

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Groton Board of Education

Appearing on behalf of the Parents: Mother appeared pro se

Appearing on behalf of the Board: Attorney Susan C. Freedman
Shipman & Goodwin
One American Row
Hartford CT 06103-2819

Appearing before: Attorney Margaret J. Slez, Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the Board offer the student an appropriate program for the balance of the 2001-2002 school year after the student returned from another state?
2. Did the Board offer the student an appropriate program for summer 2002?
3. Did the Board offer the student an appropriate program for the 2002-2003 school year?
4. Is the League School of Greater Boston an appropriate placement for the student?
5. Does the Board violate the IDEA by describing the student's eligibility category as autism rather than Asperger's syndrome?
6. Is the parent entitled to compensation for representing the student in the due process hearing?

SUMMARY:

The student, now 14 years old, is an eighth grader at a Board middle school. Numerous diagnoses of the student's disability include Asperger's syndrome. Although the student attended a Board school until May 2001, at the beginning of the 2001-2002 school year, the student was living in another state and not attending school. Upon return to Connecticut, on or about December 11, 2001, the student was re-enrolled at the Board middle school and a PPT meeting was immediately convened on December 12, 2001 (Exhibit B-1), to develop an IEP for the balance of the 2001-2002 school year (Exhibit B-2). On January 18, 2002, another PPT meeting was convened to discuss the student's progress and review the student's transition back to the Board middle school (Exhibit B-8). No issues of concern were raised at that time. On February 8, 2002, another PPT meeting was convened to discuss the student's progress and

review the IEP (Exhibit B-11). On or about April 15, 2002, the parent requested a due process hearing, claiming disagreement by the parties as to issues alleged to have been raised by the parent at the PPT meeting held on February 8, 2002 (Exhibit H.O.-1).

PROCEDURAL HISTORY:

At a time prior to January 8, 2001, the parent commenced a due process hearing alleging that the Board failed to provide an appropriate program for the student. On January 8, 2001, the parties entered into a settlement agreement (Exhibit B-42) to resolve the issues raised prior to January 8, 2001, for all school years prior to the agreement up to and including the 2000-2001 school year and extending through August 2001. Upon entering into the January 2001 agreement, the parent withdrew the request for due process hearing with prejudice. Both parties were represented by legal counsel. The student was out of the district between June 2001 and December 12, 2001, when the student was enrolled in the Board school. On or about April 15, 2002, the parent requested a due process hearing, claiming that the parties had failed to reach agreement at a PPT meeting held on February 8, 2002. (Exhibit H.O.-1). Prehearing conference was held on April 25, 2002, at which time the hearing officer ordered that a PPT meeting be convened within ten days for the purpose of clarifying the issues raised by the parent. The PPT meeting was held on May 2, 2002, (Exhibit B-24), and a second prehearing conference was held on May 9, 2002, to schedule hearing dates. On June 6, 2002, another PPT meeting was convened, per order of the hearing officer, to plan a program for summer 2002. (Exhibit B-44). In order to provide sufficient time for the presentation of the parties' cases, the hearing officer granted the Board motion for extension of time to July 1, 2002, for the mailing of the final decision and order. Hearing of this matter took place on May 28 and 29, and June 12, 17, and 24, 2002.

FINDINGS OF FACT:

