Bridgewater-Raynham Regional School District   BSEA #11-0032
v. Student

DECISION

This decision is issued pursuant to M.G.L. c. 71B and 30A, 20 U.S.C. § 1401 et seq., 29 U.S.C. § 794, and the regulations promulgated under said statutes.

A hearing was held on September 23, 2010 at the Bureau of Special Education Appeals before Catherine M. Putney-Yaceshyn, Hearing Officer.

PROCEDURAL HISTORY

Bridgewater-Raynham Regional School District (hereinafter, “B-R”) requested a hearing on June 30, 2010 and the hearing was scheduled to proceed on July 20, 2010. On July 7, 2010 B-R requested a telephone conference call and requested a postponement of the hearing. There was a telephone conference call on July 30, 2010 and B-R’s request to postpone the hearing was allowed. The hearing was rescheduled to proceed on September 23, 2010 and it proceeded as scheduled. Student’s mother (hereinafter, “Mother”) did not attend the hearing. After the hearing, the hearing officer sent Mother a copy of the hearing tapes along with a letter informing her that she could submit a closing argument by October 1, 2010. She did not submit a closing argument and the record closed on October 1, 2010.

Those present for all or part of the Hearing were:

Derek Swenson          Principal, Bridgewater Middle School
Terri O’Brien          Guidance Counselor, B-R
Robin Murray           Teacher, Regular Education Teacher, B-R
Mark Mosher            Administrator of Special Education
Judith Roberts         Special Education Teacher, language-based class
Jean Ouelette          Speech Language Pathologist, B-R
Gay Yelle              Director of Pupil Personnel Services, B-R
Alisia St. Florian     Attorney for B-R
Catherine Putney-Yaceshyn Hearing Officer

The official record of this hearing consists of B-R’s exhibits marked S-1 through S-34 and approximately three hours of recorded oral testimony.
ISSUE

1. Whether the IEP proposed by the Bridgewater-Raynham Regional School District for the time period from February 22, 2010 through September 17, 2010 was reasonably calculated to provide Student with a free appropriate public education in the least restrictive environment.

SUMMARY OF THE EVIDENCE

1. The student (hereinafter, “Student”) is a fifteen-year-old school-choice student at the Bridgewater Middle School. Student has a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD) and based upon his most recent testing, the Team believes he has a language-based learning disability. (S-2) He has difficulty engaging in class independently, but he does want to do well and often vocalizes concern over his academic progress and his grades. At times he seems to forget what he was going to say. All academic subjects are negatively impacted by Student’s language processing and his reading and writing deficits. The deficits hinder his ability to follow directions, read and glean information from textbooks, and express his knowledge and ideas effectively in writing assignments and tests. His processing speed is depressed, necessitating extra time to process information and give responses. (S-2)

2. Student’s poor attendance is also a significant issue with respect to his learning. He is currently repeating his eighth grade year. As of the date of the hearing, he had only been in school a couple of days this year. He missed a great deal of school last year. Specifically, he was absent 93 days and tardy 27 days, resulting in significantly large gaps in his knowledge base. Thus, he was not ready to be promoted to the ninth grade. (Pedersen, Swenson, S-10)

3. Kelly Pedersen is a special education inclusion teacher with a Master’s degree at Bridgewater Middle School. She taught Student’s inclusion math and academic support classes and was his liaison last year. His teachers had concerns about him from the very beginning of the year. Ms. Pedersen spent a lot of time providing one-to one assistance to Student in his inclusion math class because he often was not engaged in the educational process. It was difficult to tell if his ADHD caused his difficulty or whether it was something else. Ms. Pedersen had an academic support block with Student during which she tried to modify his history and science work. He was not receiving special education support in science or history, was not doing homework and was behind in his work. He required more support than Ms. Pedersen could provide to him and he was struggling. Student was having a difficult time communicating in general. If he was struggling with work, he could not provide enough details to her to enable her to provide assistance to him. She would ask him what was difficult for him and he would often not answer her at all. (Pedersen)
4. Ms. Pedersen had concerns about Student’s social skills since the beginning of the year. Sometimes Student would not answer her when she asked him a question even when they were alone in a small room. When he had problems with peers, he was not able to state who the peers were or what the problem was. He did seem to have friends and he sat with them at lunch. He was having difficulty expressing himself and saying how he felt. Ms. Pedersen sometimes walked Student to the guidance counselor’s office if he was having difficulty. It was difficult to find out what was going on with him. (Pedersen)

