

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Board of Education

Appearing on behalf of the Parent:

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Appearing on behalf of the Board:

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Appearing before:

Attorney Mary H.B. Gelfman, Hearing Officer

FINAL DECISION AND ORDER

ISSUES

1. Did the Board convene a Planning and Placement Team (PPT) meeting in response to Parents' requests for help?
2. Did the Board evaluate the Student in response to any of Parents' requests for help?
3. Did the Board provide an appropriate special education program and placement for the Student for the 2009-2010 school year?
4. Did the Board commit procedural errors pursuant to IDEA and related State statutes and regulations, including but not limited to: failure to call a PPT meeting when the Student was discharged from Four Winds in December, 2008; failure to evaluate in all areas of suspected disability; and failure to respond promptly to a psychiatric evaluation of the Student?
5. If the Board did not provide an appropriate special education program and placement for Student, is placement at Winston Prep, funded by the Board, appropriate to the Student's special education needs?
6. Are Parents entitled to reimbursement for tutoring services and evaluations as documented?

PROCEDURAL HISTORY:

This hearing was requested by Parents on March 19, 2010, and the Hearing Officer was appointed on March 23, 2010. The final decision and order were due for mailing on or before June 2, 2010. A pre-hearing conference was held by telephone conference call on April 12, 2010 and hearing dates of May 4, 5, 21, 24, and 25 and June 1, 2010 were scheduled. The Parties requested an extension of the mailing date to accommodate the additional hearing sessions. That request was granted and the mailing date was extended to July 2, 2010.

By letter dated April 28, 2010, the Board's Attorney requested that the May 4 and 5, 2010 hearing sessions be postponed because the Board's Director of Special Education would not be available on those dates and the Parties wanted to hold another Planning and Placement Team (PPT) meeting prior to the convening of the hearing. The Hearing Officer granted this postponement. The Parties reported progress at the May 17, 2010, PPT meeting, and asked that the hearing sessions scheduled for May 21, 24, and 25, 2010, be postponed to provide for mediation. The Hearing Officer granted this request. Mediation was scheduled for June 1, which necessitated postponing the June 1, 2010 hearing date.

The Parents submitted their witness list on May 25, 2010. The Hearing Officer re-scheduled the hearing for June 23, 2010, and extended the mailing date for the decision from July 2, 2010 to August 1, 2010. The Hearing Officer was subsequently notified that neither Party was available on June 23, 2010, and re-scheduled the hearing to July 6, 2010. Parents provided their exhibits on June 30, 2010. When the hearing convened on July 6, 2010 the Parties requested additional time to complete a settlement agreement. The Hearing Officer re-scheduled the hearing for July 27, 2010.

The Board's Attorney submitted a witness list on July 26, 2010. The hearing convened on July 27, 2010, and the Board presented documentary exhibits at that time. Parents objected to the Board's violation of the "Five Day Rule" at 34 C.F.R. §300.512 (a) (3). The Hearing Officer overruled this objection, stating that the Parents had relied on the Board to provide Individualized Education Programs (IEPs) and that Board documentation was essential to the hearing. Additionally, most or all of the Board's documentation was already known to the Parents. Further hearing dates of August 11 and September 8, 9, 15 and 16 were set. The mailing date for the decision was again extended, from August 1 to August 31 and thence to September 30, 2010. On August 9, the August 11 hearing session was postponed to August 13 because both attorneys had medical issues.

The hearing re-convened on August 13, September 8, 15 and 21, 2010.

All motions and objections not previously ruled upon, if any, are hereby overruled.

SUMMARY:

The Student has health and emotional problems, resulting in frequent absences during many of his recent school years. He had been hospitalized for mental health issues three times. Parents asked for help when he had difficulty learning to read and frequently when he had other problems in school. Because he had earned good grades, the Board refused to evaluate him for special education. Eventually, the Board identified him as eligible for services under Section 504 of the Rehabilitation Act, and later as eligible for special education as Other Health Impaired (OHI). As his difficulties increased, the Board investigated a

variety of placements. When the hearing convened, Parents requested a specific placement at Winston Prep. The Student attended the first day of the 2010-2011 school year at Winston Prep, and refused to return. He was again hospitalized on September 20, 2010.

In order to comply with the confidentiality requirements of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g and related regulations at 34 C.F.R. § 99, the following decision uses “Student”, “School”, “Parent”, and titles of school staff members and other witnesses in place of names and other personally identifiable information.

This Final Decision and Order sets forth the Hearing Officer’s summary, findings of fact and conclusions of law. The findings of fact and conclusions of law set forth herein, which reference certain exhibits and witness testimony, are not meant to exclude other supported evidence on the record. To the extent that the procedural history, summary and findings of fact actually represent conclusions of law, they should be so considered, and *vice versa*. For reference, see *SAS Institute Inc. v. S. & H. Computer Systems, Inc.*, 605 F.Supp. 816 (M.D. Tenn. 1985) and *Bonnie Ann F. v. Calallen Independent School District*, 835 F.Supp. 340, 20 IDELR 736 (S.D. Tex. 1993).

FINDINGS OF FACT:

After considering all the evidence submitted by the Parties, including documentary evidence and testimony of witnesses, I find the following facts.

Note: The Board objected to testimony concerning years prior to the two year statute of limitations found at 34 C.F.R. §300.511 (e). Initially, the Hearing Officer overruled this objection, stating:

I’m always interested in the earlier history of a kid because it’s very rare that you don’t find some of the roots of the current dispute buried back in third grade. (Tr. 7/27/2010, p.22)

As the case developed, the question arose of whether the Board had complied with the Child Find requirements of IDEA. If there was noncompliance, had that prevented the Student from receiving a free appropriate public education and/or prevented his Parents from understanding and exercising their rights under IDEA? The Board did not offer any rebuttal to information provided by Parents, in testimony or in documentary exhibits, concerning Student’s experiences in the Board’s schools prior to March, 2008.

