BEFORE THE TENNESSEE DEPARTMENT OF EDUCATION
DIVISION OF SPECIAL EDUCATION

IN THE MATTER OF:	)	
	)	
L.K., by and through C.K. and C.K., the Student's Parent,	)	
	)	
Petitioners,	)	**Docket No. 07.03-144487J and**
	)	**Docket No. 07.03-144275J**
v.	)	
	)	
ALCOA CITY SCHOOLS,	)	
	)	
Respondent.	)	
	)	
and	)	
	)	
ALCOA CITY SCHOOLS,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
C.K. and Ch. K.,	)	
	)	
Respondents.	)	
	)	

FINAL ORDER

THIS CAUSE came for hearing on October 16, 2017 through October 20, 2017 in Alcoa City, Tennessee, before Steve R. Darnell, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division. Attorney Melinda Jacobs represented Alcoa City Schools (ACS). The parents and student were not represented by counsel. The following Findings of Fact and Conclusions of Law are determined based upon the evidence received and the record as a whole:

FINDINGS OF FACT

1. L.K. is a 16-year-old student in ACS.

2. He resides in a home in Alcoa, Tennessee with his parents and two younger siblings.

3. L.K. was born in Missouri but the family relocated to Vermont when he was a toddler where his parents were employed by a church. The family later relocated to Vermont.

4. While living in New England, the parents began to see a medical condition in L.K. and sought medical treatment for him that ultimately led to a diagnosis of autism spectrum disorder. The parents received treatment from physicians at Boston Children's Hospital and Massachusetts General Hospital, both of which are teaching facilities associated with Harvard University Medical School. According to Ms. C.K., these institutions were unable to diagnose L.K. and she sought medical opinions from others.

5. Ms. C.K. developed a pattern of seeking treatment for L.K. from physicians holding beliefs outside the norm of the medical profession concerning the treatment of autism and other potential explanations for autism related symptoms. Ms. C.K. first established this pattern when she left Massachusetts General Hospital and Boston Children's Hospital seeking a different diagnosis for L.K. In general, these physicians accept PANDAS as a widespread but under diagnosed condition, chronic Lyme disease as a treatable condition, and that flares of these conditions are triggered by allergies.

6. Ms. C.K sought out Dr. Paluso a family physician in Maine. According to Ms. C.K., "that's when we started suspecting it was PANDAS." It's not clear if Dr. Paluso referred her or if she self-referred to Dr. Baptist in Missouri who rendered a diagnosis of PANDAS. Dr.

Baptist's diagnosis was based chiefly on Ms. C.K.'s suspicions. Dr. Baptist's records do not show what, if any, methodology he used in diagnosing L.K. with PANDAS.

7. Dr. Baptist's discovery deposition and trial testimony in the Maryville City School System case show that he is a physician who believes that autism is transmitted through vaccines although this theory has been debunked. He also believes that autism can be cured. By his own admission, many of the treatment modalities used in his practice are not generally accepted by the medical profession.

8. Dr. Baptist's diagnosis of PANDAS for L.K. is not credible. Dr. Baptist's diagnosis of PANDAS has been carried forward and unquestioned by his subsequent medical providers including Dr. Kalb, Dr. Pienkowski, and Dr. Bonfardin.

9. When the family relocated to Maryville, Tennessee, the C.K.s began seeking treatment from Dr. Pienkowski, an allergist in Knoxville, Dr. Bonfardin, a psychiatrist in the Tri-Cities area, and Dr. Kalb, a family practitioner in Franklin, Tennessee.

10. Ms. C.K. sought out Dr. Kalb as L.K.'s primary care physician. Dr. Kalb is located in Franklin, Tennessee approximately 200 miles from L.K.'s Alcoa residence. She also sought out a Tri-Cities area psychiatrist who comes to the Knoxville area to see L.K. She selected these physicians because of their willingness to treat PANDAS and their reputation as Lyme Literate Medical Doctors (LLMD). LLMDs are physicians that accept chronic Lyme disease as a treatable medical condition even though it has been overwhelming rejected by the profession.

11. Dr. Pienkowski, a Knoxville area allergist, was somewhat an anomaly in L.K.'s treatment, but the record shows that he dismissed the family from further treatment in his practice.

12. Dr. Kalb believes that autism is transmitted by vaccines or is a result of childhood vaccines. He also believes that it is possible to cure autism. His positions on those topics have caused his licensure to be questioned by the Tennessee Board of Medical Examiners. Documentation from his practice's website shows that he offers services, likewise, that are outside the scope of generally accepted medical practice. Dr. Kalb's testimony was not credible.

