COMMONWEALTH OF MASSACHUSETTS

**Division of Administrative Law Appeals**

**Bureau of Special Education Appeals**

# **In Re: School District[[1]](#footnote-1) BSEA #12-7316**

**DECISION**

This decision is issued pursuant to the Individuals with Disabilities Education Act (20 USC 1400 *et seq*.), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the state special education law (MGL c. 71B), the state Administrative Procedure Act (MGL c. 30A), and the regulations promulgated under these statutes.

By agreement of the parties and pursuant to BSEA Hearing Rule XII, this matter is decided solely on the basis of documents that have been filed jointly by Parents and the School District and that are marked as exhibits 1 through 8. The parties waived their right to make closing arguments, and the record closed on July 6, 2012 when the exhibits were filed.[[2]](#footnote-2)

## ISSUES

The issues to be decided in this case are as follows:

1. Is the IEP most recently proposed by the School District for the 2012-2013 school year reasonably calculated to provide Student with a free appropriate public education in the least restrictive environment?
2. If not, can additions or other modifications be made to the IEP in order to satisfy this standard?
3. If not, would placement at the Landmark School (Landmark) satisfy this standard?
4. Was the IEP proposed by the School District for the 2011-2012 school year reasonably calculated to provide Student with a free appropriate public education in the least restrictive environment; and if not, are Parents entitled to reimbursement for expenses relative to Parents’ unilateral placement at Landmark, including transportation expenses?[[3]](#footnote-3)

FACTS

Student is a 14-year-old boy who recently completed 8th grade. He has attended Landmark since November 28, 2011, pursuant to Parents’ unilateral placement.

Student has average intelligence. He has also been diagnosed with a Language-Based Learning Disability, Dyslexia, Reading Disorder, Disorder of Written Expression, Mathematics Disorder and Attention Deficit Hyperactivity Disorder (ADHD). As a result, Student has demonstrated deficits with respect to attention, self-regulation, executive functioning, verbal memory, auditory processing, reading and writing, word retrieval, self-esteem and emotional issues that are likely associated with his learning disabilities. Exhibits 2B, 3, 4, 7A.

Student has been receiving special education services from the School District since second grade when he was determined eligible. He began receiving reading, math and counseling services to address math and reading deficits and issues with self-esteem. Student has continued to be eligible and receive special education and related services through the present. Exhibits 1, 7A.

In January 2008 (Student’s 4th grade), Parents arranged for a private neuropsychological evaluation by Elizabeth Goodell, PhD. Dr. Goodell diagnosed Student with a Language-Based Learning Disability and ADHD. She recommended that Student be placed in small classes with similar peers and that he receive multisensory teaching with language programming throughout the day. She also proposed that Student receive 1:1 pull-out instruction to address his decoding, fluency and comprehension deficits. In addition, she noted: “If he does not make effective progress and/or if issues with self-esteem school anxiety increase, placement in a separate, language-based program should be considered.” Exhibit 3.

In June 2008, the School District conducted a three-year evaluation of Student, including psychological, occupational therapy, and speech-language evaluations. The IEP Team convened on June 18, 2008 to review Dr. Goodell’s evaluation and the School District’s three-year evaluation. The Team proposed an IEP for 5th grade that added pull-out services to address Student’s language, math and emotional deficits. Exhibits 1, 7A.

In June 2010 (near the end of Student’s 6th grade), the School District conducted another three-year evaluation. As part of this evaluation, speech-language testing done in June 2010 (as compared to testing in June 2008) showed that Student’s scores dropped from the 50th to 25th percentile in receptive language, from the 63rd to 25th percentile in the expressive language and following directions subtests, and from the 50th to 25th percentile in the recalling sentences subtests of the Clinical Evaluation of Language Fundamentals (4th ed.). On WISC testing conducted two years earlier (June 2008), Student showed significant declines in both verbal comprehension and perceptual reasoning. Exhibits 4A, 4B, 4C.

On September 28, 2010 (the beginning of the 2010-2011 school year), the IEP Team convened to review the School District’s evaluations. The School District proposed a continuation of the 6th grade IEP. Parents advised the School District that they were concerned about their son’s inability to independently solve multi-step math problems, his difficulties in reading comprehension and spelling, and his lack of self-confidence. Parents informed the School District that they intended to investigate other schools for their son. During 7th grade, Student received private tutoring and private psychotherapy. Exhibit 1.