1. The Student is a sixteen year old boy who has attended the Board’s schools since he entered kindergarten. His Mother reports that school has been a struggle: he was slow to learn to read, he has had trouble organizing his school work and his behavior was sometimes challenging, although rarely intentionally disruptive. He also suffered from several serious illnesses, missing school enough that at times he was provided with homebound tutoring by the Board. (Testimony, Mother, Tr. 7/27/10, pp. 27-156)
2. Student’s Parents telephoned and sent frequent emails describing their concerns about Student to several school staff members. Entered on the record of this hearing are printouts of approximately 71 emails and responses dating from 2005 through 2010. Staff members responded to Parents and used email to share with each other their concerns and arrangements made to address Student’s school problems. None of the emails include a suggestion from the school staff concerning formal evaluation

by the school, special education possibilities, or parents' rights concerning special education. (Exhibits P-2 through P-63, P-65 through P-68, P-74-75, P-77 through P-90)

3. During the Student's third grade year (2002-2003), school staff observed him and provided some individualized accommodations for him. Mother reported that he was allowed to go to the bathroom whenever he asked, and suggestions were made concerning his distractibility. (Testimony, Mother, Tr. 7/27/2010, pp. 39-41)
4. During fourth grade, the Student was seriously ill and Parents were referred to Connecticut Children's Medical Center. No specific diagnosis was given to the school, although eventually his tonsils and adenoids were removed. Parents signed a release so that school staff members could speak directly with Student's medical team. Because of his extended absences from school, he was provided with a §504 plan that provided homebound tutoring, and his Parents helped him with school assignments. (Testimony, Mother, Tr. 7/27/2010, pp. 42-50)
5. Student transferred to Middle School for fifth grade. In discussions with Middle School staff, it was stated that since no diagnosis had been provided, the §504 plan could not be continued. (Testimony, Mother, Tr. 7/27/2010, pp. 51-53)
6. Early in Student's fifth grade year, Parents called the Middle School Vice Principal about their concerns. Student was having problems with organizing his school work, with social connections, with following directions and earlier problems seemed to be getting worse. Parents were informed that the Student would be observed in class. Parents were later told that "Student seems to be OK" and that he had high test scores. (Ex. P-1, Testimony, Mother, Tr. 7/27/2010 pp. 53-60)
7. Student's fifth grade teachers reported distractibility and focusing issues, and problems with maintaining his school planner, writing his assignments down accurately and his literal interpretations of directions. If he missed a due date for an assignment, he wouldn't turn in his work late. If his Parents noticed that his work wasn't in the correct form, he wouldn't copy it into the correct form. A school staff member stated that his grades and test scores were "too high for him to have a learning disability". A Guidance Counselor observed and spoke with Student on a field trip, and later called Mother, commenting that Student was extremely active. (Mother's Testimony, Tr. 7/27/2010, pp.61-69)
8. Parents observed that Student was cutting himself while he was in sixth grade, and took him to a crisis center. Student started in weekly therapy, provided by Parents. They discussed this concern and the continuing problems with organization and homework with the Middle School Guidance Counselor who had observed Student on a school field trip, and an Assistant Principal. Student was sick with strep several weeks in the spring of his seventh grade year. That year, he was more socially active and was in a band, performing at a Battle of the Bands at school. (Mother's Testimony, 7/27/2010 Tr. pp. 63-87, 9/8/10 Tr. p. 21)
9. Eighth grade started out well for Student, and then he was ill with pneumonia and out of school for approximately two weeks. Student again fell behind in his assignments. Mother called various teachers, his Guidance Counselor and the Assistant Principal who had helped in the previous year, asking for help and for a §504 meeting. No meeting was offered. Student failed Spanish for the first

semester. Student's Guidance Counselor told Mother that Student seemed to have Attention Deficit Hyperactivity Disorder and might benefit from medication. Weekly therapy continued. (Testimony, Mother, 7/27/2010 Tr. pp. 88- 101)

10. Student entered the Board's High School for the 2008-2009 school year. Although he had been excited about high school during the summer, he started cutting himself again about a week and a half before school started. During the summer vacation, therapy had been reduced, and then stopped. Mother contacted Student's Guidance Counselor at the High School, to discuss some planned course changes and reported that Student had resumed therapy. (Testimony, Mother, 7/27/2010 Tr. pp. 102-107; 8/13/2010 Tr. p. 39)
11. Student reported to Mother that his 9th grade Drama class was "chaotic and disorganized" and that he hated it. The Drama Teacher called Mother, expressing his concern about Student disrupting the class and having a poor grade. After a conference with this teacher, Mother agreed to let Student remain in the class. When Student received a detention for mis-use of a computer or possibly when he received a detention for taking a remote control in Drama class, Parents met with the Assistant Principal, and reviewed Student's history of school problems and his recent self-injury. Subsequently, Student's schedule was changed and he was confused and missed some classes, resulting in more detentions. (Testimony, Mother, 7/27/2010 Tr. Pp. 110-122)
12. Parents arranged for a private psychoeducational evaluation of Student, which was performed on October 20 and 24, 2008. Concerns reported by Parents included: organizational issues, impulsivity, distractibility, behavior issues, confused by directions (possible language processing problem) and tendency to be "quite literal". Parents also provided the Evaluators with Student's history of cutting himself during the past year and a half. Although he has done his homework, sometimes he doesn't turn it in. Medical history included significant absences from school and recent §504 plan. During the evaluation, Student reported that he was dating a senior girl and that he played in a band. He said that he cut himself because he "feels hopeless and angry ... empty and without meaning" and also because of tensions between his parents. Part of the report of this evaluation was provided to the High School on December 10, 2008. (Ex. P-45 pp 1-3)
13. In late October, Student cut himself seriously and the wound required eight stitches. Mother reported this to Student's Guidance Counselor. She advised Mother to tell teachers "as little as possible" and to tell Student to meet with the School Nurse assigned to 11th and 12th grade. (Testimony, Mother, 7/27/2010 Tr. p. 127-129)
14. On November 10, 2008, Parents met with the High School Principal. They discussed Student's history of difficulties and, among other things, asked that he be removed from the Drama class. The Principal agreed to make that change. Parents also agreed to have Student assigned to Structured Lab, a supervised study hall where students were monitored and teachers could arrange for tests to be taken and specific assignments worked on. (Mother's Testimony, 7/27/2010 Tr. pp. 132-138)
15. The Student was hospitalized at Four Winds on November 11, 2008. He was diagnosed and treated for Major Depressive Disorder, Severe, Recurrent without Psychotic Features, and discharged on December 1, 2008. In a discharge summary letter dated November 28, 2008, and sent to the High School, a Four Winds Social Worker wrote that he would be continuing outpatient treatment with a

psychiatrist and a therapist, and that the Treatment Team at Four Winds "... deemed [him] to be clinically stable to return to school and resume his academic curriculum." (Ex. B-1)

16. The report of the results of the private evaluation were sent to Parents. In discussing the results of Student's WISC-IV, the Evaluators commented:

An important indication of the validity of the Full Scale IQ as a measure of overall intellectual ability, for any child, is the degree of difference between the Verbal Comprehension Index and the Perceptual Reasoning Index. A difference of over fifteen Index points is usually regarded as significant, and the larger the difference the more likely that some area of processing is interfering, which renders the Full Scale IQ as an unreliable indicator of overall intellectual potential.