1. The fourteen year-old student has been evaluated numerous times, resulting in a variety of diagnoses. Although some of the diagnoses are inconsistent with each other and inconsistent with the opinions of Board staff who have been working directly with the student on a regular basis, none are specifically challenged in this proceeding. In November 1991 and October 1993, at the Newington Children's Hospital, the student was diagnosed with PDD-NOS, with receptive and expressive language disorders, ADHD, as well as fine and gross motor deficiencies. In October 1994, at the Newington Children's Hospital, the student's diagnosis was changed to neurologically impaired with PDD symptoms. (Exhibit P-1, p. 1). In July 1995, the student was evaluated over the course of 12 sessions with Paul D. Solomon, M.A., C.I.S.W., and Henry Mann, M.D., resulting in a diagnosis of PDD-NOS and ADHD. (Exhibit P-1, p. 3, 4). In June and July 1998, the student was referred for a diagnostic perceptual/cognitive assessment through PEDAL, Connecticut Children's Medical Center. At that time, the psychiatric evaluation indicated neurological impairment with features of PDD, ADHD, motor impairments, language impairments, and articulation disorder. Results of the neuropsychological evaluation indicated intellectual functioning in the Low Average range, with weaknesses in language processing and in tasks referred to as executive processing skills. (Exhibit P-8). In July 1998, Robert L. Cerciello, M.D., Connecticut Children's Medical Center, found the student to be strong in all muscle groups, with no asymmetry in muscle use or reflexes. Dr. Cerciello's diagnosis was "dyspraxia, from a

neurologic perspective, with hypotonia.” (Exhibit P-8, p. 15). Report of a physical therapy evaluation in July 1998 stated that there was no indication that direct physical therapy services needed to be provided at that time although consultative physical therapy services were recommended to supervise an exercise program to address “decrease in strength and general condition.” (Exhibit P-8, p. 20). The most recent evaluation, April 24, 2002, was done by Cornelia Gallo, M.D., Assistant Professor of Child Psychiatry, Yale University Child Study Center. (Exhibit P-69). Her report notes that the student was evaluated at the Disabled Childcare Clinic on April 24, 2001, and was diagnosed with Asperger’s Syndrome, gross motor deficits, fine motor deficits, and dyspraxia. Dr. Gallo’s report refers to a note of Dr. Mann, dated May 30, 2001, which states that “he has been treating the student for Asperger’s disorder since [the student] was six years old.” (Exhibit P-69, p. 4). Dr. Gallo’s report also states that the student was evaluated at Rhode Island Hospital on October 30, 2001, by a “team of specialists” whose “diagnostic impression” was that the student was an adolescent . . . with a long history of Asperger’s Syndrome.” (Exhibit P-69, p. 4).

2. In August 1998, Lisa Nystrom Mule, speech/language pathologist, Connecticut Children’s Medical Center/Newington, as part of the PEDAL assessment, diagnosed the student with moderate to severe receptive and expressive language disorder and pragmatic disorder. The student used verbal language to communicate for a good variety of purposes, could readily request not only objects or actions but also information, permission, and clarification. The student could comment, describe, state rules and explain, respond and make clarification when needed, and could make claims, jokes, and protest. The student could express emotions or feelings in a simple way. Although oral-peripheral examination revealed the student to have adequate structural integrity to support intelligible speech, “oral-peripheral examination was significant for left sided weakness.” The student was found to require continued direct and intensive speech and language intervention on an individual or very small group basis. (Exhibit P-8, p. 24, 25). During the balance of the 2001-2002 school year, the period in question in this case, the student received individual speech/language services two periods each week, one period with the Board speech/language pathologist and one period with a Board speech/language tutor who has a masters’ degree in special education. The student is also involved in a social skills/language group, co-facilitated by the school social worker and the speech/language pathologist, to improve social/pragmatic language skills. Speech/language goals were developed based on the recommendations set forth in the report of the Rhode Island Hospital Child Development Center team evaluation dated November 13, 2001. (Exhibit B-13). The Board speech/language pathologist has a significant amount of training and experience with children diagnosed with autism and Asperger’s Syndrome. (Exhibit B-32).
3. Over the years, the student has received special education and related services in a variety of settings, including the special education preschool program, Ledyard CT, spring 1991; Connecticut College Program for Children with Special Needs, New London CT, January 1992; Children’s Hospital Inpatient Psychiatric Service (CHIPS), Newington Children’s Hospital, September 1993 to June 1994; Stonington CT public schools, September 1994 to February 1995; Eastern Point Elementary School, Groton CT, February 1995 to June 1995; Project LEARN classroom, a regional education service center in Old Saybrook CT, July 1995 to August 1995; Project LEARN classroom, Lillie B. Hayes Elementary School, East