5. Robin Murray was Ms. Roberts’ paraprofessional for five years. She has degrees in special education and regular education. She is certified to teach English (5-12) and as a middle school generalist. She was Student’s inclusion English teacher last year. There were 28 students in the class and 14 or 15 of them were on IEPs. Most days there were at least a paraprofessional and sometimes another special education teacher in the class. Student could not verbalize what he wanted or what he knew. The class was reading the book, *The Outsiders*. Student could not understand a lot of the story and did not seem to understand the social interactions which transpired in the book. He had difficulty with processing speed. If Ms. Murray asked him a question it took him a long time to answer. He was one of the lowest functioning students in the class. She did not think her classroom was appropriate for Student. Student’s written work was very minimalistic. It was difficult for him to put together coherent sentences that gave any inclination as to what he knew. She would estimate that Student’s writing was at the first or second grade level in terms of the amount of information he was able to provide in response to what he has read. Student had a tendency to be late and would enter the classroom as though he was lost. If she asked him why he was late, he would either mumble an answer or not respond. He did not know how to interact with some of his peers and did not understand if peers were trying to get him in trouble. He did not make progress in her class. Both his excessive absences and his learning issues contributed to his difficulty. (Murray, S-22)

6. The Team convened for its annual review on September 18, 2009 and Mother attended the meeting. Ms. Pedersen raised her concerns to Parent during the meeting and the Team sought consent to conduct evaluations of Student. Mother stated that she had reservations about the school testing Student. Ms. Pedersen explained to Mother that the teachers required information from the testing to determine what kinds of services to provide Student. Mother consented to the testing. She was reluctant to consent to the psychological evaluation because she thought it was mental health testing. Mother informed the Team that she would be having Student evaluated at Children’s Hospital, but she never provided the Team with any evaluation reports. (Pedersen, S-13)

---

1 Judith Roberts is the teacher of the language-based program at the Raynham Middle School which is proposed for Student.
7. The Team reconvened in November to review the testing which was completed in September and October by Ms. Pedersen and Deidre Sanchez, a school psychologist/guidance counselor in the district. (See S-9) Mother did not attend the meeting. The testing revealed that Student’s deficiencies seemed to be language-based. His full scale IQ was found to be 77, in the borderline range. However, the examiners cautioned against relying on that score because Student’s attention was not optimal during the evaluation and because there were significant discrepancies between cognitive areas. (S-9, Pedersen)

8. Terri O’Brien, Student’s guidance counselor, has reviewed the evaluation completed by Ms. Pedersen and Ms. Sanchez and testified regarding the results. She noted that Student had difficulty remembering directions and sitting still and that his poor levels of attention appeared to impact the testing. She noted that the significant discrepancies between his areas of ability made his full-scale IQ score unusable. There was a lot of inter-test scatter where his scores were inconsistent. Ms. O’Brien noted that this was a red flag which meant that examiners would want to probe further in testing Student. She noted that a neuropsychological evaluation would be appropriate due to the inter-test scatter. Both processing speed and working memory were areas of significant weakness for Student. Ms. O’Brien explained that the working memory ties in with a student’s ability to attend. She explained that if Student is having difficulty attending to information, he cannot understand it and cannot process it and get it into his memory. Processing speed refers to how quickly a person can process information. Student may require extra time to get work done or extra response time due to his slow processing speed. There was scatter in his academic testing. In math reasoning he scored at the first percentile as he did in spelling and overall math. The math ability, she noted, would impact Student because math is cumulative. When he misses pieces, he cannot simply continue and learn the next piece. Student also showed deficits in phonics, as indicated by the Woodcock Johnson. His word attack score was so low it was unrecordable. (O’Brien, S-9)