The difference of 27 points between [Student's] Verbal Comprehension Index and Perceptual Reasoning Index is statistically significant. This degree of difference suggests that the Full Scale IQ of 108, which is a composite of the two scales, is most likely not a valid representation of [Student's] true intellectual potential. When a person exhibits this degree of difference, it is usually thought that the higher scale Index score is probably a better indication of the individual's true intellectual potential. Therefore, there is a relatively strong suggestion that something is compromising [Student's] ability to fully use his intellectual potential. This data suggests that [Student] has a significant weakness in Nonverbal Processing which is most likely serving to lower his overall academic performance.

The Evaluators conclude the analysis of Student's performance on the WISC-IV with a finding that Student has a Nonverbal Learning Disability. (Ex. P-45 pp. 4, 7)

17. After extended discussion of nonverbal learning disability and Student's memory and organization issues, the Evaluators found that Student's attention was within the normal range. Their emotional assessment included the following:

... [Student] is often able to make a good impression on casual acquaintances, [but] his family will most likely frequently see his characteristic unpredictability, impulsiveness, resentment, and moodiness. [Student's] psychological test data and the material he produced during interviews suggest that he often feels trapped in a situation where nothing other than the retreat to his girlfriend can be seen as alleviating his emotional pain. He seems to be struggling with feelings of inadequacy and self-doubt. ... It is important to emphasize that [Student's] data is replete with the suggestion that he is in a great deal of emotional pain and often feels despondent and hopeless. ...

Based on the results of this evaluation, it is the opinion of the psychologists who worked with [Student] that he is definitely a child at risk. He is depressed, feeling alone, and empty. His defense mechanisms are relatively poor ...

After providing examples of Student's responses, a diagnosis was made:

Dysthymia (DSM-IV 300.4)

Narcissistic Character Disorder (DSM-IV 301.81)

Learning Disability Not Otherwise Specified (DSM-IV 315.9), Nonverbal learning disability (Ex. P-45 pp. 25-26)

18. The evaluation includes a discussion of nonverbal learning disabilities:

The primary characteristics of a nonverbal learning weakness are: stronger verbal than perceptual cognitive skills (higher Verbal IQ than Performance IQ and stronger on verbal than visual memory tasks), weak psychomotor and perceptual motor skills (handwriting difficulty and other graphic production weaknesses), visual-spatial difficulty (poor spatial relationships and possibly reading difficulty), deficiency in arithmetic (problems with number alignment, directionality, and the basics of place value or parts-to-whole functions), poor problem-solving skills, difficulty with long-term memory of an associative nature, often there is a poor short term and working memory, difficulties in sequencing information, and slow processing speed. Students with nonverbal weaknesses frequently manifest difficulty generalizing previously learned information, performing or following multi-step instructions, impulsive response tendencies, and a tendency to translate things in a literal manner. ... A Nonverbal Processing Interference is usually considered a learning disability because it has a significant effect on the child's facility in learning new material; it creates deficits in a number of areas of information processing and produces multiple deficiencies in learning. (Ex. P-45 p. 27)

19. The Evaluators' recommendations:

- [Student] will, most likely, have difficulty with all aspects of academic work that require organizational skills. It would be helpful to have [Student] develop a system of keeping a daily schedule book and an assignment notebook where assignments are organized. It would be particularly helpful if teachers could monitor the organization of both assignments and work each day.
- [Student's] difficulty with all nonverbal processing will probably result in his experiencing difficulty in tasks that require linear processing and sequential formats. It would be helpful if teachers could make an effort to explain the linear and sequential aspects of an assignment or task that is assigned and it should always be remembered that [Student] would do best with auditory structure and explanation.
- [Student] may often have difficulty figuring out how to get started on an assignment. It would be helpful if teachers could provide concrete ways of beginning a project or an assignment, and to work with [Student] to avoid the tendency to become bogged down in details. It would be most important for all teachers to keep in mind that [Student's] nonverbal learning disability creates significant difficulty with temporal concepts, such as organizing time, and special perceptions, such as quantity and the coordination of physical space.
- Self-talk is a very important technique for children with nonverbal learning weaknesses and [Student] should be encouraged to use self-talk as much as possible. For example, reading aloud and verbalizing sequential steps in any area of processing whenever possible would be helpful.
- Multi-step directions will be difficult for [Student] because they usually require visualization for efficient processing. Therefore, it would be helpful if teachers could give one direction at a time and help [Student] to build a sequential organization for the steps to be taken. (Ex. P-45 pp. 27-28)

20. A §504 Team meeting on January 9, 2009, found Student eligible for §504 services and developed a support plan. The Team identified Student's impairment as "Major Depressive Disorder" affected his learning. Accommodations to be provided in all classes were: a second set of textbooks (to be kept at home), extra time on tests, pace long term projects, extra time projects and oral re-test if content knowledge does not appear to be reflective of [Student's] knowledge/ability. Student was also to be given preferential seating and tasks were to be broken down into smaller pieces. Student was to be placed in Structured Lab for organizational support, and teachers were to report missing assignments to Structured Lab. Parents gave consent for school staff to communicate directly with Student's Therapist. (Ex. P-48, B-2-3)

