

RECEIVED

MAR 22 2006

OSE Technical Asst.

SPECIAL EDUCATION DUE PROCESS HEARING

\_\_\_\_\_ v. Clinton Public School District

Representing the parent: \_\_\_\_\_ Esq.

Representing the Clinton Public School District: James A Keith,  
Esq. Adams & Reese, Jackson, MS

Individuals in full attendance:

Bruce Goldstein	Attorney - P
_____	Attorney - P
Richard Lieding	Parent - P
James Keith, Esq.	Speech/Lang. Pathologist - D
Ann Box	Attorney - D
S. John Obringer	Legal assistant - D
	Hearing Officer

Scheduled Witnesses for the District:

Alice Hobson	Director of Special Education
Laurie Purdie	Psychometrist
Rich Lieding	Speech/Lang Pathologist & Teacher of Hear Imp.
Melanie Clyatt	Speech/Land Pathologist
Ann Sullivan	Director, Magnolia Speech School
Christie Graham	Employee, Magnolia Speech School
Cheryl Thorton	Employee, Magnolia Speech School
Sheryl Martin	Asst. Principal, Clinton District
_____	Grandmother
_____	Parent
_____	Parent
Virginia Berry	Asst. Professor - Univ. of Southern Miss.
Sherrie Winstead	Kindergarten Teacher*
Ann McElvaine	Special Education Teacher*

Scheduled Witnesses for the Parent/Student:

Alice Hobson	Director of Special Education
Rich Lieding	Speech/Lang Pathologist & Teacher of Hear Imp.
Ann Sullivan	Director, Magnolia Speech School
Cheryl Thorton	Employee, Magnolia Speech School
_____	Grandmother
_____	Parent
_____, M.D.	Surgeon
Velvet Buehler	Director of Hearing Services, Univ. of _____
Chrissie Granthan	Teacher, Magnolia Speech School
Alice Swann	Audiologist, Magnolia Speech School

received by the hearing officer in a timely manner.

### Discussion

The preschool education of a student with a hearing impairment and cochlear implant is one of the more complex issue in the field of special education. Unlike most other disabilities, the learning process becomes intertwined with cutting edge medical technology. Because of this, related services, least restrictive environment, and placement are at best multifarious.

Perhaps the litigation that gives the best insight into this case is ORLAND SCHOOL DISTRICT #135 - ILLINOIS STATE EDUCATIONAL AGENCY (34 IDLER 191). The hearing officer, Obringer, would like to expound on the facts of this case due to the striking similarities.

In this case the parents of a five year old hearing impaired child with a cochlear implant requested reimbursement and further placement at a private school for students with hearing disorders. The school district offered several options to the parents:

- \* The placement of the child in the district's half-day kindergarten with appropriate services to deal with the child's special education needs.

- \* The placement of the child into two regular half-day kindergartens in the district with appropriate services to meet the needs of the child.

- \* The placement of the child into a local private all day kindergarten, where the child would attend classes with non-disabled students.

- \* An optional placement in a full day Headstart Program with identified support services.

Ninety minutes of services weekly from a speech therapist and ninety minutes of services weekly from an itinerant teacher were offered as related services.

The hearing officer in this case held for the district stating that speech/language services offered by the district met both FAPE and LRE. The hearing officer further stated that the issue is not whether the placement in a private school for the hearing impaired meets the child's needs, but whether the district has offered a program that will meet the student's educational and special education needs.

### **The Decision**

The Clinton Public School district has satisfied the hearing officer that the district has offered to provide [redacted] with a free appropriate public education (FAPE) through a reasonably calculated program by way of an initial IEP draft and, more so, through the final resolution offer. Therefore, the school district is not responsible for the cost of private placement at Magnolia Speech School.

The hearing officer rules in favor of the Clinton Public School District.

### **Further Rationale for Decision**

In the Marietta City School System - Georgia State Educational Agency (2 ECLPR 42), the hearing officer found that the district did not violate IDEA by bringing a draft IEP to the IEP meeting, since it was clear that the proposals were only recommendations for review and discussions, and the parents were able to offer their input. The District also did not violate the IDEA by not raising the extended school year (ESY) issue, since the parents did not raise the issue.

In Hendrick Hudson District Board of Education v. Rowley (1982), better known simply as the Rowley Case, the following language was put forth, "that FAPE refers to special education and related services designed to meet the unique needs of a child with a disability that are sufficient to confer some educational benefit upon the child."

The school district through its resolution has offered placement in a preschool class for developmentally disabled students with support services in the form of two hours of direct daily services from a master's level speech language pathologist and a master's level certified teacher of the hearing impaired with a background in audiology. The school district also retains the services of an audiologist. This resolution clearly meets the "Rowley Standard."

The hearing officer is empathic to the parents who wish to educate their child at the Magnolia Speech School which has a long and rich reputation. However, the law would require the district to pay such tuition only if it cannot or will not offer the student an education and related services as mandated under IDEA.

### **Right to Appeal:**

Either party may make an appeal of this hearing officer's decision to the appropriate court within thirty (30) days of receipt of the written decision of the hearing officer. If no appeal is made, the decision is binding on both parties.

Signed this 21st day of March, 2006

*S. J. Obringer*

S. J. Obringer, Ed.D  
IDEA HEARING OFFICER  
STATE OF MISSISSIPPI

NOTE: This decision was somewhat delayed due to the late arrival of the court reporter's transcripts and the necessary subsequent submission of the final arguments.