Reading fluency and word reading were also areas of profound weakness for Student. The testing results show that Student requires additional support and more services than he received in the inclusion classroom. Some of the classroom observations noted that Student sometimes made odd noises to himself in the classroom and talked to himself in the hallways. Additionally, teachers reported that when Student was speaking to them, they could not always understand his words. (O’Brien)

9. While the testing was being completed, Ms. Pedersen made frequent phone calls to Mother to explain what the testing was revealing. (Pedersen) The Team determined after reading the evaluation reports and the observations that Student should receive a complete neuropsychological evaluation and a speech language evaluation. (Pedersen) Mother did not return phone calls from
school staff after the November 18, 2009 meeting that she did not attend. On December 2, 2009 Mother dropped Student off at school and school personnel requested that she stay for a scheduled attendance/student concern meeting. She reported that she had forgotten about the meeting, but she stayed for a short time. She told school personnel that she could not stay to review Student’s testing, but she did sign a consent form for the speech language evaluation. She only signed one of the required four pages for the outside neuropsychological evaluation. Consequently the neuropsychological evaluation could not be conducted. (S-4) Ms. Pedersen contacted Mother to set up another meeting to review Student’s testing. Mother would only agree to meet with Ms. Pedersen without the rest of the Team. Ms. Pedersen met with Mother briefly on December 18, 2009, but Mother would not take off her coat or sit down. Ms. Pedersen explained the results as well as she could in the short period that Mother was willing to meet. Ms. Pedersen discussed placement options with Mother, but no decision was made and Mother did not sign the IEP. Ms. Pedersen suggested that the Team reconvene to review the speech language evaluation results, but she was unable to obtain a date on which Mother was willing to attend a Team meeting. It was very difficult for school personnel to get Parent to communicate with the district. She would not answer her phone or return phone calls or e-mail. She told Ms. Pedersen that she did not trust school personnel based upon her experiences in her son’s prior school district. (S-4, Pedersen)

10. Jean Ouellette has been a speech language pathologist since 1976 and works at both Bridgewater Middle School and Raynham Middle School. She has a Master’s degree in communication disorders and a certificate of clinical competence with the American Speech and Hearing Association. She tested Student on one full day (December 15, 2009) and took frequent breaks. Initially, Student was very reserved and did not make much eye contact and seemed distracted. However, he gave his best effort and his attention was good. He scored in the low average range in receptive and expressive vocabulary. She noted that when the test involved concrete language, he performed better than in other areas. When he was presented with abstract language or longer language that he had to “hold on to” and understand, Ms. Ouellette could see that he had difficulty. During the semantic relationship sub-test, Student said, “[t]his is really hard.” He required repetition during that sub-test and he received a very low score. He had a great deal of difficulty with the Understanding Paragraphs sub-test, which is presented verbally. He struggled immensely. That sub-test correlates with classroom learning because content is often presented only verbally at the middle school level. It was difficult to determine at times whether Student was having difficulty understanding the questions or with providing his answers. Because he has such a difficult time using concise language to express himself, it was difficult to determine whether his difficulty was more expressive or receptive. He lost many points because he could not use concise language to express what he was trying to explain. She recommended that Student receive direct speech and
language therapy. She testified that the therapy should focus on “strengthening the following skills: comprehension of language that increases in length and linguistic complexity…sentence assembly skills; use of concise and organized language to give explanations, express relationships between words, and answer open-response type questions; and phonological skills.” (S-14, Ouelette)