21. After his hospitalization in November, 2008, Student was medicated to address his anxiety and other symptoms. Perhaps because of these drugs, he was often lethargic, and his Psychiatrist was adjusting the medications. (Mother's Testimony, 8/13/2010 Tr., p. 14)
22. In error, Student was not placed in the Structured Lab after his hospitalization, as had been discussed. He was assigned to a regular study hall with no support until a teacher notified Parents, who intervened to secure a Structured Lab placement, on or about February 23, 2009. (Ex, P-54, Testimony, Mother, 8/13/2010 Tr. pp. 16, 69-70)
23. On or about March 5, 2009, Student sold a small amount of Marijuana to another student at school. He was given a ten-day out of school suspension, and teachers were asked to provide his assignments. (Ex. B-4, P-62-63; Testimony, Mother, 8/13/2010 Tr. pp. 20-24, 27-28)
24. Initially, the High School scheduled a §504 meeting to discuss Student's misbehavior, but Parents requested a PPT meeting as a referral for special education, which was scheduled for the same date, March 12, 2009. This meeting was re-scheduled to April 1, 2009, so that Parents' Attorney could attend. The notice described this meeting as a §504 manifestation determination concerning Student's marijuana sale. (Ex. B-5, 7, 9, P-66; Testimony, Mother, 8/13/2010 Tr. pp. 35-38)
25. By letter dated March 23, 2009, Student's Psychiatrist stated that he had been treating Student since his discharge from Four Winds in December, 2008, and Student was currently being treated with powerful medications. He commented that Student's illness interferes with a patient's judgment. He noted that Student is not a substance abuser, was not manifesting a personality disorder, and was struggling with problems of a learning disability. (Ex. P-70)
26. At the April 1, 2009 §504 meeting, the Team determined that Student misbehavior was not a manifestation of his disability, over his Parents' disagreement. His §504 accommodations were to remain in place. (Ex. B-10)
27. The April 1 meeting also served as a PPT meeting to consider Parents' request for a referral for special education. The record of this meeting shows that Parents agreed to provide a copy of the withheld portions of the private psychoeducational evaluation (most of the report had already been given to the School on December 10, 2008). The Team also discussed a psychiatric evaluation. It was reported that Student was not attending school and was receiving ten hours a week of tutoring at the Tutoring Club. The Team would re-convene to determine Student's eligibility for special education. (Ex. B-11; Testimony, Mother, 8/13/2010 Tr. p. 39)
28. There was no documentation either that Student had been expelled or that he had not been expelled. The former Director of Special Education reported that he had not been expelled. The Board's Consulting Psychologist reported that when he inquired about a possible expulsion that was worrying Student, the former Director of Special Education told him "... we're not pursuing that." (Testimony, former Director of Special Education, 9/21/2010 Tr. p. 26; Testimony, Consulting Psychologist, Tr. 9/15/2010 p. 124)

29. The Tutoring Club was a contracted service used by the Board to provide instruction for students who needed “homebound” services. Student and Parents noted many problems with this arrangement. Student reported that the other students were often disruptive. Board Teachers were supposed to provide assignments and to grade tests taken there. Student was given the same assignment twice and no one at the hearing could explain what grades in what courses Student had received during his Tutoring Club attendance. (Testimony, Mother, 8/13/2010 Tr. pp. 52, 60; Testimony, former Director of Special Education, 9/21/2010 Tr. p.21; Testimony, Father, 9/21/2010 Tr. pp. 131-137; Hearing Officer request)
30. Student was admitted and treated at St. Vincent’s Medical Center, Behavioral Health Services, from April 3 to April 21, 2009, and his discharge summary reported that he could return to school without restrictions. He had been treated for depression and continued on medication. (Ex. B-12; Testimony, Mother, 8/13/2010 Tr. p. 51)
31. The PPT accepted the private evaluation and did not request additional testing. They did request a psychiatric evaluation, which was performed April through June, 2009, with a report received on June 30, 2009. This Psychiatrist reviewed the private evaluation and developed a history for Student from meeting with Parents. She noted that Student had “experimented with marijuana on three reported occasions” and didn’t like it, so selling what was left seemed like a good plan to him. This psychiatrist recommended classifying Student as Other Health Impaired (OHI) because of his bipolar diagnosis and the Nonverbal Learning Disability. She recommended a small, therapeutic academic environment. Student had informed her that he did not like being in therapy, and she suggested an educational placement that incorporated therapeutic support, with the hope of resuming individual therapy when he was motivated to participate. She also suggested family therapy. This Psychiatrist sent a letter dated August 14, 2009, reiterating her position that the marijuana sale was a manifestation of Student’s disability. (Ex. P-72, P-73; B-17; Testimony, Mother, 8/13/2010 Tr. pp. 57-59)
32. A report card sent to Parents for the final term of the 2008-2009 school year showed Student’s credits for 9th grade:
- | | | | |
|--------------------|-------|----------------------|-------|
| Italian I | 0.000 | Physical Education 9 | 0.000 |
| Health Education 9 | 0.000 | Topic in Science | 1.000 |
| English I | 1.000 | Algebra IB | 0.000 |
| Drama Workshop | 0.000 | World History II | 0.000 |
| World History I | 0.500 | | |
- (Ex. B-16; Testimony, Mother, 8/13/2010 Tr. p. 61)
33. No documentation has been provided on the report card about what, if anything, was addressed at Tutoring Club. He was listed as absent 71, 87, 88 or 89 days. (Ex. B-16)
34. The PPT convened on August 10, 2009. Parents and the Board were represented by counsel. At this meeting, Student was found eligible for special education services and was classified as OHI with a diagnosis of Bipolar Disorder. The prior determination that the marijuana sale was not a manifestation of his disability was affirmed, and his Parents again objected. His present levels of academic achievement and functional performance were listed as “age appropriate” except for Behavioral/Social/Emotional – bipolar disorder and major mood disorder, “he is at risk for ...

substance abuse issues and should be monitored as such” and Health and Development – “recently diagnosed with bipolar disorder; self injurious behavior, mood disorder”. (Ex. B-18, pp. 1, 5-6, 20)

35. Student’s August 10, 2009 Individualized Education Program (IEP) included two goals:

1. Student will demonstrate organization and study skills in order to participate successfully in academic classes

Objectives: Show preparation for class by reporting to class on time with necessary materials for class.

Demonstrate understanding of concepts presented in class by applying study skills (e.g., note taking, outlining, summarizing and memory strategies) for academic success.

Demonstrate self-advocacy skills by planning with classroom teachers for academic and behavior needs.

Accept academic responsibility by meeting with staff to meet study skills objectives.

Accept academic responsibility by attending classes on a regular basis, participating in class discussions and activities, completing assignments according to stated criteria, and following class behavioral guidelines.

2. Demonstrate an improvement in decision-making and coping skills.

Objectives: Discuss and understand more effective methods to cope with emotional stress or difficult life situations rather than self-destructive methods (e.g. withdrawal, truancy, and acting-out behavior, self injurious behavior, and substance abuse).

Demonstrate the ability to seek out appropriate support staff when in stress and needing additional support for academic/social/emotional issues.

Demonstrate the ability to define the available choices in a given situation and the projected outcomes of each choice.

Demonstrate the ability to review all the possible consequences for each alternative decision.

Demonstrate the ability to formulate a plan for responsible decision-making.

There was also a transition goal of college. (Ex. B-18, pp. 8-12)

36. The August 10, 2009, IEP included Program Accommodations and Modifications for Student:

Tests/Quizzes/Assessments: alternate site, extended time as needed. Alternative program and selected classes all year.