Lyme CT, September 1995 to June 1998; Project LEARN summer program, summers 1996 and 1997; The Groden Center, Providence RI, summer 1998; The Groden Center, self-contained day program, Providence RI, for the 1998-99 and 1999-2000 school years, and from September 2000 to January 16, 2001. Per agreement of the parties (Exhibit B-42), the student was again placed at Project LEARN from January 16 to May 28, 2001. In September 2001, the parent was informed that the student would not be accepted back into the The Groden Center program on the grounds that the student no longer required such a restrictive environment due to significant progress in social skills, peer relationships, independence in daily routines, and the development of self-control; “problem behaviors had decreased to near zero levels.” (Exhibit P-41, P-48).

4. As referred to above, on January 8, 2001, the parent and the Board previously entered into a settlement agreement in which it was agreed, *inter alia*, that the student would be transitioned to an out-of-district placement at Project LEARN in Old Saybrook CT. The agreement resolved and settled any and all claims arising out of or in connection with the student’s educational program up to and including August 2001. Both parties were represented by legal counsel at the time they executed the agreement. The parent withdrew the request for due process hearing with prejudice. (Exhibit B-42). As a result of the terms of the parties’ agreement, no issues which arose prior to August 2001 were considered by the hearing officer in this case.
5. On or about October 12, 2001, the student was evaluated by Pediatric Ophthalmology and Strabismus Associates. D. Robbins Tien, M.D. reported that the student’s eye exam was healthy, that the student’s eyes do not go out of alignment, and that the student “sees wonderfully.” (Exhibit P-50).
6. There is no evidence to suggest that the student was enrolled in school by the parent or attended school between August 2001 and December 12, 2001, while the student and parent were living in Bristol, Rhode Island. The report of the Rhode Island Hospital Child Development Center team evaluation, dated October 30, 2001, states that “[a]t the time of this evaluation, we did not have a school report because [the student] is not attending school.” (Exhibit P-49, p. 1). The parent testified that the student was being tutored for nine hours a week during the fall of 2001, but there was no testimony as to when tutoring began or when it ended and there are no documents in the record to support the parent’s testimony regarding tutoring. The parent also testified that the Bristol Warren (RI) school district had no IEP in place because evaluations requested by her had not been completed. The Bristol Warren (RI) school district scheduled a physical therapy evaluation for October 26, 2001, and an occupational therapy evaluation for October 31, 2001, but the parent did not take the student for the evaluations. (Exhibit P-44; Testimony of the Parent, June 17, 2002).
7. On December 11, 2001, the parent contacted the Board supervisor of pupil personnel services and notified him that the family was back in Connecticut. The parent waived her right to five-day notice and a PPT meeting was scheduled for December 12, 2001, in order to get the student back into school immediately. (Exhibit B-1; Testimony of Board Supervisor of Pupil Personnel Services, June 12, 2002). The PPT meeting was convened on December 12, 2001, at which time psychiatric, psychological, educational, and speech/language

evaluations were reviewed and an IEP was developed for the balance of the 2001-2002 school year. (Exhibit B-2).

