

08-076197

IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

██████████)
)
Plaintiff,)
)
v.)
)
GWINNETT COUNTY SCHOOL)
DISTRICT,)
)
Defendant.)

DOCKET NO.:
OSAH-DOE-SE-0817769-67-Howells



FINAL DECISION

Plaintiff ██████████, by and through her parents, filed a due process request pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. § 1400 *et seq.*, against Defendant Gwinnett County School District ("Defendant."). The hearing was held on May 12, 2008. Plaintiff's parents appeared pro se. They presented the testimony of Mrs. ██████████ Plaintiff's mother. Attorney Victoria Sweeny represented Defendant and presented the testimony of ██████████ Patrick Kane, and Susan White. For the reasons stated below, Plaintiff's request for relief is DENIED.

Findings of Fact

1.

██████████ is a ████████ year, ████████ month old student who resides within Gwinnett County, Georgia. She is eligible to receive special education services from Defendant pursuant to the IDEA. (Ex. J. 148.)

2.

At eight months old, ██████████ was diagnosed with a low-grade astrocytoma in the posterior fossa (i.e., a brain tumor in the depression at the base of the skull). Approximately 90% of the

tumor was removed surgically. The tumor was benign. [REDACTED] subsequently developed hydrocephalus, requiring the placement of a ventriculoperitoneal shunt. (Ex. J. 547.) The encephalopathy caused by the tumor has resulted in developmental delays and cognitive deficits. (Ex. J. 547, 552; Ex. D. 2, 3, 18.)

3.

In December 2000, [REDACTED] was referred for a psychodevelopmental evaluation due to concerns about developmental delays. (Ex. J. 546.) At that time, [REDACTED] was [REDACTED] years, [REDACTED] months old. As a result of the evaluation and [REDACTED]'s significant medical history, the IEP team found [REDACTED] to be eligible for special education services under the categories of Other Health Impairment ("OHI") and Speech/Language Impairment. (Exs. J. 546-552; 544-545; 538.)

4.

[REDACTED] was referred for a psychological evaluation in November of 2003 to determine her current level of functioning. (Ex. D. 2.) At that time, [REDACTED] was [REDACTED] years, [REDACTED] months old. She was being served in the Significant Developmental Delay Kindergarten program at [REDACTED] Elementary School. *Id.* [REDACTED]'s cognitive ability was evaluated using the Woodcock-Johnson III: Tests of Cognitive Abilities and the Stanford-Binet Intelligence Scale: Fourth Edition. On the Woodcock-Johnson, [REDACTED] scored a 69 in General Intellectual Ability. (Ex. D. 4.) On the Stanford-Binet, [REDACTED]'s Test Composite was also a 69. These scores indicate impaired intellectual functioning. (Ex. D. 7.) [REDACTED]'s scores on the Adaptive Behavior Assessment System ("ABAS") were 73 on the teacher form and 67 on the parent form. These scores reveal deficits in adaptive functioning. (Ex. D. 8.) The overall results of the evaluation indicated a mild intellectual disability. Among other things, the evaluator recommended using concrete and practical instruction, frequent drill periods, and over-learning. (Ex. D. 9, 10.)

5.

In March of 2005, ██████ underwent an independent neuropsychological evaluation at Children's Healthcare of Atlanta. (Ex. D. 11.) ██████ was ██████ years, ██████ month old at the time of the evaluation. She scored a Full Scale IQ of 69 on the Stanford-Binet Intelligence Scale-IV. (Ex. D. 14.) On the ABAS, she scored in the 8th percentile, which is in the borderline range for overall independence. (Ex. D. 17.)

6.

In October of 2006, ██████ underwent psychological testing as part of her 3-year review. (Ex. J. 323.) Patrick Kane, a school psychologist for Gwinnett County, performed the evaluation. (Tr. 184.) Mr. Kane used the Wechsler Intelligence Scale for Children – Fourth Edition to evaluate ██████'s cognitive abilities. ██████ scored a Full Scale IQ of 65. (Ex. J. 326.) Mr. Kane used the ABAS to evaluate ██████'s adaptive skills. Her composite score on the ABAS was 66. (Ex. J. 327.)

7.