Behavioral Interventions and Support: Counseling support as needed, establish positive and supportive relationship. Alternative program and selected classes all year.

Instructional strategies: Multi-sensory Approach, Positive praise/feedback reduces anxiety. Alternative program and selected classes all year. (Ex. B-18, p. 13)

37. The special education services to be provided for the 2009-2010 school year were: small group and individual instruction by Special Education and Regular Education Teachers, five hours a week; and individual counseling by a School Psychologist and members of the Special Education staff, one hour a week. Physical Education and Transportation were to be “special”. The length of Student’s school day had been 6.75 hours, which was crossed out and 5.75 was written in. The program would be provided at the Board’s alternative high school (which was located within the high school building) and Student would “have the option of period 1A, 1B during second semester if he is doing well within the program”. Removal from the mainstream was intended to provide “smaller more supportive

environment for academic and emotional support”. Parents consented to this initial special education placement on August 10, 2009. (Ex. B-18, pp. 16, 21)

38. Included in the record of the August 10, 2009, PPT meeting was Student’s revised ninth grade report card. (see Finding of Fact 32) Under “credit alternat.”:
- | | | | |
|--------------------|-------|----------------------|-------|
| Italian I | 1.000 | Physical Education 9 | 0.250 |
| Health Education 9 | 0.250 | Topic in Science | 1.000 |
| English 1 | 1.000 | Algebra 1B | 1.000 |
| Drama Workshop | 0.500 | World History II | 0.500 |
| World History I | 0.500 | (Ex. B-18, p. 19) | |
39. Parents visited the Alternative High School and met with some staff members before school started. They were concerned that Student’s Nonverbal Learning Disability be understood and addressed. The Teacher and the Consulting Psychologist tried to reassure them. Testimony, Mother, 8/13/2010 Tr. p.71; Testimony, Consulting Psychologist, 9/15/2010 Tr. pp. 107-108)
40. Student told the Consulting Psychologist that he did not need counseling and would not participate. The Consulting Psychologist met with Student informally, trying to engage him in general conversation. These brief sessions continued through the first semester. During the second semester, Student avoided him, and referred to the pending litigation when the Psychologist tried to engage him. Testimony, Consulting Psychologist, 9/15/2010 Tr. pp. 111-120)
41. On September 21, 2010, the last day of the hearing, the Hearing Officer requested orally and in writing that the Parties provide some additional information that had not been produced in testimony or in documentary exhibits. Among those items requested were a statement of Student’s current status for graduation, the record of his visits to the School Nurse’s office and his attendance records for 2006-2007 and 2009-2010. This request was repeated in an email to the Parties (the Board’s copy was mis-addressed and therefore not delivered). Having received no response, the Hearing Officer sent an email reminder October 21, 2010. (Administrative record)
42. On the Written Prior Notice pages of the record for the August 10, 2009, PPT meeting, the following actions were proposed, with reasons:
- Action: Determine that Student IS eligible for special education. Recommendation for placement in [Board’s alternative high school program]. Reconvene in early fall for program review. Recent [marijuana] incident not a manifestation of disability. Parents disagree.
- Reasons: Educational performance supports proposed actions. Evaluation results support proposed actions. File and suspension discussion. Teacher reports [at the PPT meeting] and Independent Psychiatric [evaluation].
- Actions refused: Out of district placement at district expense. [Change to] finding the recent information to be a manifestation of the disability based on available information. Foreman School and Winston School under consideration by Parents.
- Reasons: Educational performance supports refusal. Evaluation results support refusal. Report cards, Teacher reports, and Independent/outside Psychiatrist [evaluation] 6/29/2009. (Ex. B-18 pp. 3-4)
43. By email dated September 29, 2009, an Alternative High School Teacher reported to Parents:

[Student] is on track with his school work. He continues to bring astute and thoughtful information to discussions and turns in assignments on time. He has become comfortable in class, participates in group activities and games, and chats amicably with classmates during lunch. He is talkative during class at times, but responds well to redirection. ... I think Special Chorus would be a fabulous class for [Student] to take. ...It is taught as a half year course ... I'll speak to [Teacher] to confirm that this information is correct and to find out when [Student] needs to do to prepare for a spring audition. (Ex. P-78)

- 44. Student expressed an interest in a mainstream music class, Special Chorus. Early in the 2009-2010 school year he was told that it was too soon in his Alternative High School program, but later he started going to that class. After a month, his anxiety overrode his interest, and he dropped out of Special Chorus. (Ex, P-83; Testimony, Mother, 8/13/2010 Tr. pp. 98-100)
- 45. PPT meetings were scheduled for October 21, November 24, and December 1, 2009, to review or revise Student's IEP and review his program and placement. None of these meetings convened. (Ex. B-19)
- 46. A report of Student's progress in the Alternative High School program dated November 12, 2009, showed satisfactory progress in twelve IEP objectives and limited progress in one IEP objective. Comments were:
 [Student] is usually prepared for class with assignments and required class materials. [Student] takes notes, uses graphic organizers. [Student] will ask for help when necessary, ask for clarification when he does not understand an assignment. [Student] has had 2 absences and 1 tardy in the first quarter of 2009-2010. He adds much to class discussions. [Homework] is completed on time (84% in English) and is usually on task, sometimes needing to be redirected. [Student] demonstrates the ability to review possible consequences for each alternative decision. [Student] met with [Guidance Counselor and Teacher] on 11/16/09 to review transcript, graduation requirements. [Student] records assignments in planner; uses graphic organizers. (Ex. B-20)
- 47. Parents worried about Student's lack of homework, and discussed this concern with Alternative High School staff. (Testimony, Mother, 8/13/2010 Tr. p. 119)
- 48. A report of Student's progress in the Alternative High School program dated February 22, 2010, showed satisfactory progress in fifteen IEP objectives and limited progress in one IEP objective. One new comment appears in this report: [Student] is becoming aware of his strengths and weaknesses but does not view himself as having a disability which impacts his learning. A First Semester Progress Report dated January 25, 2010, showed the following:

Course	1 st Q. Grade	2 nd Q. Grade	Exam Grade	Final Grade	Credit Earned	Comments
	1 st Semester					
AE English	B	A+	90	A-	1.0	
AE Science	B-	A-	91	-	.5	Good project work!
AE Math	D	C+	89	-	.5	Improved effort lately!
Current Events	P	P	-	-	.25	
Physical Education	P	P	-	-	.125	

Health	P	P	-	-	.125 Great Participation!
Art	*	P	-	-	.125
General Studies	P	P	-	-	.125
Community svc/work	P	P	-	-	.125 (Ex. B-21, p. 6)

49. Work and Social Habits were also addressed in the January 25, 2010, Progress Report. Behavioral comments were listed as: 1 Always; 2 Usually; 3 Sometimes; and 4 Needs Improvement.