8. The IEP developed on December 12, 2001, for the balance of the 2001-2002 school year included the training of Board staff in Asperger's disorder, academic instruction in the resource room, life skills activities based on the student's strengths, the support of a full-time aide, mainstream art and music, a highly structured program with built-in transition times, an occupational therapy consultant, speech/language therapy three times a week, social skills group with Board social worker, individual counseling with the school psychologist two times a week, a physical therapy consultant, a sensory diet designed by the occupational therapy consultant (Exhibit B-6), a daily log for communication with the parent (Exhibit B-26), and the retrieval of exercise equipment from the Project LEARN placement for the student's use at the Board middle school. (Exhibit B-2).
9. To be sure that the student was succeeding in the Board placement and to review the IEP for any necessary adjustments, another PPT meeting was convened on January 18, 2001. (Exhibit B-8). The PPT meeting summary stated: "It is noted that [the student's] transition back into school has been very positive. Mom reports [that the student] is very happy to go to school." Nevertheless, on January 24, 2002, the parent requested continuing outside psychotherapy with a therapist who has experience with Asperger's syndrome and autistic children, development of a summer program, and an outside psychiatric evaluation. The Board immediately sent notice of a PPT meeting to take place on February 1, 2002, then rescheduled to February 8, 2002. (Exhibit B-10).
10. On February 8, 2002, the parent began the PPT meeting with a request for an outside educational consultant to evaluate the student and design a program for the student "with Asperger's in mind." (Exhibit B-11, p. 1). The Board agreed to pay for Tommi Saunders to provide outside family counseling, but if Tommi Saunders was unavailable, as proved to be the case, the Board agreed to pay, and continues to agree to pay, for the services of Lynne Zimmerman, Ph.D., a clinical psychologist, to address parenting issues related to having a child with Asperger's Disorder and to facilitate home-school communication in support of the student's educational program. (Exhibit B-11, p.3; P-65). The parent reported that announcements hurt the student's ears so the Board agreed to disconnect the P.A. system in the student's classroom. Since the PPT meeting on January 24, 2002, the stationary bicycle had been placed next to the student's desk and, per the parent's request, it was agreed that no other pupils would be present to watch the student exercise. The PPT agreed that the student would benefit from an extended school year program. (Exhibit B-11, p. 1, 3).
11. On April 15, 2002, the parent requested a due process hearing, stating that the parties had failed to reach agreement at the IEP meeting which took place on February 8, 2002. (Exhibit H.O.-1). Because it was difficult to determine from the parent's request the precise nature of the parties' disagreement, the hearing officer ordered the PPT to meet and clarify the nature of the issues in dispute. The PPT met on May 2, 2002, and a statement of claims in dispute was submitted to the hearing officer. (Exhibit B-24, p. 4). However, since the parent disagreed with the statement of claims which had been prepared by the Board, the hearing officer canvassed the parent before taking any testimony on the first day of the hearing. The

parent claims that the Board has failed to offer an IEP appropriate for a student with Asperger's syndrome; seeks a "therapeutic" summer program; seeks continuing outside psychotherapy services; seeks direct physical and occupational therapy services, adaptive physical education, and social skills training with peers; and seeks placement of the student at the League School of Greater Boston.

12. The parent renewed the request for placement at the League School of Greater Boston or "a similar facility" at the IEP meeting convened on June 6, 2002. (Exhibit B-44, p. 2). The Board supervisor of pupil personnel services, who knows the student well and whose training and experience in special education is extensive (Exhibit B-38), described the League School as a 24-hour, residential placement for low-functioning, severely autistic children, with little opportunity for interaction with non-disabled peers, whose goal is not "family reunification" but, rather, the development of life skills for independent living in the Boston community. The Board supervisor stated unequivocally that the student is "very high-functioning," that the student is doing well, progressing in the Board setting, and needs non-disabled peers as models. (Testimony, Norman F. Turchi, June 17, 2002). The parent submitted the League School "Summary of Residential Programs, Policies and Practices" (Exhibit P-87), but no testimony was presented regarding the League School or its appropriateness for the student.
13. A physical therapy evaluation was done at Shoreline Physical Therapy Services in May 2001 by Joanne Moore, a physical therapist. Ms. Moore reported the student to be "an engaging teen who enjoys socializing and talking about [the student's] favorite topic, the Muppets." The physical therapist further described the student as friendly and well-mannered in conversation, a description common to all the Board personnel who testified during the hearing. Ms. Moore concluded that the student would "clearly benefit from regular exercise of a recreational nature" but did not conclude that school-based physical therapy is indicated because of the student's "good function in the school environment." (Exhibit B-39, p.2). Nicole Gesner is the physical therapist who has been a member of the student's PPT as a physical therapy consultant since December 12, 2001, has attended all of the IEP meetings since that date, and has monitored the student's physical therapy activities. Ms. Gesner's testimony during the hearing corroborated Joanne Moore's written report. (Testimony, June 12, 2002).
14. The most recent evaluation of the student was done on April 24, 2002, by Cornelia Gallo, M.D., Assistant Professor of Child Psychiatry, Yale University. Dr. Gallo's report (Exhibit P-69) states that the student "seems to present with a significant amount of obsessive compulsive symptoms, which can be part of [the student's] Asperger's syndrome, some anxiety and a history of mood instability." Dr. Gallo's report further states that the student demonstrates cognitive and social disabilities, and "would benefit from placement in a therapeutic school setting where [the student] could be among children with similar disabilities but also typically developing children so that [the student] would have role models" to model behavior and develop social skills. Although Dr. Gallo's report states that the student's "academics seem to be floundering," there is nothing in the report to suggest that Dr. Gallo reviewed the student's school records or observed the student in the Board school setting. Dr. Gallo's report recommends twelve month programming for the student to avoid academic and social skills regression, and states that the student would benefit from occupational