On December 8, 2010, the IEP Team re-convened at Parents’ request to review Student’s progress. Parents again expressed concerns regarding their son’s academic progress and emotional issues; they advised the School District that they were exploring other placements; and they requested that the School District fund a language-based program for their son. The School District declined the Parents’ request to change Student’s services and placement, but offered 20 hours of compensatory tutoring so that Student could make up work that he had missed when he was out of school with the flu. By letter of December 8, 2010, Parents formally notified the School District of their intent to seek an alternative educational placement. Exhibit 1.

In February and March 2011, Parents arranged for private testing by Eileen Antalek, EdD, a school psychologist and learning disabilities and written language specialist. She reviewed former evaluations and administered a number of tests. Exhibit 7A.

Dr. Antalek found that Student’s verbal scores on the WISC were declining. His reading fluency scores were at the 21st percentile, which was a decline from 28th percentile on The School District’ evaluation in June 2008 and a further decline from his 47th percentile when the School District first evaluated Student in November 2005. Student’s other WISC verbal subtests scores and math fluency scores showed a similar pattern. Exhibits 3, 4, 7A.

Dr. Antalek’s evaluations also showed decline in academic skills. She found Student’s spelling scores to be at less than the 1st percentile, as compared to the 33rd percentile when the School District tested Student in November 2008. Student’s WISC scores on the Letter-Word Identification subtests were at the 35th percentile, a decline from the 57th percentile when tested by the School District in November 2005. Exhibits 3, 4, 7A.

Similarly, Dr. Antalek found that on the Woodcock-Johnson Psycho-Educational Battery (3rd ed.), Student’s word attack scores were at the 11th percentile, a decline from this 58th percentile scores when the School District tested him in November 2005. His Math Fluency scores were found to be at the 11th percentile, a decline from the previous 19th percentile scores from the School District testing. On the Test of Word Reading Efficiency, Student scored at the 5th percentile on the Sight Word Efficiency Subtest, a decline from the 42nd percentile performance cited by Dr. Goodell in January 2008. He scored in the 4th percentile on the Phonemic Decoding Subtest, a decline from the 35th percentile score obtained by Dr. Goodell in January 2008. Exhibits 3, 4, 7A.

Dr. Antalek identified Student as having a significant Language-Based Learning Disability (Dyslexia) consisting of a Reading Disorder, a Disorder of Written Expression, a Math Disorder and a Learning Disorder NOS. She also found that Student displayed concomitant learning disabilities in the areas of executive function, visual memory, word retrieval, and auditory attention. Exhibit 7A.

On May 25, 2011, the IEP Team convened to consider Student’s progress, Dr. Antalek’s evaluation, and concerns expressed by Student’s private therapist, Joanna Huntington, LICSW. In a letter dated May 25th, Ms. Huntington explained that Student felt inadequate and incompetent, and that he did not feel any connection to what he was being taught in the classroom, not because of lack of interest but because there was a disconnect between what was being taught and what he could understand. Exhibits 1, 6.

At the Team meeting, the School District took the position that it could continue to meet Student’s needs appropriately without adopting Dr. Antalek’s recommendations for placement in a substantially-separate, language-based program. The School District offered an IEP amendment that added a co-taught self-contained math class and a reading tutorial for two 53-minute class period per seven-day cycle. Parents continued to take the position that they were dissatisfied and were considering an outside placement, specifically Landmark. Exhibit 1.

For the 2010-2011 school year (7th grade), Student’s grades were as follows:

Math: D+

World geography: D+

Learning strategies: P

Physical education: A-

Reading: B-

Language Arts: B-

Science: C [Exhibit 5B].

On September 26, 2011, the IEP Team re-convened and proposed an IEP for 8th grade (his 2011-2012 school year) that would place Student in regular education science with paraprofessional support, and would provide special education classes for English Language Arts, math and reading. The IEP also proposed a reading tutorial for two 53-minute periods per week and a learning strategies class for three 53-minute periods per week. Exhibit 2B.

On October 20, 2011, Landmark notified Parents that Student had been accepted and that there was space available for him. By letter of October 28, 2011, Parents notified the School District of their intent to place their son at Landmark and to seek public funding of this placement. Exhibit 2C.

On November 3, 2011 while Student continued to attend the School District’s program, Dr. Antalek observed Student in his educational program, including reading, social studies, and English Language Arts. Dr. Antalek concluded that this program was not appropriate for Student and reiterated her recommendation that he be placed in a language-based program. Exhibit 7B.

