

TO: Mr. F. J. Wawrzaszek  
954 Sherman  
Ypsilanti, Michigan 48197

FROM: Alan E. Duncan (Ph./Fax 248-642-1525)  
DATE: 4-14-2000  
SUBJECT: Due Process Hearing Ruling

Dear Mr. Wawrzaszek,

I am sending this letter to follow up our conversation regarding your decision paper regarding a Due Process Hearing for my son Alex Duncan on Mar. 1, 2000.

When we spoke I indicated to you that I was concerned about a mutual resolution omitted from your decision. The highest priority concern stated in our brief as 1.a and worded "Whether the IEP should provide for the PC to be used in the students home" was adequately resolved and confirmed by Mr. Kroopnick. Mr. Kroopnick stated from the transcript (Page 6) "One issue that was raised in the position statement of Mr. Mudryk had to do with what was referred to as access to a personal computer for Alex; the question of when he would be able to take it home, evenings, weekends, et cetera. That issue is resolved and he has unlimited ability to take it home, with two very minor exceptions. One being when the computer is in need of repair, and secondly, when it's needed for in-service limited to using the personal computer. If it has to do with simply learning new software, for the staff to learn new software, we have a number of computers that are available."

You stated that you were concerned that this statement would be subject to interpretation. I do not see a risk of that. I am satisfied with his statement as is but it is critical that it be included in your decision paper as having been resolved up front. Then your decision should state that item 1a was resolved and your paper is limited to a decision on items 1b and so on.

I invested a great deal to get Alex access to the PC in the home. It would be unfortunate after having it resolved, to end up in another

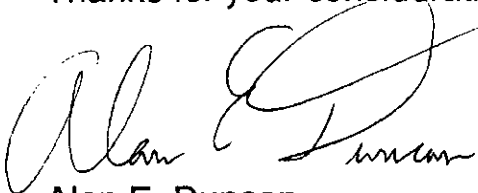
Due Process hearing to have it resolved again because your decision was not clear on this issue. Without this inclusion, your decision, if read alone without looking at the transcript, implies that Alex was not granted a favorable decision on any of the items from the *Statement of Issues*. However, it is clear that this is not the case and the parents did prevail by mutual agreement on Item 1a. I hope you will find that this can be included in you decision paper as part of the hearing proceedings to make it clear to both parties.

I am particularly interested in making sure this resolution of item 1a is included in the public record. Any future law researcher who may review this case should be apprised that the highest priority item was resolved in favor of my son and it was not actually part of the items you decided.

With that, I will leave it to you to propose how this statement can be included in your decision. I would prefer an amended decision report where the resolution of item 1a and your subsequent decision on the other items can be included in an integral report. I am open to any other mechanism that can be part of the public record and be clearly integral to the hearing proceedings.

At the end of the hearing, I thought your advice to both parties to find a way to resolve these issues by mutual agreement was appropriate and I plan to do my part to make that happen in the future.

Thanks for your consideration.

A handwritten signature in black ink, appearing to read "Alan E. Duncan". The signature is fluid and cursive, with the first name "Alan" being particularly prominent.

Alan E. Duncan  
840 Ardmoor Dr.  
Bloomfield Hills, Mich. 48301  
Day: 313-653-5213  
Eve: 248-642-1525

# ATTACHMENT AA-1

TO: Alan Duncan, James Koneval, Richard Kroopnick, Andrew Mudryk and James Rowell- State DOE

FROM: F. J. Wawrzaszek, Hearing Officer

DATE: 4/26/ 2000

Re: Request for clarification of items in the decision in the Matter of Alex Duncan V. Birmingham Public Schools.

When my decision on the above matter was sent to all parties, my letter of transmittal stated " Please feel free to contact me If you have any questions or concerns." Mr Duncan called me and asked for some clarification. I made some responses and suggested that perhaps those questions would best be handled ion a telephonic conference. After calling the offices of the other participants, I found that they either did not respond to my message, or were not convinced that a clarification was needed. A follow-up letter was sent to me by Mr. Duncan on 4/14/ 2000. Since that letter was not copied to other parties, I am including that communication and my response to all parties in this matter.

As you can see, there was some concern about the fact that a statement on the availability of a computer for Alex to use at home, was discussed and agreed upon prior to the hearing, but was not written into the decision. In the hearing officers view, since that was agreed on before the hearing, there is no reason to make it a part of the decision . Information on that agreement is part of the transcript.

In paragraph 3 of his letter Mr Duncan mentions that in our telephone discussion I stated that I was concerned that the inclusion of the resolved issue would be subject to misinterpretation. When I made that statement, I was essentially saying that while the district was in fact agreeing to make the lap top available with some exceptions as stated above, that my position on it's importance to Alex's success in school is still the same. The IBM laptop is only compatible with the home IBM desktop. Teachers who are primarily trained in the MacIntosh should not be expected to assign homework or to program classroom materials in a format that is essentially foreign to them. I emphasized that his teachers found that Alex's main learning channel was auditory and that if visual materials are being used that magnification through systems other than font and size adjustments on the computer, could be more effective.

Mr. Duncan mentioned that he has made a big investment in getting the PC into his home and to end up in another Due process hearing to have it resolved would be unfortunate. I agree that he has made a great effort to reach that goal, but I question if that issue by itself is hearable and worthy of the second effort. I again informed Mr. Duncan the appeal process is still available to him. However, I encouraged him to proceed in that direction as quickly as possible, since the official deadline has already been exceeded.

I hope that this answers some of the question in this matter. I can only suggest that the best results for Alex's success continue to exist in an atmosphere of parent and school. cooperation.