By definition, to have an intellectual disability one must have below average intellectual functioning and deficits in adaptive behavior, which manifest during the developmental period. For an initial eligibility determination, two different cognitive batteries and an adaptive behavior evaluation are required. To meet the definition of intellectual disability, the student's full scale IQ and adaptive behavior score must be 70 or below. (Tr. 204-206.)

8.

During the 2006-2007 school year, ██████ received primary academic instruction on a modified curriculum at the second grade level in the self-contained Specific Learning Disabilities ("SLD") program at ██████ Elementary School. (See Ex. J. 127.) Beginning in mid

December 2006, [REDACTED] was taught by [REDACTED], a certified Special Education Teacher with a focus in the area of Intellectual Disabilities. (Tr. 149-150.) Over the course of the school year, [REDACTED] made limited and inconsistent progress in key academic areas. (Tr. 165, 168.) Specifically, [REDACTED] finished the 2006-2007 year at a Developmental Reading Assessment (DRA) Level 6. (J. Ex. 265.) DRA Level 6 is equivalent to a beginning first grade level. (J. Ex. 242.) Students are expected to be at a DRA level 16 at the end of First Grade and a DRA level 28 at the end of Second Grade. (J. Ex. 175, 242; Tr. 160.)

9.

In May 2007, [REDACTED]'s IEP team convened to review her IEP for the 2007-2008 school year. At that time the educators recommended that [REDACTED] be placed in the Mild Intellectual Disabilities Class ("MiID") at [REDACTED] Elementary School. (J. Ex. 266.) Specifically, the educators were concerned that if [REDACTED] continued in the SLD setting at [REDACTED] Elementary School she would need major modifications, making her a "class of one." *Id.* The educators were also concerned that [REDACTED]'s acquisition of independent skills and self-confidence would be hindered by remaining in the SLD setting. *Id.*

10.

[REDACTED]'s parents acknowledged that the MiID setting had "many advantages" but, ultimately opposed the change. The IEP team agreed to allow the [REDACTED] to begin the 2007-2008 school year in the SLD setting for a ninety (90) day trial period. (Tr. 62; J. Ex. 264, 267.)

11.

[REDACTED]'s IEP team reconvened on November 1, 2007, to evaluate her progress. The team noted that [REDACTED] had made minimal progress on the third grade language arts curriculum. (Tr. 71.) Specifically, she continued to struggle with reading comprehension at a DRA Level 10,

which is a beginning first grade level. (Ex. J. 213.) ██████████, ██████'s teacher, indicated that the majority of instruction in the third grade SLD class was above ██████'s level and that ██████ lacked the foundational skills to succeed at the third grade level. (Ex. J. 216.) Based on these observations, the consensus among the professional educators on ██████'s IEP team was that ██████ would benefit from instruction in the MiID setting. *Id.*

12.

The IEP team reconvened on November 19, 2007. At that meeting, ██████████, the teacher of the MiID class at ██████████ Elementary School, described her class. (Ex. J. 199.) Mrs. ██████ explained that the students in the MiID class were working on skills consistent with ██████'s IEP goals and objectives and generally performed at ██████'s current level of functioning. *Id.* Mrs. ██████ stated that ██████ would not be at the top of the MiID class in all areas. *Id.* In contrast, the teachers at ██████████ reiterated that ██████ was currently "a class of one" in the SLD setting. *Id.*

13.

On December 4, 2007, ██████'s IEP team again recommended changing the setting of ██████'s special education instruction from the SLD setting to the MiID setting. (Ex. J. 178.) Under the IEP recommended by the team, ██████ would continue to receive the same amount of instruction with non-disabled peers and would continue to receive the same supplemental services. (Ex. J. 148-172.)

14.

██████'s parents objected to the recommended change in educational setting and requested a due process hearing. (Ex. J. 116-126.) Currently, ██████ remains eligible for services under

the following categories: Mild Intellectual Disability, Speech/Language Impairment, and Other Health Impairment. (Ex. J. 148).

15.