On November 28, 2011, Student began attending Landmark. On February 2, 2012, Dr. Antalek observed Student at Landmark and concluded that it was an appropriate program for him. Exhibit 7C.

The Team proposed an IEP for the beginning of 9th grade (his 2012-2013 school year) that would place Student in regular education science and social studies with special education support, and would provide special education classes for English Language Arts, math and reading. The IEP also proposed a reading tutorial for two 56-minute periods per week and academic support for six 56-minute periods per week. Exhibit 2B.

**LEGAL STANDARDS**

It is not disputed that Student is an individual with a disability, falling within the purview of the federal Individuals with Disabilities Education Act (IDEA)[[4]](#footnote-4) and the Massachusetts special education statute.[[5]](#footnote-5)

The IDEA was enacted “to ensure that all children with disabilities have available to them a free appropriate public education”, i.e. a "FAPE."[[6]](#footnote-6) The IDEA envisions a collaboration between school officials and parents to develop an individualized education program ("IEP"), which is "[t]he primary vehicle for delivery of a FAPE" and must be "individually designed to suit a particular child".[[7]](#footnote-7) Although a student is not entitled to the maximum educational benefit possible, "an IEP must be reasonably calculated to confer a meaningful educational benefit."[[8]](#footnote-8)

The IDEA and Massachusetts law reflect a preference for mainstreaming disabled students. This entails ensuring, “[t]o the maximum extent appropriate,” that disabled children are taught with nondisabled children.[[9]](#footnote-9) “The goal, then, is to find the least restrictive educational environment that will accommodate the child's legitimate needs.”[[10]](#footnote-10)

In the application of these standards, federal case law clarifies that “levels of progress must be judged with respect to the potential of the particular child”[[11]](#footnote-11) unless the potential is “unknowable”[[12]](#footnote-12) because “benefits obtainable by children at one end of the spectrum will differ dramatically from those obtainable by children at the other end, with infinite variations in between”.[[13]](#footnote-13) Thus, in sum, the “IDEA requires an IEP to confer a meaningful educational benefit gauged in relation to the potential of the child at issue.”[[14]](#footnote-14)

FAPE is defined by the IDEA to include state educational standards,[[15]](#footnote-15) which may exceed the federal floor.[[16]](#footnote-16) Massachusetts standards require that a proposed IEP include specialized instruction and related services designed to enable Student to make effective progress and develop his or her individual educational potential.[[17]](#footnote-17)

In the event that the School District failed to provide FAPE, Parents may enroll Student in a private placement and seek reimbursement as equitable relief.[[18]](#footnote-18)

As the moving party seeking relief, Parents have the burden of persuasion.[[19]](#footnote-19)

**DISCUSSION**

The most recent and comprehensive evaluation of Student was done by Dr. Antalek in 2011.

In addition to her own testing, she provided a review of all relevant previous educational testing. As will be discussed below in greater detail, her findings and recommendations make clear that Student has not been making effective or meaningful progress commensurate with his educational potential and that Student will not likely do so without placement in a substantially-separate, language-based program such as Landmark. There are no current evaluations or other written reports in the record that dispute or contradict the findings and recommendations of Dr. Antalek. Exhibits 7A, 7B, 7C.

Dr. Antalek found that Student has at least average educational potential. She noted that he “is a bright and delightful boy who is experiencing a great deal of failure in school and is rapidly becoming school phobic.” She further stated that although Student is “at least of average ability, … [a]cademically, [Student] is struggling. His word reading and decoding skills have never been adequately addressed, and [Student’s] word reading and decoding skills are significantly weak.” “He is reading well below grade level, but this has been overlooked largely due to the fact that [Student] can answer multiple-choice questions adequately using his strong logic skills.” She further noted his inability to spell correctly, with even “simple, everyday words” being a challenge for him; and his written language skills were “significantly below grade expected levels.” Even in math which “should be [Student’s] strength, … he is currently struggling.” Exhibit 7A.

Dr. Antalek also found that “executive functioning weaknesses appear to be impairing [Student’s] ability to organize even his thinking and response style.” She therefore found that “in addition to supports to address his specific academic weakness, [Student] will need additional support to help him reorganize the way he views himself and others, and to help him develop more appropriate metacognitive strategies.” Exhibit 7A.