	Comment	Additional Comments
Listens attentively	2	
Completes assignments in allotted time	2	
Is courteous	2	
Accepts constructive criticism	3	
Claims only fair share of time and attention	3	
Respects rights and properties of others and oneself	3	Needs to respect privacy of others' property

Community Service/Work Experience 15 hours (minimum required for credit)

Attendance: absences: 2 Tardies: 6 (Ex. B-21, p. 6)

50. At some point, Mother was shown Student's planner (assignment notebook) for the 2009-2010 school year, which was almost completely blank. (Ex. P-91)
51. During Student's second semester at the Alternative High School, there was discussion about Student having failed math the prior year, and his need to make up that failure to meet graduation requirements. An independent math class was proposed, with Father to help Student at home. However, Student failed the pre-test given at the High School and lost interest in making up the math course. (Ex. P-84-85; Testimony, Mother, 8/13/2010 Tr. pp. 95-97)
52. Through their Attorney, Parents requested a special education hearing on March 19, 2010. (Administrative record, Ex. B-27, HO-1)
53. Student was hospitalized for about four days during the spring of 2010. His attendance had dwindled and he was devoting a lot of time to music. During the fourth quarter of the school year, he was absent 25 days prior to June 14. (Ex. P-89, P-90, B-23, B-30, B-31; Testimony, Mother, 8/13/2010 Tr. pp. 106-110)
54. A report of Student's progress in the Alternative High School program dated April 30, 2010, showed satisfactory progress in fourteen IEP objectives and limited progress in two IEP objectives. (Ex. B-22)
55. Toward the end of the 2009-2010 school year, Parents were concerned about whether Student's Nonverbal Learning Disability was being addressed in the Alternative High School program, and School staff was concerned about a need for a therapeutic placement. Testimony, Mother, 8/13/2010 Tr. p. 117)

56. An annual review PPT meeting convened on May 17, 2010. Student's present levels of academic and functional performance were given as:

Academic/Cognitive: Language Arts: Age Appropriate: English 09-10: final grade- A- Student makes regular contributions to discussion; offers insight & deeper meaning of text; written work has a unique voice that is interesting to read.

Strengths: Understands rationale of character behavior; recognizes author's intent, theme, and lesson/message.

Concerns/Needs: Written work's effort is inconsistent: detailed and thorough at times, lacking detail/weak response at other times.

Impact of disability: Student will benefit from a smaller, more supportive setting for emotional and academic support.

Academic/Cognitive: Math: Grades in alternative math Q1=D Q2 =C+ (89 on mid-term) Q3 =B.

Strengths: Computation, concepts; willing to work 1-1.

Concerns/Needs: Motivation/behavior interferes with classroom performance; understanding/initiating word problems.

Impact of disability: Student will benefit from a smaller, more supportive setting for emotional and academic support.

Other Academic/Nonacademic Areas: Age Appropriate. Alternative American Government Q3=D+ Alternative Science Q1=B- Q2=A- Q3=C.

Strengths: Takes notes, contributes to discussions, understands cause/effect. Interested in learning new information and sharing his connections to the same.

Concerns/Needs: Completing written in-class assignments and homework assignments.

Impact of disability: Student will benefit from a smaller, more supportive setting for emotional and academic support.

Behavioral/Social/Emotional: Bipolar disorder and major mood disorder; "he is at risk for ... substance abuse issues and should be monitored as such."

Strengths: Creative.

Concerns/Needs: self injurious behavior, mood swings, substance abuse

Impact of Disability: Student will benefit from a smaller more supportive environment for emotional and academic support.

Communication: Age Appropriate.

Vocational/Transition: Age Appropriate. 9/15/09 Completed Career Cruising Inventory.

Health and Development: recently diagnosed with bipolar disorder; self injurious behavior, mood disorder.

Fine and Gross Motor and Activities of Daily Living: Age Appropriate.

(Ex. B-23, pp. 4-5)

57. The PPT recommendations at the May 17, 2010, meeting were: implement new annual IEP; continue current placement in alternative [high school] program; continue counseling support; District to contact [alternative program in nearby district] and [therapeutic program] summer program; Team to reconvene in June.

PPT Summary: Student refused to attend today's meeting. Student has indicated to his parents a desire to attend [alternative program in nearby district]. Student has had recent hospitalization. [Therapeutic program] discussed as a possible summer program. Parents signed consent for exchange of information with [alternative program in nearby district] and [therapeutic program]. (Ex. B-23, p. 2)

58. The May 17, 2010, IEP for 2010-2011 included the following goals and objectives:

Goal 1: Demonstrate an improvement in mathematical concepts, reasoning and computation necessary to develop problem-solving skills and to utilize mathematics to address everyday problems.

Objectives: Demonstrate an understanding of mathematical vocabulary to solve word problems.
Correctly solve multi-step word problems.

Demonstrate the ability to use real life situations to formulate and solve word problems.

Goal 2: Demonstrate an improvement in organization, study skills and learning strategies necessary to progress toward achieving the learning standards.

Objectives: Identify by restating/paraphrasing the sequential steps required to complete school assignments.

Identify the importance and accept the responsibility for effective time-management.

Complete in-school and homework assignments in a timely fashion.

Goal 3: Demonstrate an improvement in socially acceptable behaviors in the school environment.

Objectives: Remain on task during unstructured or independent work time.

Demonstrate the ability to identify impulsive behavior when it occurs.

Develop and implement strategies to deal with impulsive behavior.

Demonstrate the ability to identify and verbalize the teacher's expectations regarding classwork and homework.

Discuss and understand more effective methods to cope with emotional stress or difficult life situations rather than self-destructive methods (e.g., truancy, acting-out behavior, self injurious behavior).

Demonstrate the ability to identify feelings or fears that interfere with the ability to attend school.

Goal 4: Student will acquire and demonstrate the skills necessary to successfully transition to a two-year or four-year college/university and/or competitive employment.

Objectives: Identify and demonstrate the appropriate behaviors necessary to being successfully employed (e.g., regular attendance, punctuality, task oriented).