11. Judith Roberts has a Master’s degree in general education and is certified in early education and special education (K-9) and has been teaching for twenty seven years. She started the language-based program at Bridgewater-Raynham seventeen years ago and currently teaches the grade 7 and 8 language-based program at Raynham Middle School. She has not met Student. Currently, she has 11 students in her classroom and two paraprofessionals. She teaches all of the academic subjects: language arts, science, math, and social studies. Her students attend mainstream classes for their non-academic subjects. The pace of her classroom is much slower than the regular education classroom because her students require extra time to process information. She parallels the general curriculum as much as possible in science and social studies and covers the major concepts. She individualizes the curriculum for language arts and math using student’s individual levels as a starting point. The model of the classroom is direct instruction. Ms. Roberts provides the initial instruction of each concept and the paraprofessionals support her. When students are working on seat work or activities, all three of the adults provide support. (Roberts)

Her teaching style is very “hands on” and she uses a lot of visuals. She uses very simplified language. If vocabulary comes up that she thinks students will not know, she stops and explains the word(s). She finds that her students have a lot of gaps in their knowledge and she spends time filling in the gaps. She provides a lot of wait time after she asks a question to allow students to process information and formulate a response. She works with her students on providing details in the responses they give to her questions. Many of her students lack confidence in their academic abilities and believe they are stupid because they know that they have to work harder than their peers and are not doing well. She spends a great deal of time talking about learning disabilities and explaining that they will need to learn strategies to get around their learning disabilities. She has read Student’s evaluation reports and has spoken to Ms. Pedersen and Ms. Ouellette about their impressions of Student and his needs. Based upon what she has read and heard about Student, she believes that her program would be appropriate for Student. (Roberts)

12. Mother attended a January 26, 2010 meeting during which Ms. Ouelette presented her findings. Mother was formally presented with the Team’s proposal for Student to attend the language-based program at the Raynham
Middle School\(^2\). (S-2\(^3\)) The Team members concluded that Student is not making effective progress in the inclusion environment. They recommended that he participate in the language-based program because, “he has a language-based learning disability that hinders his academic progress in the general education environment.” (See S-2) Additionally, Ms. Ouellette recommended that he receive specially designed small group speech-language therapy in a pull-out setting to facilitate comprehension and expression of language. (S-2, Pedersen)

13. Parent did not return the IEP to the district during the remainder of the 2009-2010 school year. Ms. Pedersen continued to communicate with Mother and offered to reconvene the Team and to explain the IEP further to her. Mother was not interested in either option. Student’s academic performance continued to decline. He was doing very little work in math or during the academic support blocks. He stopped attending school entirely in early March 2010. (Pedersen)

14. Derek Swenson, the Principal of the Bridgewater Middle School, testified that most of his contact with Student and Mother was due to truancy issues. The staff tried to schedule meetings with Mother at various times to discuss the attendance issues. Additionally, he was involved in investigating an incident which occurred in March 2009. Student was in the auditorium when he was hit in the head by a shoe that was thrown by another Student\(^4\). Student was not able to provide school staff with information about the incident. It was very difficult to determine what had occurred. He was not able to not say who was sitting near him at the time or what had occurred. Teachers were able to provide information about the incident, but Student was not. Mr. Swenson thinks Student’s processing issues caused him to not be able to remember details of the incident. (Swenson)

After the shoe throwing incident, Student stopped attending school. Mother told school staff that Student went to a pediatrician and a neurologist and that he had a concussion. She never provided any medical documentation of Student’s visits to doctors. Sometime in mid-April Student’s doctors cleared him to go back to school. The school staff asked Mother to bring the medical documentation to a readmission meeting. When Mother eventually came to a meeting she did not bring documentation and the meeting was stopped by Mr. Swenson because Mother was observed to be placing a tape recorder in her purse. Mother stopped communicating with the school completely at that time. Mother did not respond to any of the letters school staff sent to her. When Student did not return to school, the guidance counselor contacted the police in

---

\(^2\) Ms. Pedersen had previously sent Mother a draft IEP that had made the proposal for the language-based classroom. Additionally, Ms. Pedersen had previously discussed the language-based program option with Mother.