Dr. Antalek summarized, as follows, Student’s potential to succeed, the School District’s continuing failure to meet appropriately Student’s educational needs, and the likely future implications if appropriate educational services are not provided:

[Student] can and should be successful given the appropriate remediation and supports, but at present [he] is school phobic and is developing a number of somatic symptoms that are illustrative of the anxiety he feels. While ADHD, inattentive type is noted due to impulsivity and organization, this plays minor role in [his] performance. Of greater concern is [Student’s] language-based learning disability (surface dyslexia), executive function weaknesses, dyscalculia, dysgraphia, and other learning issues that have failed to be addressed adequately. Without appropriate remediation and support, [Student] will experience additional failure ….. [Exhibit 7A.]

Dr. Antalek recommended that Student be placed in a language-based, learning disabilities classroom that incorporated language-based strategies and accommodations throughout the day. She recommended that his placement use a rule-based reading program and that he be taught with peers with average to above-average cognitive abilities. Exhibit 7A.

On November 3, 2011, Dr. Antalek observed Student in his educational program in the School District, including reading, social studies, and English Language Arts. Dr. Antalek concluded that this program was not appropriate for Student and reiterated her previous conclusion that Student cannot be appropriately educated using this program model. More specifically, Dr. Antalek wrote as follows:

It was evident that [Student] was struggling in each of his classes. …. He also expressed discomfort with some of the students in his classrooms. ….

Of greater concern is that fact that [Student] still cannot read. In spite of the fact that [Student] has been identified with an IEP since the second grade, and is currently in the eighth grade, his independent reading has been described as falling at about the fourth or fifth grade level. ….

While the team at [the School District] has made efforts to support [Student], they have not been able to make comprehensive accommodations and remediation appropriate to [his] individual needs. As a result, he has not made effective academic progress. In fact, [Student] has not made any progress academically and he has regressed socially and emotionally. … This observer is certain that [the School District] has made their best effort, but they are unable to provide the level of individualized academic support that [Student] needs to become an independent learner. [Exhibit 7B.]

Dr. Antalek’s concerns regarding Student’s educational future within the School District’s program are heightened by the report from Student’s private therapist (Ms. Huntington). In a letter dated May 25th, Ms. Huntington explained that Student “feels complete hopelessness when it comes to any success he is capable of having in school” and cautioned that without proper intervention, Student would “continue to identify as a failure”. Exhibit 6.

Also as described in the Facts section, above, Student’s standardized test scores have been dropping in certain important respects. At the same time, it is not disputed that Student is of at least average intelligence and has the potential to make substantial educational progress in his deficit areas.

This evidentiary record amply demonstrates that the IEPs proposed by the School District for the 2011-2012 school year and the 2012-2013 school year were not reasonably calculated to provide Student with a free appropriate public education in the least restrictive environment. The evidence also is persuasive that these IEPs could not have been (and cannot now be) made appropriate through the addition or modification of services. Rather, an appropriate program can only be provided through a substantially-separate, language-based placement.

Finally, I consider whether placement at Landmark would satisfy this standard.

On February 2, 2012, Dr. Antalek observed Student at Landmark. In addition to finding that Landmark offered the educational program required by Student to make effective progress commensurate with his potential, she noted that Student was already demonstrating important measures of progress in the short period of time that he had been attending Landmark. She explained as follows:

In the short time that [Student] has attended the Landmark School, he has become more confident and competent as a learner. He appears comfortable in his classes, takes part in class discussions with great enthusiasm and interst, and is completing his homework assignments. He receives a great deal of support in each of these classes as well as remediation for reading, written language, organization, and the development of inferential reasoning. [Exhibit 7C.]

The only other evidence in the record regarding the appropriateness of Landmark are progress reports and grades from Landmark, all of which indicate that Student is making effective and meaningful progress commensurate with his educational potential. Exhibit 8.

I conclude that the undisputed evidence is that Landmark is an appropriate placement for Student.

**ORDER**

The IEP proposed by the School District for the 2011-2012 school year was not reasonably calculated to provide Student with a free appropriate public education in the least restrictive environment. Placement at Landmark satisfies this standard.

The IEP proposed by the School District for the 2012-2013 school year is not reasonably calculated to provide Student with a free appropriate public education in the least restrictive environment. Additions or other modifications cannot be made to the IEP in order to satisfy this standard. Placement at Landmark School satisfies this standard.