13. Dr. Bonfardin's practice is located in the Tri-Cities area, but he travels to twelve other clinics where he assists non-medically licensed mental health counselors with prescription refills for their patients. Dr. Bonfardin's testified that L.K.'s history was consistent with PANDAS. He did not say that L.K. had PANDAS. Saying that the condition is consistent is no more than saying that it is possibly PANDAS and does not rise to the standard of medical proof necessary in a legal proceeding. Dr. Bonfardin's treatment of L.K. was limited and prompted predominantly by the history Ms. C.K provided. For these reasons, the value of Dr. Bonfardin's testimony is discounted.

14. The credentials and testimonies of Dr. Shore and Dr. Kaplan were highly credible.

15. When the C.K.s first relocated to Maryville, Tennessee, the children were enrolled in Maryville City Schools. Ms. C.K.'s position was that all three children required home schooling because they had such severe allergies that it was not safe for them to attend public schools. A due process hearing was held, and it was determined that the two younger siblings could attend public schools in Maryville City School System.

16. The C.K. family then relocated to a residence within the Blount County School System where L.K. was given an IEP providing him educational services at home.

17. The family then relocated again to Alcoa, Tennessee, and the children sought enrollment in ACS.

18. Maryville City Schools, Alcoa City Schools, and Blount County School System are separate systems, but all are located in Blount County, Tennessee.

19. TennCare provides L.K. both Private Duty Nursing services and Applied Behavior Analysis (ABA) services on a regular basis at home. There was absolutely nothing in the record demonstrating L.K. needs any in-home Private Duty Nursing services.

20. When L.K. sought enrollment in ACS, his parents took steps to have ACS adopt the Blount County IEP in its entirety so that L.K. could continue receiving his educational services at home.

21. ACS held a legally appropriate and required IEP team meeting to formulate an IEP for L.K. ACS's attempts and the process it undertook were both reasonable and complied with their statutory obligations.

22. Mr. and Ms. C.K., but principally Ms. C.K., took steps to delay the IEP process and interfere with the development of an IEP for L.K.

23. In response to Ms. C.K.'s efforts, ACS formulated an IEP and filed a due process complaint requesting this contested case hearing. ACS alleged that L.K. had no reason to be educated in the restrictive environment of his home. Mr. and Ms. C.K. filed their own due process complaint alleging that L.K. could not safely attend Alcoa High School, which is a brick and mortar institution, because of his various health conditions.

24. Mr. and Ms. C.K. allege that L.K. has obsessive-compulsive disorder (OCD), PANDAS, severe gluten allergies, chronic Lyme disease, and a combined immunodeficiency disorder not otherwise specified that make it unsafe for him to attend public schools.

25. L.K. has autism spectrum disorder.

26. L.K. has a diagnosis of OCD noted in his medical records. Due to the lack of credibility of L.K.'s treating physicians, it is not known whether his OCD diagnosis is correct.

27. L.K. has OCD-like symptoms.

28. L.K. does not have a gluten allergy or allergic reactions to gluten. L.K. has only mild allergies to tree nuts and peanuts.

29. PANDAS is a controversial and not well-defined medical condition. Some physicians and researchers accept it as a medical condition while other researchers and medical doctors reject it outright. Based on the record presented here, the proof shows that PANDAS is a generally recognized medical condition, but there are no objective or standardized clinical criteria to diagnose the condition.

30. The record shows by a preponderance of the record that L.K. does not have PANDAS.

31. Chronic Lyme disease is not recognized by the medical profession as a medical condition. L.K. does not have chronic Lyme disease.

32. There is no credible proof in the record that L.K. has an immunodeficiency disorder. L.K. does not have an immunodeficiency disorder.

33. Convinced that L.K. has severe gluten allergies, Ms. C.K. has placed L.K. on a severely restricted diet. To treat L.K.'s misdiagnosed PANDAS, he has been place on long-term antibiotic therapy. At times, he has simultaneously been on three powerful antibiotics and an anti-fungal medication. The long-term use of antibiotics and the severely restricted diet are harmful to L.K.'s health.

34. L.K.'s autism spectrum disorder and his OCD-like symptoms are medical conditions requiring special education services be provided to him by ACS.

35. Dr. Candelaria-Greene's opinions were based on a belief that L.K. has PANDAS. There was no foundation for her opinion that L.K.'s behavioral condition and exposure *could* be so severe that he should not attend school. Her testimony is of limited value due to her lack of information concerning L.K.

36. Dr. Rostetter's credentials and testimony were credible. His opinions were formed based on his prior observations of the student, the school, and a review of all of L.K's records.