\(^3\) In addition to providing for all of Student’s academic instruction in the language-based classroom, the IEP provides for speech language therapy with “speech language personnel” 1 x 57 minutes per week. (S-2)

\(^4\) The other student was suspended. (Swenson)
Student’s town of residence to do a wellness check and Student was at home. Parent was told that Student needed to return to school, but he never did during the 2009-2010 school year. (Swenson)

15. Between Christmas time and March, Student frequently came to Mr. Swenson’s office and reported incidents, but was never able to say what happened or tell him what students were involved. Mr. Swenson is not sure whether Student truly could not remember the incidents or whether he was coming to his office to report incidents as a way to avoid being in the academic setting. (Swenson) By that time Student was having somatic complaints while at school. Ms. Pedersen informed Parent that it seemed Student was having difficulty understanding what was going on in the inclusion classroom and the staff believed that was causing his somatic complaints. (Pedersen)

16. After Student stopped coming to school, Ms. Pedersen continued to send e-mails to Mother because she was very concerned about Student and the somatic complaints he had been making before he stopped attending school. He had complained about his stomach bothering him and being dizzy. Ms. Pedersen did not know whether the issues were physical or psychological. She found it practically impossible to get in contact with Mother after Student stopped attending school. (Pedersen)

17. Terri O’Brien is the guidance counselor at Bridgewater Middle School. She has a Master’s Degree in counseling and a CAGS in school psychology. She is licensed as an educational psychologist and a mental health counselor. She is Student’s guidance counselor and had frequent contact with him last year, often informally. She observed him and conversed with him at lunch when she had lunch duty. She often saw him after school either waiting for a ride or getting extra help. He had a tendency to hang around adults and he often came to her and talked. His conversations were mainly about his academics. He was concerned about how his parents would react to how he was doing. Peer issues did not seem to come to the forefront until last year. He never came to her about harassment issues until last year. Mother brought an issue to her attention and Student brought one issue to her attention. He was reluctant to give the names of other students. It took about an hour to get information about who was involved or what had happened. Even when shown photos of students, he could not or would not identify the students. The staff could not resolve the problem because they could not get sufficient information from Student. Ms. O’Brien often spoke to his teachers during weekly meetings. Student was often a student of concern in terms of his academic needs, attendance, and his inattention. (O’Brien)

Ms. O’Brien believes Student’s poor academic performance was impacting his self-esteem. She never evaluated Student, but as noted above, has reviewed the testing done by Deidre Sanchez. (S-9, O’Brien)
18. Mother rejected the proposed IEP on September 11, 2010. During a phone conversation Mother said she was concerned about the difference in the distance between her home and Bridgewater and the distance between her home and Raynham. She stated that she was concerned that she would lose her job if she had to drive Student to Raynham. Ms. Pedersen printed out MapQuest directions showing Mother that there was only a four mile difference in the distance between the two schools. S-16 is the rejection pages that Mother eventually signed. It was unsigned from February 2010 until September 2010. Mother did sign an amendment allowing Student to receive speech language services. (Pedersen)

19. Ms. Murray believes that Ms. Roberts’ class would be an appropriate placement for Student. When she worked in Ms. Roberts’ class there were many students similar to Student. Ms. Roberts explains things verbally and visually and provides a great deal of repetition. (Murray)

20. Ms. Ouellette believes, based upon the test scores Student received, that he would really struggle in an inclusion classroom. Her opinion is based particularly on the scores he received on sub-tests that require listening skills and comprehension of language that becomes more complex and lengthy. Student needs content to be broken down into smaller steps and needs more visuals and hands-on learning to understand concepts. Ms. Ouellette is familiar with Ms. Roberts’ program and has worked closely with her and many of her students for eight years. Based upon her knowledge of the program and of Student, she believes that Ms. Roberts’ classroom would be appropriate for him. The classroom is language-based and Ms. Roberts is able to break down information and provide a great deal of repetition and reinforcement. She has not yet provided services to Student because the IEP amendment providing for speech language services was not signed by Mother until March 2009 and Student did not return to school after it was signed. Student is on her schedule for this year. If Student attends the Raynham Middle School, she will provide services to him there. (Ouellette)