Mrs. [REDACTED] agreed that the only change proposed by the IEP team was that [REDACTED]'s four special education segments would be taught in the MiID class at [REDACTED] Elementary as opposed to the SLD class at [REDACTED] Elementary. (Tr. 69.) Under the proposed IEP, [REDACTED] would continue to receive speech and language therapy and occupational therapy. She would also continue to attend lunch, physical education, science, and social studies with the general education students. (Tr. 69-70; Ex. J. 148-158.) Although Mrs. [REDACTED] acknowledged that aspects of the MiID class were appropriate and would be advantageous to [REDACTED], she concluded that the proposed change in setting to the MiID class was inappropriate based on her observation of the MiID class. (Tr. 35-40, 62.) She believes the MiID class at [REDACTED] is inappropriate for [REDACTED] because: 1) the students in the MiID class exhibited a high degree of distractibility, 2) the students in the MiID class were working on skills that [REDACTED] had already mastered or was close to mastering, and 3) [REDACTED] would not have an appropriate role model in the MiID setting. (Tr. 19-20, 35-40; Ex. J. 267.)

16.

When Mrs. [REDACTED] was asked to identify observations supporting her conclusion that the students exhibited a high degree of distractibility, she testified that the students she observed had a hard time standing still and had to be redirected often. (Tr. 38.) She was also concerned about the configuration of the seating in the MiID setting, the noise level, and the lack of personal space. (Tr. 38-39.) However, she did agree that if [REDACTED] were seated in a traditional desk, her concerns about the seating arrangement and personal space would be alleviated. (Tr. 83-84.)

17.

When Mrs. [REDACTED] was asked to identify skills she observed the MiID class working on that [REDACTED] had mastered, she described a teaching methodology (i.e. dice dots) that [REDACTED] continues to use. She also observed students adding a two digit number to a one digit number, which is something [REDACTED] can already do. (Tr. 84-87.)

18.

[REDACTED]'s current IEP objectives provide that [REDACTED]. "will add whole numbers up to two digits each with regrouping independently by the last IEP grading period." (Ex. J. 10.) As of March 4, 2008, [REDACTED] was progressing as expected to master this objective by December 3, 2008. *Id.* However, Mrs. [REDACTED] acknowledged that [REDACTED] currently does not understand place value and as a result cannot find the page in her book if it is above 100. (Tr. 76.)

19.

An update of [REDACTED]'s progress on her goals and objectives was sent home on March 13, 2008. (Ex. J. 8-23.) Although [REDACTED] was progressing as expected in certain areas, she was making minimal or no progress in the areas of reading comprehension and written expression. *Id.* Specifically, [REDACTED] was making no progress toward her objective of being able to answer who, what, where, when, why, and how questions, and she was making minimal progress towards her objective of sequencing five (5) events after independently reading a book/passage. *Id.*

20.

[REDACTED] was [REDACTED]'s teacher in the 2nd Grade SLD class for half of the 2006-2007 school year. Prior to teaching at [REDACTED] Elementary School, Mrs. [REDACTED] served as a student teacher in the MiID class at [REDACTED] Elementary School from September through

November of 2006. (Tr. 149.) Despite a great deal of effort, Mrs. ██████ found that ██████ was not engaged in instruction or learning for a significant amount of time in the SLD setting. (Tr. 153.) ██████ was a “class of one” in the SLD setting. (Tr. 156.) In her opinion, the SLD setting did not provide ██████ with sufficient opportunity to learn and reinforce basic skills through repetition. She believes that the SLD class is not an appropriate setting for ██████ (Tr. 154-155, 183.)

21.

In contrast to the SLD setting, the students in the MiID class are provided multiple opportunities over the course of the day to practice skills. (Tr. 176). They have more opportunities to practice and repeat what they have learned, and transfer those skills to other settings. (Tr. 151, 178). In the MiID class, the teacher uses a multi-sensory approach, which allows the students to make more of a connection to the information. *Id.* As an example, Mrs. ██████ explained that students in the MiID class learn spelling words not only by writing them with pencil and paper, but also reinforce the learning through activities like pointing out spelling words that appear in the school or writing the words in the sand. *Id.* This approach is not used in the SLD setting, nor is it necessary for the typical students in the SLD setting. (Tr. 178, 182.)

22.

In Mrs. ██████ opinion, the classroom management in the MiID setting was excellent. While it was noisy at times, the noise was a byproduct of learning and was consistent with other classrooms where students are engaged in learning. (Tr. 158.)

23.

