Board's

school, Student spent part of each day with students who were not disabled; at Eagle Hill, all students have some degree of disability. Furthermore, at Eagle Hill Student received instruction in a narrower group of subjects (i.e., no science, art). It is not clear from the record whether Student is still having difficulties with fluid in his ears at Eagle Hill.

9. While the report of the triennial review of Student's various records may have been enough to support continuing eligibility for special education, it did not provide current evaluative data to establish actual progress or lack of progress, which is needed to plan for appropriate IEP objectives or benchmarks.
10. The IEP and placement proposed by the Board for the 2001-2002 school year is appropriate to Student's special education needs in the least restrictive environment. The Eagle Hill placement, while a valid parental option, is not required to enable Student to benefit from special education.
11. Because the Board's program and placement are appropriate, it is unnecessary to address the other issues identified.
12. While the Board generally followed the procedural requirements of state and federal law, there is a murky period reflected by records from the middle of the 1999-2000 school year. It is not clear why PST (Pupil Study Team?) recommendations were not discussed in a PPT meeting. While the recommendation of an early morning computer program makes sense, any program change being considered for a student in need of special education should be considered by a properly convened PPT meeting, pursuant to Title 34 Code of Federal Regulations Section 300.346(b).
13. Ms. Terezakis' comments relating Student's anxiety at least partially to his lack of progress in reading are significant. It is hoped that the Parents will reconsider their refusals, after Student's first, second and third grade years, of an extended year program to strengthen his retention of skills if it is recommended by the PPT.
14. If Student enrolls in the Board's school, the Board shall provide a psychological evaluation. If the psychological evaluator so recommends, a psychiatric evaluation shall also be provided. The results of such evaluation(s) shall be considered in planning for support, if needed, to address Student's emotional needs in school.
15. If Student enrolls in the Board's school, the apparent conflict in records and testimony concerning Student's chronic problem with fluid in his ears and resulting periods of hearing impairment must be addressed in two ways. First, the Board shall provide an evaluation of Student's hearing by an appropriately qualified expert physician. Second, the Board shall assess his hearing whenever Student, Parents or Board staff members report that his hearing appears to be impaired. During periods of hearing impairment, Student's program shall be modified to insure that information is provided in writing as well as orally.

FINAL DECISION AND ORDER:

1. The IEP and placement offered by the Board for the school year 2001-2002 were appropriate to Student's special education needs in the least restrictive environment. While there were a few minor procedural errors shown on the record, none of them had a significant impact on the 2001-2002 IEP proposed by the Board.
2. The Board is not responsible for funding Student's 2001-2002 placement at Eagle Hill-Greenwich.
3. If Student enrolls in the Board's school, the Board shall provide the hearing evaluation described in Conclusion of Law #15; if necessary, shall monitor his hearing in school, and shall provide appropriate modifications whenever his hearing is impaired.
4. If Student enrolls in the Board's school, the psychological evaluation discussed in Conclusion of Law #14 shall be administered.