Accordingly, the School District shall prospectively place Student at Landmark and shall reimburse Parents for expenses relative to Parents’ unilateral placement at Landmark, including tuition and transportation expenses.

By the Hearing Officer,

William Crane

Dated: July 25, 2012

# **COMMONWEALTH OF MASSACHUSETTS**

**Division of Administrative Law Appeals**

# **Bureau of Special Education Appeals**

# **THE BUREAU’S DECISION, INCLUDING RIGHTS OF APPEAL**

**Effect of the Decision**

20 U.S.C. s. 1415(i)(1)(B) requires that a decision of the Bureau of Special Education Appeals be final and subject to no further agency review. Accordingly, the Bureau cannot permit motions to reconsider or to re-open a Bureau decision once it is issued. Bureau decisions are final decisions subject only to judicial review.

Except as set forth below, the final decision of the Bureau must be implemented immediately. Pursuant to M.G.L. c. 30A, s. 14(3), appeal of the decision does not operate as a stay. Rather, a party seeking to stay the decision of the Bureau must obtain such stay from the court having jurisdiction over the party's appeal.

Under the provisions of 20 U.S.C. s. 1415(j), "unless the State or local education agency and the parents otherwise agree, the child shall remain in the then-current educational placement," during the pendency of any judicial appeal of the Bureau decision, unless the child is seeking initial admission to a public school, in which case "with the consent of the parents, the child shall be placed in the public school program". Therefore, where the Bureau has ordered the public school to place the child in a new placement, and the parents or guardian agree with that order, the public school shall immediately implement the placement ordered by the Bureau. *School Committee of Burlington, v. Massachusetts Department of Education*, 471 U.S. 359 (1985). Otherwise, a party seeking to change the child's placement during the pendency of judicial proceedings must seek a preliminary injunction ordering such a change in placement from the court having jurisdiction over the appeal. *Honig v. Doe*, 484 U.S. 305 (1988); *Doe v. Brookline*, 722 F.2d 910 (1st Cir. 1983).

**Compliance**

A party contending that a Bureau of Special Education Appeals decision is not being implemented may file a motion with the Bureau contending that the decision is not being implemented and setting out the areas of non-compliance. The Hearing Officer may convene a hearing at which the scope of the inquiry shall be limited to the facts on the issue of compliance, facts of such a nature as to excuse performance, and facts bearing on a remedy. Upon a finding of non-compliance, the Hearing Officer may fashion appropriate relief, including referral of the matter to the Legal Office of the Department of Education or other office for appropriate enforcement action. 603 CMR 28.08(6)(b).

**Rights of Appeal**

Any party aggrieved by a decision of the Bureau of Special Education Appeals may file a complaint in the state court of competent jurisdiction or in the District Court of the United States for Massachusetts, for review of the Bureau decision. 20 U.S.C. s. 1415(i)(2).

An appeal of a Bureau decision to state superior court or to federal district court must be filed within ninety (90) days from the date of the decision. 20 U.S.C. s. 1415(i)(2)(B).

**Confidentiality**

In order to preserve the confidentiality of the student involved in these proceedings, when an appeal is taken to superior court or to federal district court, the parties are strongly urged to file the complaint without identifying the true name of the parents or the child, and to move that all exhibits, including the transcript of the hearing before the Bureau of Special Education Appeals, be impounded by the court. See *Webster Grove* *School District v. Pulitzer Publishing Company*, 898 F.2d 1371 (8th Cir. 1990). If the appealing party does not seek to impound the documents, the Bureau of Special Education Appeals, through the Attorney General's Office, may move to impound the documents.

**Record of the Hearing**

The Bureau of Special Education Appeals will provide an electronic verbatim record of the hearing to any party, free of charge, upon receipt of a written request. Pursuant to federal law, upon receipt of a written request from any party, the Bureau of Special Education Appeals will arrange for and provide a certified written transcription of the entire proceedings by a certified court reporter, free of charge.