██████ is isolated, academically and socially, in the SLD setting. In the MiID setting, she would have true instructional peers. (Tr. 150, 152.) Based on Mrs. ██████ experience, ██████

would fall somewhere in the middle of Mrs. ██████'s MiID class, academically. (Tr. 151.) In her opinion, the MiID setting is appropriate for ██████. (Tr. 150, 156.)

24.

Psychological assessments have consistently revealed that ██████'s global intelligence scale falls in the mild intellectual disability range. (Tr. 187.) The psychological evaluation conducted by School Psychologist Chuck Cancilla in December of 2003 concluded that ██████ had pervasive academic and adaptive deficits. (Ex. D. 9). On both the Woodcock Johnson III Test of Cognitive Abilities and the Stanford-Binet Intelligence Scale-Fourth Edition ██████'s overall score was a 69, which is in the mild intellectual disability range. (Ex. D. 4-6.) The recommendations made by Mr. Cancilla based on this assessment included keeping "instruction on a concrete and practical level," and "[e]ncourage the playing of educational games that reinforce academic skills." (Ex. D. 10.) The independent evaluation by April I. Mleko, Ph. D. and Thomas Burns, Psy. D. in March of 2005 revealed "global impairment in cognitive, academic, language, and adaptive functioning." (Ex. D. 18.) The evaluators recommended modifying ██████'s curriculum and instructional strategies to include a multi-sensory approach, the use of concrete materials, and repetition. (Ex. D. 19-20.) The MiID class at ██████████ employs these teaching strategies and methodologies. (Tr. 151, 176, 178).

25.

██████'s most recent psychological evaluation was conducted by the Defendant's psychologist, Patrick Kane, in October of 2006. (Ex. J. 323-328.) Mr. Kane's report indicated that ██████'s intellectual and adaptive functioning were consistent with a mild intellectual disability. (Ex. J. 326-327.) Mr. Kane recommended, that "[e]mphasis should continue to be placed on the acquisition of basic skills which are essential to [██████'s] functioning both in and

out of the classroom.” (Ex. J. 328.) He concluded that “[c]oncrete operational strategies and overlearning are necessary to facilitate her learning and retention.” *Id.* Mr. Kane also recommended that it would be necessary to engage ██████. “in a variety of experiences and activities to help her discover ways in which she learns best and ultimately benefit from the curriculum presented.” *Id.*

26.

Based on his evaluation, Mr. Kane determined that ██████ was very concrete in her reasoning. To learn she would need a great deal of hands on manipulation combined with repetition. (Tr. 188-189.) ██████ would benefit from a multi-sensory approach. This would enhance her retention of novel information. In other words, she would need to “. . . hear it, to touch it, to see it, and then to practice it in some way as soon as possible.” *Id.* These recommendations are based on ██████’s deficit in working memory, which is critical in the areas of reading comprehension, math reasoning, and written expression. *Id.*

27.

Susan White, Defendant’s Executive Director of Special Education and Psychological Services, has thirty-one years of educational experience. (Tr. 220.) Mrs. White’s experience includes teaching students at all levels, including special education students. *Id.* In addition, Mrs. White has extensive experience as an administrator supervising the delivery of special education instruction, including supervising teachers of both learning disabled and intellectually disabled children. (Tr. 222.)

28.

When Mrs. White observed ██████ in the SLD setting, she found that ██████ was not engaged in the instruction. (Tr. 225.) Although ██████ would quickly answer questions, it

appeared that she was simply guessing and going through the motions. (Tr. 225-226.) In fact, when Mrs. White later checked to see how [REDACTED] had performed on the assignment, she discovered that [REDACTED] had answered all of the questions incorrectly. (Tr. 226.) Mrs. White also observed that after the other students left, [REDACTED] stayed behind to work one-on-one with the teacher on a reading assignment that was on her instructional level. *Id.*

29.

In Mrs. White's opinion, it is important for [REDACTED] to be placed in a setting with a range of instructional peers who are not so far beyond her level that she becomes disengaged. (Tr. 227.) She finds that students make greater academic gains when they are reading on the same level as instructional peers and have the opportunity to discuss characters from the reading assignments with each other. *Id.*

30.