21. Ms. O’Brien is familiar with the language-based program at Raynham Middle School. She has observed the program and believes that based upon the information that the Team currently has, it is an appropriate placement for Student. She does not believe that the inclusion setting is appropriate for Student as he has not been successful in that setting and has not been making progress. (O’Brien, S-22)

22. Ms. Pedersen thought Student was initially motivated to do his work, but that he became overwhelmed in the inclusion environment and he shut down from the effort of just trying to navigate his day. He would do much better in a smaller more supported environment with a smaller group of students and the consistency of having the same teacher all day. He would also likely find it easier to express himself in such an environment. (Pedersen)
23. Student’s unsigned IEP was again sent home over the summer. Mr. Swenson attempted to contact Mother several times and she never returned his calls. By the third or fourth phone call, the phone number at Student’s residence was no longer in service. The guidance counselor filed several 51A reports with the Massachusetts Department of Children and Families throughout the school year. On May 3, 2010, the school filed a criminal complaint against Mother for failing to send Student to school. Mother did not attend the first two scheduled hearings. Bridgewater did not have representation at court on the date of the rescheduled hearing and the case was dismissed. Bridgewater sent truancy letters to Parent and Mother did not respond to letters or phone calls about the truancy issues. (Swenson)

FINDINGS AND CONCLUSIONS:

Student is an individual with a disability, falling within the purview of the Individuals with Disabilities Education Act (IDEA) and the state special education statute. As such, he is entitled to a free appropriate public education (FAPE). Neither his status nor his entitlement is in dispute. Under the FAPE standard, the IEP proposed by the school district must offer the student a free appropriate public education that meets state educational standards. This education must be offered in the least restrictive environment appropriate to meet the student’s individual needs. Federal law also requires that the student be able to fully participate in the general curriculum to the maximum extent possible. 20 USC § 1415(d)(1)(A)(iii); 34 CFR 300.347(a)(2)(I) and (a)(3)(ii); 64 Fed. Reg. No. 48, page 12595, column 1; See also, In Re: Worcester Public Schools, BSEA # 00-1912, 6 MSER 194 (2000).

As stated by the federal courts, the LEA is responsible to offer students meaningful access to an education through an IEP that provides "significant learning" and confers "meaningful benefit" to the student, through "personalized instruction with sufficient support services …". The requirements of the law assure the student access to a public education rather than an education that maximizes the student’s individual potential. Lenn v. Portland School Committee, 998 F.2d 1083 (1st Cir. 1993); GD v. Westmoreland School District, 930 F.2d 942 (1st Cir. 1991).

---

5 20 USC 1400 et seq.
6 MGL c. 71B.
7 20 USC 1412(5)(A).
The burden of persuasion in an administrative hearing challenging an IEP is placed upon the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 126 S. Ct. 528, 534, 537 (2005). In this case, Bridgewater-Raynham is the party seeking relief, and thus has the burden of persuading the hearing officer of its position.

In this case, Mother has rejected Bridgewater-Raynham’s proposal to place Student in the language-based program at the Raynham Middle School because she wants Student to remain in the inclusion program at the Bridgewater Middle School. Mother is apparently concerned that Raynham Middle School is located further away from her home than Bridgewater Middle School and wishes for Student to remain there. However, Bridgewater-Raynham is obligated to propose and provide services that will meet Student’s individual needs and must provide those services in a setting equipped to provide Student’s required services. Thus, a dispute has arisen between the parties and Bridgewater-Raynham seeks a determination that its proposed IEP is appropriate.

