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**Due Process Hearing  
for**

**[REDACTED]  
Drew School District  
February 1, 2007**

**Stephen E. Oshrin, Ph.D., Hearing Officer**

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**Individuals in attendance:**

	<u>Name</u>	<u>Relationship</u>
For the parent:	[REDACTED]	Parent Advocate
For the district:	Roy L. James	Program Developer, Drew School District

**Witnesses for the child**

	<u>Name</u>	<u>Relationship</u>
1.	Roy James	Program Developer, Drew School District
2.	Juanita Nuttal	Teacher
3.	Lacy Wilson	Teacher
4.	Maria Thigpen	Teacher

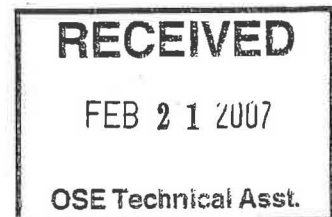
**Witnesses for the District**

	<u>Name</u>	<u>Relationship</u>
5.	Christine Russell	Teacher
6.	David Kelly	Teacher
7.	Lakenya Evans	Teacher
8.	Kyria Norman	Teacher
9.	Terrell Thomas	Teacher
10.	Samuel Evans	Principal
11.	Katrina Clerk	Teacher

**Evidence**

**Parent's evidence:**

1. Report cards and MCT Scores/Student Schedule
2. Parent request for assistance from EMPOWER
3. Psychological Evaluation - Mental Health Associates (11/17/02)



4. Behavioral Report (2/5/03)
5. Disciplinary referrals and miscellaneous notes
6. Recommendation to Alternative School (11/12/04)
7. Certified letter re 5-day suspension (11/14/02)
8. Draft note re school board emergency meeting (9/29/05)
9. Discharge Plan, Parkwood Behavioral Health; Psychological Evaluation (1/10/06)
10. WISC-IV tables and graphs
11. Parent complaint (10/25/05)
12. Supporting facts for parent complaint
13. Letters to district from MDE (11/22/05)
14. Filed due process (1/23/06)
15. Initial draft of functional behavioral assessment (2/17/06)
16. MDE letter re site visit (5/12/06)
17. IEP (6/07)
18. IEP (5/06)
19. Due process request (11/29/06)
20. Draft of suggestions, resolution meeting
21. Assessment team report (1/11/07)
22. Medication list (1/1/2000 - 9/26/05)
23. Letter from Compulsory School Attendance Enforcement (1/12/07)
24. Sample of Attendance
25. Disciplinary actions, disciplinary referrals

**District's evidence:**

1. Letters from Special Education teachers at Drew High School
2. Work samples
3. Disciplinary referrals
4. Attendance at Day Treatment
5. IEP
6. Behavioral intervention plan
7. IEP minutes
8. Resolution meeting

**Issues**

1 is a year-old child enrolled in the Drew School District. He had a history of academic and behavioral problems documented by numerous disciplinary actions. The disciplinary problems resulted in his being placed in the district's alternative school in 2004. He returned to the district's Hunter Middle School, where behavioral problems continued, with the child being transferred to Drew High School in January 2007 in an attempt to provide a more successful educational environment for the child. The parent, although accepting of the current high school placement, was unsatisfied with the overall education plan for the child, and requested this due process hearing.

### Finding of Fact

(Note: superscripted notations in text refer to witnesses identified above)

Testimony and documents are consistent in describing a prolonged history of behavioral problems, including argumentative behavior, inappropriate language, anger and inappropriate actions. He received a psychological evaluation in January 2006 which found him to have a serious emotional disability with attention deficit hyperactivity disorder and oppositional defiant disorder (PE-9). Testimony documented that the child also exhibited academic difficulties, especially in the area of math and that behavioral problems often occurred when the child was involved in math activities<sup>1,4</sup>. \_\_\_\_\_ was placed in the district's alternative school in October 2004 through September 2005 (PE-8) as a \_\_\_\_\_ student; upon his return to Hunter Middle School he was placed in the \_\_\_\_\_ grade<sup>4</sup>. A functional behavioral assessment and behavioral intervention plan was developed in February 2006 by Lee Underwood, LMSW (PE-15) and subsequently implemented by the district. In May 2006, staff from the Office of Special Education of the Mississippi Department of Education made an unannounced visit to the Hunter Middle School to observe the child. The report of that visit indicated that \_\_\_\_\_'s teachers did not appear familiar with the content of the behavior plan, nor did the plan appear to be adequate to address the child's behavioral problems (PE-16). The behavioral problems continued into the 2006-07 school year, with the child receiving 41 disciplinary referrals during the period from August 17 through December 12, 2006 (PE-25). During this period of time, the child was suspended from school for five days as the result of a "vulgarity-obscenity" (PE-25). Because it was felt by the parent and the district that the child's behavior might improve if he were with older peers, the child was moved to Drew High School in January 2007, with the acquiescence of both parties, where he remained at the time of the hearing<sup>1</sup>.

### SUMMARY AND DECISION

This case involves a \_\_\_\_\_ year-old child with behavior problems concurrent with academic weaknesses, especially in math. For the most part, the district and the parent have been working together in an attempt to identify strategies that would allow the child to receive educational benefit. Unfortunately, the behavioral problems persisted, and the parent and the district seem to be frustrated in their efforts. The parent and the district appear to have a reasonably good working relationship and seem willing to explore any viable means of addressing the child's educational problems.

Testimony and evidence provided in this case yield the following conclusions:

- The parent and the district agree that the current strategies for addressing the child's behavioral problems and meeting the child's educational needs have been unsuccessful.
- The district requires additional assistance in developing strategies to cope with the child's behavioral problems.

- The district's day treatment program, which apparently takes place after school hours, is inadequate to meet this child's needs.
- The district's staff requires additional training in applying behavioral management techniques.

**Therefore, it is the decision of this hearing officer that:**

- 1) The district shall contract with an outside consultant or consultants knowledgeable in the evaluation of and educational programming for children with emotional/behavioral disabilities. The consultant(s) will have appropriate training, experience and credentials to allow for the accurate evaluation of the child and to formulate appropriate strategies for implementing the child's IEP. The consultant shall evaluate the child and make recommendations to the district regarding the child's educational program, including recommendations to address the child's behavioral problems. Further, the consultant(s) shall be contracted to provide the necessary staff development activities to insure that the district's personnel are adequately prepared to implement the educational program. The evaluation of the child should occur within 30 calendar days of this decision.
- 2) The district shall review the consultant's recommendation and modify the child's IEP as appropriate. The review shall take place within 10 working days of the district's receipt of the consultant's evaluation.
- 3) Should it be determined that this child requires placement in a day treatment program, the district shall develop and implement an appropriate day-treatment program or shall obtain a cooperative agreement with another school district to provide such services. If the district utilizes the services of another district, those services must be available within a reasonable driving distance. If the district chooses to utilize another school district's day-treatment program, the district will be obligated to provide transportation to that program. The day treatment program should be available during regular school hours.

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**This decision may be appealed in a court of competent jurisdiction.**

Signed this 20<sup>th</sup> day of February 2007.



Stephen E. Oshrin, Ph.D.  
IDEA Due Process Hearing Officer