therapy, speech/language therapy, and psychotherapy to work on “self-esteem and adolescent identity individualization issues.” (Exhibit P-69, p. 5).

15. The summer 2002 program offered by the Board at the IEP meeting on June 6, 2002, begins the week after the end of the regular school year and continues until the week before the start of the 2002-2003 school year. The student, with a one-to-one aide, would spend the morning, 8:30 a.m. to 12:30 p.m., in the SAIL program, a regular education summer school setting in which academic subjects are addressed. In the afternoon, 12:30 p.m. to 3:30 p.m., with a one-to-one aide, the student would participate in the community Parks & Recreation program in which the student would have the opportunity to choose from a multitude of activities, including arts and crafts, which would appeal to the student’s special interest in puppetry, and more physical recreational activities, which would be beneficial for the student’s weight problem, low muscle tone, and blood pressure. In both parts of the day, the student would have opportunities to further develop socialization skills. Because the Parks and Recreation component of the summer program would take place at a park near the student’s home, the student would know or recognize many of the other participants from school and the neighborhood. The personnel of both the SAIL program and the Parks and Recreation program are experienced in working with special education students. (Testimony, Norman F. Turchi, June 17, 2002). The Board would provide the transportation to and from the summer program as well as to and from therapy with Dr. Zimmerman, the clinical psychologist paid by the Board to provide services to the student and the parent. (Exhibit B-47).
16. Since December 2001, Levara Ann Tullie, Ed.D., the Board school psychologist has met with the student on an individual basis two times a week, for 30 minutes each time, on Mondays and Fridays, for counseling and therapy. In April 2002, Dr. Tullie, the student’s special education teacher, and the Board speech/language therapist attended a day-long workshop entitled “Understanding Asperger’s Syndrome” at the American International College, Springfield MA, presented by Tony Attwood, Ph.D., a well-recognized expert in autism spectrum issues. (Exhibit B-36, p. 2; Testimony, Dr. Tullie, June 24, 2002). Dr. Tullie, who has attended all IEP meetings for planning and refining the student’s program, has a background which includes 28 years in education settings, as a special education teacher and school psychologist, as well as 6 years of clinical experience, focusing on early adolescence, which Dr. Tullie described as “more clinical experience than most school psychologists.” (Testimony, June 24, 2002). Dr. Tullie has twice been nominated as “Teacher of the Year” in her role as a school psychologist. She testified that the student made good eye contact with her right from the beginning, in December 2001, and has made significant growth in reciprocal conversation, noting these as particularly good signs in someone diagnosed with Asperger’s syndrome. To help the student deal with difficulties arising from change and transition, Dr. Tullie initially used cognitive behavior modification, a method recommended by Tony Attwood, an expert in Asperger’s syndrome, in which the child “sends messages to his head.” The message Dr. Tullie used with the student here was “expect the unexpected,” as recommended by Dr. Attwood. However, the parent asked Dr. Tullie to stop using the phrase, and although Dr. Tullie has stopped, the student continues to use the phrase. From her perspective as a school psychologist, Dr. Tullie testified that the IEP developed for the balance of the 2001-2002 school year was appropriate because it constituted the least restrictive environment, where the student has opportunities to observe and model peers’ behavior and, thus, continue in the development of socialization skills.