Bridgewater-Raynham has provided sufficient unrebutted evidence to show that Student has not made and is unable to make effective progress in his current inclusion setting. Although Student’s academic progress has been significantly impacted by his many absences, the evidence shows that his learning disabilities impact his progress significantly as well. The evidence also shows that Student was motivated to learn when he first began attending the Bridgewater-Raynham Public Schools, but has become increasingly frustrated and unmotivated while receiving insufficient services in the inclusion setting. Student simply requires more intervention than can be provided in the inclusion setting. Ms. Ouellette convincingly testified that Student’s working memory deficits require that he be presented with information in small increments and that he be taught using visual aids and hands-on learning to aid his comprehension of concepts. Ms. Murray credibly explained that Student’s processing speed made it difficult for him to answer questions in class. When she asked him a question, it took him a long time to answer and he sometimes would not answer at all. She believed that Ms. Roberts’ classroom would appropriately provide Student with additional time both to think about a question and to formulate a response before being expected to answer it.

Ms. Roberts testified that the pace of her classroom is much slower than that of a regular education classroom because her students require extra time to process information. She uses simplified language which would benefit Student because he would not be spending time and energy trying to process complex language. Ms. Roberts also spends a great deal of time filling in individual gaps in students’ learning. This would be particularly beneficial to Student who has missed a great deal of school and consequently has large gaps in his knowledge. (Murray, Pedersen) The small size of the language-based classroom will also benefit Student as it will allow him to receive additional individual assistance from the three adults present in the classroom.

Ms. Roberts’ program will also address Student’s self-esteem, a concern raised by Ms. O’Brien. She was concerned that Student’s continued academic difficulty would cause him to feel badly about himself. Ms. Roberts spends a lot of time discussing learning disabilities and strategies for “getting around” them with her students. She makes sure that they understand that they are capable of learning and are not stupid. Such an approach would likely help Student to be less frustrated by his learning disabilities. Ms. Roberts’ program
would also assist Student in learning to provide sufficient details in his written and expressive language to be able to express his thoughts and needs to others. There was testimony from Ms. Pedersen and Mr. Swenson that Student’s inability to express himself was a significant issue for Student. Ms. Pedersen explained how Student was unable to tell her what kind of assistance he required to complete his work. Mr. Swenson testified that Student was unable to report any details when he experienced difficulties with peers, including after the shoe throwing incident.

Student’s attendance will continue to cause him difficulty if Mother does not ensure that he attends school on a regular basis. Even if he did not have learning disabilities, the excessive number of absences would make it difficult to keep up with his classes. Bridgewater-Raynham will have to continue to monitor his attendance and take whatever action is necessary to ensure Student’s regular attendance.

For the foregoing reasons I find that the IEP proposed by Bridgewater-Raynham for the period from February 22, 2010 through September 17, 2010 was reasonably calculated to provide Student with a free appropriate public education in the least restrictive environment. The program can meet all of Student’s identified needs and provides him the opportunity to attend specials with his non-disabled peers. (S-2) Although Mother appears to be concerned that the language-based program is located at the Raynham Middle School which is four miles further away from her home than the Bridgewater Middle School, the services Student requires are not available at the Bridgewater Middle School.

The Team had sought consent to conduct a neuropsychological assessment of Student and did not receive the same from Mother. The district did not seek to override Mother’s lack of consent to the evaluation at the hearing, so the undersigned will take no action on the issue.

It is the hope of the Team in bringing this matter before the BSEA that Student, who has shown motivation and promise, will be permitted to participate in a program that can meet his identified needs.

ORDER

The IEP proposed by the Bridgewater-Raynham Regional School District for the time period from February 22, 2010 through September 17, 2010 was reasonably calculated to provide Student with a free appropriate public education in the least restrictive environment. Therefore, Bridgewater-Raynham may implement the IEP.

By the Hearing Officer,

Catherine M. Putney-Yaceshyn
Dated: October 25, 2010