Enroll in academic classes that will prepare him for the educational challenges of postsecondary education. (i.e. follow alternative guidelines and maintain emotional stability to enable student to take classes during first block period).

Describe and discuss his abilities in terms of learning strengths and weaknesses.

Develop the skills to organize his work with efficiency and to be able to attend to task.

Develop strategies to enhance his study skills. (Ex. B-23, pp. 7-12)

59. Accommodations and Modifications for Student listed on the May 17, 2010, IEP:

Tests/Quizzes/Assessments: Alternative site/extended time as needed.

Behavioral Interventions and Support: Counseling support as needed, Establish positive and supportive relationship.

Instructional Strategies: Multi-sensory approach, Positive praise/feedback reduces anxiety.

All the above were to be provided in the Alternative program and selected classes all year. (Ex. B-23, p. 13)

60. Special education services to be provided for Student for 2010-2011:

Academic/behavioral/social/transitional: five hours a week, by Special Education Teacher and Special Education staff, in small group/individual instruction.

Psychological services: one hour a week of individual counseling by the School Psychologist and Special Education Teacher. Student was to receive five hours a day of schooling. (Ex. B-23, p. 16)

61. Although a Graduation Progress Report is included with the record of the May 17, 2010, PPT meeting, it is not clear whether Student has accumulated enough credits toward graduation to advance to eleventh grade. It appears that he had not made up failures from ninth grade. (Ex. B-23, p. 18)
62. A report of Student's progress in the Alternative High School program dated June 18, 2010, showed satisfactory progress in five IEP objectives, limited progress in nine IEP objectives, unsatisfactory progress in three IEP objectives, and three objectives not introduced. Comments for the fourth quarter of the school year were: inconsistent attendance interfered with progress during this time period (5/25/10-6/18/10). Absent twelve days, present five days. [Student] has demonstrated the ability to identify and understand the expectations of the teacher but does not always act up [to] them. [Student] will participate in discussions but will make his own decisions and justify them. [Student] can identify [feelings or fears that interfere with the ability to attend school]. (Ex. B-32)
63. The Board's staff investigated out of district placements as agreed by the May 17, PPT. For a variety of reasons, most of the ones mentioned could not or would not accommodate Student. At the same time, there were delays, communication failures and staff changes. (Ex. B-34, 35, 36, 37)
64. The PPT convened on August 13, 2010. The search for a state-approved therapeutic placement continued. Parents wanted Winston Prep, which is not state-approved. Parents acknowledged the lack of a therapeutic component at Winston Prep, but felt that the therapy they were providing could fill that need. (Ex. B-41)
65. Student was diagnosed with mononucleosis on August 18, 2010. (Testimony, Mother, 9/8/2010 Tr. pp. 48-49)
66. Parents notified the Board and the Hearing Officer that they would be placing Student at Winston Prep for the 2010-2011 school year. They felt that this school's interest in Nonverbal Learning Disabilities would be a better placement for Student. The Admissions Director described the program and reported that approximately one-third of the students at Winston Prep were classified as having Nonverbal Learning Disorders. (Testimony, Mother, 8/13/2010 Tr. pp. 133-129; Testimony, Admissions Director, 9/8/2010 Tr. pp. 8-12, 16-17)
67. Student enrolled at Winston Prep and attended classes for one day, September 2, 2010. He announced that he would not continue, stating that the other students reminded him of himself. Both Parents and the Admissions Director hoped that he will return. (Testimony, Mother, 9/8/2010 Tr. pp. 9-10)
68. Student was again hospitalized on September 20, 2010. (Report of Parents, 9/21/2010 Hearing Session)

CONCLUSIONS OF LAW:

1. Section 10-76h, Connecticut General Statutes (C.G.S.), and related regulations at Section 10-76h, Regulations of Connecticut State Agencies, authorize an impartial hearing officer to conduct a special education hearing and to render a final decision in accordance with Sections 4-176e through 4-180a, inclusive, and Sections 4-181a of the C.G.S. Section 20 U.S.C. § 1415(f) and related regulations at 34 C.F.R. § 300.511 through § 300.520 also authorize special education hearings.

2. Pursuant to Section 10-76d-7, R.C.S.A., "... Provision shall be made for the prompt referral to a planning and placement team of all children who have been suspended repeatedly or whose behavior, attendance or progress in school is considered unsatisfactory or at a marginal level of acceptance."

3. Pursuant to 34 C.F.R. §300.301 (b), either the school or the parents may initiate a request for an initial evaluation to determine eligibility for special education.

4. Pursuant to 34 C.F.R. §300.511 (e), Parents may request a hearing "within two years of the date the parent ... knew or should have known about the alleged action that forms the basis of the due process complaint ..."

Subsection (f) provides exceptions to this statute of limitations: ... if the parent was prevented from filing a due process complaint due to - 1. Specific misrepresentations by the [local education agency] that it had resolved the problem forming the basis of the due process complaint; or 2. The LEA's withholding of information from the parent that was required to be provided to the parent.

5. Section 10-76d-9, R.C.S.A., provides that each child who has been referred and who may require special education and related services shall be evaluated to determine whether special education is required. ... (a) **Evaluation Study:** Each board of education shall ensure that a complete evaluation study is conducted for each child referred who may require special education and related services.

6. Section 10-76d-15, R.C.S.A., **Homebound and hospitalized instruction**, provides standards and procedures for such services. For high school students, the minimum of services is ten hours of instruction per week.

7. A 9th Circuit Court of Appeals case *Compton Unified School District v. Addison* (598F.3d 1181, 54 IDELR 71(9th cir. 2010)), found that a school district's failure to act meets the threshold of the 20 U.S.C. §1415 (b) (6) (A) description of the authority of a special education hearing officer: "... any matter relating to the identification, evaluation or educational placement of the child ...".

8. The standard for determining whether FAPE has been provided begins with the two-prong test established by the Supreme Court in *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 459 U.S. 176 (1982). First, the procedural requirements of the IDEA must have been met by the school district. Second, the IEP must be reasonably calculated to enable the child to receive some educational benefit.

The Board failed to follow the procedural requirements of the Act when it either ignored the obligation to evaluate a student who might require special education or refused to evaluate without providing Parents with notice of their rights.