17. With regard to the IEP offered by the Board for the 2002-2003 school year, Dr. Tullie testified that her individual counseling and therapy would continue for two half-hour sessions each week. (Exhibit B-44, p. 10). She stated further that, as a change from the current IEP, the student would attend one academic class in the mainstream; the student currently participates in mainstream art and music classes. Dr. Tullie agrees with the recommendation of the PPT that the student spend another year in the eighth grade at the Board middle school because the student “has become comfortable” and a good transition, presumably to the Board high school in the 2003-2004 school year, “should come from that comfort.” (Testimony, June 24, 2002). Although Dr. Tullie was not entirely familiar with all of the details of the proposed summer 2002 program, her knowledge of the student and professional experience made her testimony particularly credible.
18. No direct testimony was given regarding the student’s academic achievement since returning to the Board middle school. Nevertheless, samples of the student’s work reveal clear, nearly perfect work in math, science, and spelling. (Exhibit B-27). The student’s final report card is a positive statement of the student’s efforts. (Exhibit B-45).
19. Other than the student’s father, who does not reside with the student and has never observed the student in the educational setting, the parent called only Board personnel as witnesses. The parent elicited no testimony or documentary evidence to support her claims that the Board failed to offer an appropriate program for the balance of the 2001-2002 school year, has failed to offer appropriate summer programming, or has failed to offer an IEP designed to meet the unique needs of the student for the 2002-2003 school year.

CONCLUSIONS OF LAW:

1. An IEP must provide an opportunity for more than “trivial advancement” and a free, appropriate public education (FAPE) under the IDEA is one that is “likely to produce progress, not regression.” Mrs. B. v. Milford Bd. Of Education, 103 F.3d 1114, 1121 (2d Cir. 1997); Cypress-Fairbanks Independent School District v. Michael F., 118 F.3d 245, 248 (5th Cir. 1997), *cert. denied*, --- U.S. ---, 118 S.Ct. 690, 139 L.Ed.2d 636 (1998). Nevertheless, “[t]he Supreme Court . . . has specifically rejected the contention that the appropriate education mandated by the IDEA requires states to ‘maximize the potential of handicapped children.’” Walczak v. Florida Free School District, 142 F.3d 119, 130 (2d Cir. 1998), quoting Hendrick Hudson District Bd. of Education v. Rowley, 458 U.S. 176, 197 n. 21, 189, 102 S.Ct. 3034, 73 L.Ed.2d 690 (1982). “The purpose of the Act was ‘more to open the door of public education to handicapped children on appropriate terms than to guarantee any particular level of education once inside.’” *Id.* What the statute guarantees is an “appropriate” education, “not one that provides everything that might be thought desirable by loving parents.” Tucker v. Bay Shore Union Free School District, 873 F.2d 563, 567 (2d Cir. 1989). Nor does the IDEA require the Board to provide “the best education money can buy.” Lunceford v. District of Columbia Bd. Of Education, 745 F.2d 1577, 1583 (2d Cir. 1989). Since FAPE does not mean the best or potential-maximizing education for the individual child, the focus must be on the Board’s proposed placement, “not on the alternative that the family preferred.” Tucker v. Calloway, 136 F.3d 495, 505 (6th Cir. 1998), quoting Gregory K. v. Longview School District, 811 F.2d 1307, 1314 (9th Cir. 1987).