Mrs. White also observed the proposed MiID setting. (Tr. 228-229.) When she observed the class, the students were very engaged. They were sitting in individual desks as the teacher reviewed a lesson about habitats from the previous day. *Id.* A live hamster was then brought into the classroom to provide a hands-on example to reinforce the lesson they had just reviewed on habitats. (Tr. 230.) Mrs. White found the setting to be a very rich environment that would benefit [REDACTED]. (Tr. 232.)

Conclusions of Law

1.

In an administrative hearing challenging an IEP, the burden of proof is on the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 62, 126 S. Ct. 528, 537 (2005). In this matter

██████ and her parents challenge the IEP proposed by the defendant school district. Therefore, ██████ and her parents, as plaintiffs, bear the burden of proof.

2.

Under the Individuals with Disabilities Education Act (“IDEA” or “Act”) students with disabilities are entitled to a free appropriate public education (“FAPE”). 20 U.S.C. § 1412(a)(1); 34 C.F.R. §§ 300.1, 300.101. “The purpose of the IDEA generally is ‘to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living’” *C.P. v. Leon County Sch. Bd.*, 483 F.3d 1151, 1152 (11th Cir. 2007)(quoting 20 U.S.C. § 1400(d)(1)(A)).

3.

The Act charges the school district with providing a FAPE in the “least restrictive environment.” 20 U.S.C. § 1412(a)(5)(A). This means that “[t]o the maximum extent appropriate” the school district must educate disabled children with their non-disabled peers. *Id.*; 34 C.F.R. § 300.114.

4.

While it is clear that most, if not all, parents seek an education that maximizes their child’s potential; the IDEA does not impose such a requirement. *Bd. of Ed. v. Rowley*, 458 U.S. 176, 197, 102 S. Ct. 3034, 3046 (1982). The Act speaks in terms of an “appropriate” education, which the Supreme Court has interpreted as an education that is “sufficient to confer some educational benefit upon the . . . child.” *Id.* at 200.

5.

In *Board of Education v. Rowley*, the United States Supreme Court developed a two-part test for determining whether the school district has provided a FAPE in compliance with the Act. *Rowley*, 458 U.S. at 206-07. That test is as follows: "First, has the [school district] complied with the procedures set forth in the Act? And second, is the individualized educational program developed through the Act's procedures reasonably calculated to enable the child to receive educational benefit?" *Id.* If the school district has satisfied these requirements, they have complied with the Act and the judicial inquiry ends. *Id.*

6.

Plaintiffs have not raised, nor did the evidence reveal, any procedural violations of the IDEA. To the contrary, Defendant held multiple IEP meetings, gave the parents additional time to visit the proposed classroom, and notified the parents of their rights under the Act.

7.

"The IDEA requires school districts to develop an IEP for each child with a disability, with parents playing a 'significant role' in this process." *Winkelman v. Parma City Sch. Dist.*, 127 S. Ct. 1994, 2000 (2007)(citations omitted.) While the parents' concerns must be considered by the IEP team, the parents are not entitled to the placement they prefer. *M.M. v. Sch. Bd. of Miami-Dade Cnty.*, 437 F.3d 1085, 1102 (11th Cir. 2006.); *see also Heather S. v. State of Wisconsin*, 125 F.3d 1045, 1057 (7th Cir. 1997.) "The primary responsibility for formulating the education to be accorded a handicapped child, and for choosing the educational method most suitable to the child's needs, was left by the [IDEA] to state and local educational agencies in cooperation with the parents or guardian of the child." *Rowley*, 458 S. Ct. 3034, 3051 (1982.)

8.

The IDEA does not permit parents to “challenge an IEP on the grounds that it is not the best or most desirable program for their child.” *M.M.*, 437 F.3d 1085, 1103 (11th Cir. 2006.) Similarly, in determining the appropriateness of a proposed placement it is irrelevant that another placement may be appropriate. *Heather S.*, 125 F.3d 1045, 1057 (7th Cir. 1997.)¹

9.

The educators who develop a child’s IEP are entitled to “great deference.” *Todd D. v. Andrews*, 933 F.2d 1576, 1581 (11th Cir. 1991.) “[C]ourts ‘lack the “specialized knowledge and experience” necessary to resolve “persistent and difficult questions of educational policy.”’ Courts must be careful to avoid imposing their view of preferable educational methods on the States.” *J.S.K. v. Hendry Co. Sch. Bd.*, 941 F.2d 1563, 1573 (11th Cir. 1991.)(citations omitted.)