1. At the request of both parties, the name of the School District is not identified in this Decision, and other names and personally identifiable information have also been redacted in order to protect the privacy of Student. [↑](#footnote-ref-1)
2. Parents are represented by Attorney Constance Hilton, and the School District is represented by Mary Ellen Sowyrda. [↑](#footnote-ref-2)
3. Parents withdrew their claim for compensatory services. [↑](#footnote-ref-3)
4. 20 USC 1400 *et seq*. [↑](#footnote-ref-4)
5. MGL c. 71B. [↑](#footnote-ref-5)
6. 20 U.S.C. § 1400 (d)(1)(A). [↑](#footnote-ref-6)
7. *D.B. v. Esposito*, 675 F.3d 26, 34 (1st Cir. 2012) (internal quotations omitted). [↑](#footnote-ref-7)
8. *Id.* See also *Sebastian M. v. King Philip Regional School Dist.*, 2012 WL 2877588 (1st Cir. 2012) (requiring “meaningful educational benefit”); *I.M. ex rel. C.C. v. Northampton Public Schools*, 2012 WL 2206887, \*1 (D.Mass. 2012). [↑](#footnote-ref-8)
9. 20 U.S.C. § 1412(a)(5)(A); MGL c. 71B, s. 1. See also 20 US § 1400(d)(1)(A); 20 USC § 1412(a)(1)(A); 34 CFR 300.114(a)(2(i); 603 CMR 28.06(2)(c). [↑](#footnote-ref-9)
10. *C.G. ex rel. A.S. v. Five Town Community School Dist*., 513 F.3d 279, 285 (1st Cir. 2008). See also *Rafferty v. Cranston Public School Committee,* 315 F.3d 21, 26 (1st Cir. 2002) (“Mainstreaming may not be ignored, even to fulfill substantive educational criteria.”), quoting *Roland v. Concord School Committee*, 910 F.2d 983, 992-993 (1st Cir. 1990). [↑](#footnote-ref-10)
11. *Lessard,* 518 F.3d at 29. See also *D.B. v. Esposito*, 2012 WL 975564 (1st Cir. 2012) (“In most cases, an assessment of a child's potential will be a useful tool for evaluating the adequacy of his or her IEP.”). [↑](#footnote-ref-11)
12. See *D.B. v. Esposito*, 2012 WL 975564 (1st Cir. 2012). [↑](#footnote-ref-12)
13. *Rowley*, 458 U.S. at 202. [↑](#footnote-ref-13)
14. *Deal v. Hamilton County Board of Education,* 392 F.3d 840, 862 (6th Cir. 2004) (internal quotations and citation omitted). [↑](#footnote-ref-14)
15. 20 USC 1401(9)(b); *Winkelman v. Parma City School Dist.*, 550 U.S. 516, 524(2007) (“education must … meet the standards of the State educational agency”). [↑](#footnote-ref-15)
16. See *Winkelman v. Parma City School Dist.*, 550 U.S. 516, 524(2007) (“education must … meet the standards of the State educational agency”); *Mr. I. v. Maine School Administrative District No. 55,* 480 F.3d 1, 11 (1st Cir. 2007) (state may “calibrate its own educational standards, provided it does not set them below the minimum level prescribed by the [IDEA]”); *David D. v. Dartmouth School Committee*, 775 F.2d 411, 416-423 (1st Cir. 1985) (incorporating into the IDEA a higher state educational standard), cert. den., 475 U.S. 1140 (1986); *Town of Burlington v. Department of Education*, 736 F.2d 773, 792 (1st Cir. 1984) (states are “free to exceed, both substantively and procedurally, the protection and services to be provided to its disabled children”). [↑](#footnote-ref-16)
17. See MGL c. 71B, s. 1 (term “special education” defined to mean “educational programs and assignments including, special classes and programs or services designed to develop the educational potential of children with disabilities.”); MGL c. 69, s. 1 (“paramount goal of the commonwealth to provide a public education system of sufficient quality to extend to all children the opportunity to reach their full potential”); 603 CMR 28.01(3) (IEP Team must “include specially designed instruction or related services in the IEP designed to enable the student to progress effectively in the content areas of the general curriculum”). See also IEP form mandated for all Massachusetts school districts by the Massachusetts Department of Elementary and Secondary Education, at pages 2 of 8 and 3 of 8, which may be found at <http://www.doe.mass.edu/sped/iep/forms/word/IEP1-8.doc> [↑](#footnote-ref-17)
18. *See Sch. Comm. of Town of Burlington, Mass. v.* *Dep’t of Educ.*, 471 U.S. 359, 369-70 (1985) (ordering the reimbursement of parents for the unilateral placement of student in a private school). [↑](#footnote-ref-18)
19. See *Schaffer v. Weast*, 546 U.S. 49, 62 (2005) (burden of persuasion in an administrative hearing challenging an IEP is placed upon the party seeking relief). [↑](#footnote-ref-19)