2. The Board has the burden of proving the appropriateness of the student's program and placement, which burden shall be met by a preponderance of the evidence. R.C.S.A. Section 10-76h-14. The Board has met its burden here. The IEP offered to the student for the balance of the 2001-2002 school year was reasonably calculated to enable the student to receive educational benefits and provide the student with an opportunity for more than trivial advancement. Rowley, 458 U.S. at 206-07, 102 S.Ct. at 3051. The parent made no claim and provided no testimony or evidence that the student is not progressing in the Board placement. Without exception, the Board staff testified positively as to the progress of the student, his apparent comfort in the Board middle school, and the importance of the mainstream setting for the student's on-going growth in social skills and peer interaction.
3. The IDEA requires that the Board ensure that extended school year services are available, at no cost to the parents, as necessary to provide FAPE if the child's IEP team determines, on an individual basis, that such services are necessary for the provision of FAPE to the child. 34 C.F.R. Section 300.309. There has never been any disagreement on the part of the Board that the student requires extended school year services. The Board has offered the student, at no cost to the parent, a summer program which includes both an academic component designed to maintain skills and prevent regression and a recreational component which allows further development of language and social skills through interaction with non-disabled peers and physical exercise. The student will have a full-time, one-to-one aide for instant assistance throughout the day and other personnel who will be working with the student are experienced in working with special education children. The Board has offered the student an appropriate extended school year program for summer 2002.
4. The term "pervasive developmental disorder" (PDD) has been used to refer to the *overall class of disorder* to which autism belongs. Other diagnoses have been included in this class and comprise the conditions which are included in the autism continuum, sometime referred to as the autism spectrum; these terms have included Atypical PDD, Pervasive Developmental Disorder Not Otherwise Specified (PDD-NOS), Asperger's Syndrome, Childhood Disintegrative Disorder, and Atypical Autism. In Asperger's syndrome, the social deficit is very similar to classical autism and is considered by many to be "higher functioning autism." The main twist along the autism continuum is that people with Asperger's syndrome tend to have greater ability with language skills. In addition, people with Asperger's syndrome more commonly have very intense, circumscribed interests and motor delays. Report of the Connecticut Task Force on Issues for the Education of Children with Autism, Spring 1996, p. 16. Especially in light of the numerous and various diagnoses regarding the student's disability, the Board has committed no violation of the IDEA by generally referring to the student's eligibility category as "autism." Based on the testimony and evidence, the Board has consistently described the student as "high-functioning" and has properly offered the student a program designed to meet his unique needs rather than defining the student or his program by the name of the disability.
5. The IDEA requires that to the maximum extent appropriate, children with disabilities are to be educated with children who are not disabled. 34 C.F.R. Section 300.550. While this is not a mandate, the law expresses a strong preference for education in the least restricted environment ("LRE"), defined by Connecticut Regulations as an "educational environment

which meets the needs of a child requiring special education and related services as set forth in the child's individual education program and which, to the maximum extent appropriate to the child's needs, ensures that the child will be educated with children not requiring special education and related services." R.C.S.A. Section 10-76a-1(1). The student here is reported to communicate well and to enjoy the interaction with non-disabled peers and adults. There has been no testimony or other evidence to establish the need for a residential or day placement which would abridge the student's opportunities to grow in mainstream language and social skills. The programs offered to the student by the Board for the balance of the 2001-2002 school year, summer 2002, and the 2002-2003 school year are found to be appropriate not simply for the content but for the fact that the programs constitute the least restrictive environment as well.

6. The hearing officer is without authority to award attorneys' fees under any circumstances. However, it must also be pointed out that only the prevailing party is entitled to attorneys' fees and such entitlement applies only to the services of an attorney, not a nonlawyer advocate or a *pro se* litigant who is an attorney. Connors v. Mills, 34 F.Supp.2d 795, 29 IDELR 946 (N.D.N.Y. 1998); Kay v. Ehler, 111 S.Ct. 1435 (1991). The parent in this case is not entitled to compensation for representing the student in this due process hearing.

FINAL DECISION AND ORDER:

1. The Board offered the student an appropriate IEP for the 2001-2002 school year.
2. The Board offered the student an appropriate extended school year program for summer 2002.
3. The Board offered the student an appropriate IEP for the 2002-2003 school year.
4. Having determined that the Board has offered appropriate programs, there is no basis for considering the parent's request for private, residential placement of the student.
5. The Board has committed no violation of the IDEA by using the term "autism" to describe the student's disability.
6. The parent is not entitled to compensation for representing the student in this due process hearing.