DISCUSSION:

The Student's attendance record should have triggered a referral for evaluation pursuant to Section 10-76d-7, RCSA. The Parents' frequent requests for help should have triggered a referral for evaluation. Student's return to school from a psychiatric hospitalization should have triggered a referral for evaluation – more than once. There is no evidence on the record of this hearing that anyone on the Board's professional staff advised the Parents of their rights concerning an evaluation for special education. Despite many telephone calls, email messages and meetings with Board professionals, the Parents did not receive information about their son's special education rights. The Board produced no evidence that Parents had been advised of the proper procedures to request an evaluation or had received written notice of their rights.

The recommendations of the private evaluation should have been given serious consideration, since no other evaluation was available. Some, but not all, of the suggestions for teaching Student related to his Nonverbal Learning Disability, were included in the IEP.

The staff member who advised Parents to reveal "as little as possible" concerning mental health issues to School staff undoubtedly meant well, but also interfered with the Student's access to an appropriate evaluation.

It is not possible to allocate the damage resulting from the Board's unwillingness to evaluate this student in a timely manner. Although the Parents originally stated that they were not asking for reimbursement for the private evaluation, such reimbursement is clearly due. An earlier evaluation might not have resulted in eligibility for special education, but parents have the right to request one and a prudent Board does not deny evaluations when school staff members are not convinced that the child is eligible.

The haphazard homebound instruction offered by the Board, contracted out and lacking appropriate supervision and documentation, failed to address Student's needs. An appropriate long-term homebound program must include all the classes and services for which Student is eligible, and may not be limited by the ten hours a week regulatory minimum.

The Student suffered anxiety concerning the uncertainty of his school placement for the current school year. Several possible placements refused him because of lack of space. He rejected some possible placements because of distance or other undisclosed reasons.

His remark that the other students at Winston Prep reminded him of himself was not positive, although it could have been. Testimony by the Winston Prep Admissions Director suggests that if Parents had provided information concerning Student's hospitalization, he might not have been admitted there. Winston Prep's lack of any therapeutic services renders it an inappropriate placement for Student.

A Hearing Officer lacks the power to make the Student and his family whole. However, it may be possible for Student to graduate from high school if the Board provides a well-organized, intensive program of homebound one-to-one instruction to be followed, if indicated, by a gradual return to a high school program.

This order provides for a full program of homebound instruction (which may be delivered in a library or other location agreeable to both parties) to commence immediately. This program may require more than

one tutor. Initially, tutorial time should include supervision of Student's preparation of class assignments with support, as recommended in the private evaluation. After two months, the PPT shall meet with Student's Psychiatrist and/or current therapist to discuss a gradual transition into a school setting. The Board shall pay the Psychiatrist and/or therapist for the time they meet with the PPT. When and if Student is deemed ready to return to a school setting, it is suggested that initially Student attend one or two classes in which he is interested and performs well. It appears from testimony that the alternative high school programs provided by the Board and in nearby districts are possible placements.

There was no closure for Student and Parents concerning the possible expulsion: the former Director of Special Education's remark to a school staff member that "we were no longer pursuing [expulsion]" confirmed that there had been no closure communicated to Student and his Parents. Student continued to worry about expulsion, and during the summer of 2009 he was anxious about where he was going to school.

The Federal and State regulations do not address the situation where a school fails to inform Parents of a child that the School considers ineligible for special education, without having performed an evaluation or formally notifying such Parents that they have made a determination that such child is not eligible, of their rights concerning special education. At the point where the Board essentially refused access to special education, no information was provided to Parents. This scenario meets the exception to the statute of limitations for special education claims, found at 34 C.F.R. §300.511 (e).

With the exception of a few compassionate teachers, throughout the record the Board presented an attitude of indifference toward Student and his Parents. There is no way of knowing whether an early evaluation would have provided substantial information to support a special education placement. However, an appropriate response from the staff could have been an evaluation. Student's problems got worse, and he was hospitalized in November of his first year at the Board's High School. When he returned to school, he was newly medicated, but his discharge summary stated that he should return to school. Again, this should have been a time for an evaluation. However, Parents had already arranged for a private evaluation and were waiting for a report. They shared part of that report with the school in December. In January, a §504 plan provided a few supports. After the March 2009, marijuana incident, there were several meetings that continued to find that Student's misbehavior was not a manifestation of his disability, in spite of a psychiatric evaluation and the Psychiatrist's statement that it was such a manifestation. Despite all the information available to the Board and the Parents' continuing concern, Student was not identified as in need of special education until August, 2009. He was identified as OHI and his IEP included no direct mention of the Nonverbal Learning Disorder diagnosed in December, 2008, nor most of the recommendations from the private evaluators.

The Board's apparent indifference extended to this hearing. When the hearing finally convened, the Director of Special Education had left the system and was not available for testimony until September. The Board's documentary exhibits were presented on the first day of hearing, in violation of the "Five Day Rule" cited above. The Hearing Officer's request for additional information, made orally and in writing the last day of hearing, did not produce anything from the Board prior to the Hearing Officer's deadline for a decision.

FINAL DECISION AND ORDER:

1. The Board did not convene a PPT meeting in response to Parents' requests for help.
2. The Board did not evaluate the Student in response to Parents' requests for help.
3. The Board committed procedural errors concerning Child Find, prompt action concerning referral for an initial evaluation (several times) and failure to consider both emotional needs and Nonverbal Learning Disability needs. The Board did consider both the private evaluation and the independent psychiatric evaluation, but it did not incorporate all recommendations from either report into Student's IEP.
4. Winston Prep, while focused on Nonverbal Learning Disabilities, is not an appropriate placement for Student. Student needs support for his bipolar disorder and other emotional problems.
5. Upon presentation of appropriate documentation, the Board shall reimburse the full cost of the private evaluation and any tutoring services funded by Parents during Student's absences from school.
6. Because Winston Prep is not an appropriate placement for Student, reimbursement cannot be ordered.
7. The Board's PPT shall meet to review his current program and any missing credits for graduation. The PPT shall plan a program of homebound instruction to be provided by appropriately certified teachers who report directly to the High School Principal. The homebound program shall address any deficiencies from the school years 2008-2009 and 2009-2010 as well as this school year's program. Tutoring shall include instruction and supervision of Student's preparation of class assignments. Tutor(s) shall be hired directly by the Board and shall be paid to collaborate with teachers and other staff members as needed. In order to provide a full program including supervision of preparation of assignments, the ten hour minimum is not adequate. Tutoring services up to five hours a day shall be provided by the Board.
8. After at least two months of this tutoring program, the PPT shall convene with Student's Psychiatrist and/or current Therapist, who shall be paid for their presence and assistance. If appropriate, plans shall be made for a gradual return for Student into a high school program to be determined by the PPT.