10.

As noted *supra*, the IDEA requires that to the “maximum extent appropriate” children with disabilities should be educated with children who are not disabled, or in the “least restrictive environment.” 20 U.S.C. § 1412(a)(5)(A). However, “[t]here is no basis in the ‘least restrictive environment’ provision for evaluating the ‘restrictiveness’ of alternative special education placement options, all of which require separation from non-disabled peers.” *McLaughlin v. Holt Pub. Schs. Bd. of Educ.*, 320 F.3d 663, 672 (6th Cir. 2003.) Therefore, where the parties agree about the extent to which a disabled child will be educated with non-disabled peers, the

¹ The facts of the *Heather S.* case are nearly identical to the case at hand. In the *Heather S.* case the parents challenged the school’s recommendation to move Heather S. from a learning disabled setting to a borderline cognitive disabled setting. *Heather S.*, 125 F.3d 1045. In recommending the change in Heather S.’s setting the school noted that her instructional level was several grade levels below her nominal grade. *Id.* at 1048-49. In addition, in the learning disabled setting Heather S. was unable to retain and/or generalize new information and needed a program that focused on the concrete functional application of skills. *Id.* at 1050. In concluding that the proposed placement was appropriate, the court stated “there likely is more than one solution to the problem of best educating Heather. Each would have its strengths; each would have its weaknesses. A court is particularly incapable of making such judgments which is why it must defer to trained educators . . .” *Id.* at 1057.

least restrictive environment is irrelevant to the evaluation of the appropriateness of the proposed placement.²

11.

In this case, [REDACTED]'s parents challenge the portion of the IEP that changes the setting of [REDACTED]'s special education services from the SLD class at [REDACTED] to the MiID class at [REDACTED]. Except for Mrs. [REDACTED]'s own observations, Plaintiffs failed to present any evidence that the proposed IEP with placement in the MiID class at [REDACTED] Elementary is inappropriate for [REDACTED]. Plaintiffs presented no expert testimony or empirical evidence to support her position. Rather, Plaintiffs offered Mrs. [REDACTED]'s observations, based on two visits to the [REDACTED] Elementary MiID class. Although Mrs. [REDACTED] has a degree in business education, she has never taught. Nor does she have any professional credentials in the area of special education.

12.

The observations of Mrs. [REDACTED] are insufficient to sustain Plaintiffs' burden to prove that the proposed IEP and placement are inappropriate. Furthermore, the evidence presented by Defendant supports the conclusion that the proposed IEP and placement in the MiID class at [REDACTED] is appropriate. Each of the psychological evaluations in the record revealed that [REDACTED] has a mild intellectual disability. Additionally, [REDACTED]'s teachers and other members of her IEP team have concluded that placement in the MiID class at [REDACTED] is the appropriate placement for [REDACTED]. They base their conclusion on the fact that in [REDACTED]'s current placement she spends the majority of her day at a level beyond her abilities, and on the fact that her current progress is minimal and inconsistent. Finally, the teaching strategies and methodologies

² *Id.* [REDACTED]'s parents have not suggested that an appropriate placement would require more time with non-disabled peers. Rather, [REDACTED]'s parents only challenge the appropriateness of the MiID setting. Mrs. [REDACTED] acknowledged that no change would occur in the amount of time with non-disabled peers if the proposed IEP were implemented. (Tr. 69.) Therefore, the least restrictive environment analysis is irrelevant in this case.

employed in the MiID class at [REDACTED] are the very strategies and methodologies recommended in each of [REDACTED]'s evaluations. Therefore, the proposed IEP with placement in the MiID class at [REDACTED] Elementary School is reasonably calculated to confer [REDACTED] with educational benefit.

Decision

For the foregoing reasons, this Tribunal finds that Plaintiffs have failed to prove that the proposed IEP with placement in the MiID class at [REDACTED] is inappropriate. To the contrary, the evidence presented supports the conclusion that the proposed IEP is appropriate. Accordingly, Plaintiffs' prayers for relief are denied and Defendant is directed to implement the December 4, 2007 IEP.

SO ORDERED, this 10th day of June, 2008.


Stephanie M. Howells
Administrative Law Judge