37. The record shows that L.K. has had behavioral issues in the past in which he has harmed other students and his teachers and caregivers. L.K. does not have any behavioral issues that cannot be accommodated by ACS or any other public school district. None of C.K.'s behavioral history is inconsistent with his ability to be educated in a brick and mortar school.

38. Ms. C.K.'s testimony about L.K.'s social skills was inconsistent with L.K.'s living arrangements and social activities as demonstrated by other proof in the record.

39. L.K. educational progress lags as a result of his homebound instruction and impediments to his education by his parents, predominantly Ms. C.K.

40. L.K. is able to complete his work while in a structured environment, such as when his teacher is present in the home. But he is unable to complete his work, i.e. homework, when the teacher is away or when the structure ends.

41. Attempts to educate L.K. in the homebound program have failed due to distractions within the home, his parents interjecting themselves into the process, and the lack of a structured environment. The record shows by a preponderance of the evidence that L.K. can best be educated in a brick and mortar public school.

42. L.K.'s benefit from public education, particularly his socialization amongst other children, outweighs the real risk and his parents' perceived risk of harm to him.

43. The record shows, by a preponderance of the evidence, that L.K. should receive his education at Alcoa High School or other location provided by ACS. The record further shows, by a preponderance of the evidence, that homebound instruction is not warranted for L.K. and has been detrimental to his educational progression.

CONCLUSIONS OF LAW

1. The Administrative Law Judge has jurisdiction over the subject matter of this proceeding.

The Office of the Secretary of State, Division of Administrative Hearings, has jurisdiction over the subject matter and the parties of this proceeding pursuant to Tennessee Code Annotated §4-5-101 *et seq*, and the assigned Administrative Law Judge has the authority to issue final orders. See, Rules of the Tennessee Department of State, Administrative Procedures Division, Chapter 1360-4-1 *et seq*. The Individuals with Disabilities Education Act (hereinafter "IDEA") requires the School District to provide a "free appropriate public education" in the "least restrictive environment" to all students with disabilities who are in need of special education and related services. IDEA, 20 U.S.C. §1400 et seq. The requirements of the IDEA have been adopted, with some additional state requirements, by the State Board of Education. TN State Board of Education Rules, Regulations, and Minimum Standards, Chapter 0520-1-9.

2. Petitioners bear the burden of proof in this due process hearing.

Petitioners bear the burden of proof in this due process hearing. The U.S. Supreme Court held in *Schaffer v. Weast*, 126 S.Ct. 528, 546 U.S. 49, 44 IDELR 150 (2005), that the burden of proof is on the party "seeking relief." In *Schaffer,* the parents of a middle school student contested the proposed IEP developed by the school district and initiated a due process hearing seeking compensation for a unilateral private school placement. The Supreme Court held that

the parents bore the burden of proof, or burden of persuasion, in the due process hearing, referencing the "default rule that Petitioners bear the risk....," and citing *McCormick* §337, at 412, "The burdens of pleading and proof....should be assigned to the Petitioner who generally seeks to change the present state of affairs...." See also, *Cordrey v. Euckert*, 917 F.2d 1460, 17 IDELR 104 (6th Cir. 1990)(the party challenging the IEP bears the burden of proof in an IDEA action). In the instant case, Petitioners C.K. and Ch. K. bear the burden of proving that the School District's proposed IEP for L.K. is not "reasonably calculated to confer educational benefit." *Bd. Of Educ. of the Hendrick Hudson School Dist. v. Rowley,* 458 U.S. 176 (1982). In this consolidated hearing, Petitioners C.K. and Ch. K. are the parties seeking continuation of homebound instruction for L.K. and contesting the proposed IEP placing L.K. at AHS. Therefore, Petitioners bear the burden of proof in this proceeding on the central issues. ACS is the party seeking to defend the appropriateness of the medical examination of L.K. conducted by Dr. Steve Shore, and bears the burden of proof on that issue.

3. ACS has complied with the procedural and substantive requirements of the IDEA and applicable state law and regulation.

The IDEA and Tennessee law require the School District to provide a free appropriate public education ("FAPE") to L.K. by developing an Individualized Education Plan (hereinafter "IEP") that is both procedurally and substantively compliant, and that is "reasonably calculated to confer educational benefit" to her. *See Bd. of Educ. of the Hendrick Hudson School Dist. v. Rowley,* 458 U.S. 176 (1982). As the Supreme Court concluded in *Rowley*, "If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more." 458 U.S. at 207. The law does not require the School System to maximize L.K.'s educational benefits, or to guarantee that he reach a specific level of academic achievement. *Rowley*, at 197. The U.S. Supreme Court recently clarified the Rowley standard to mean that

school districts must develop an IEP that is "appropriate in light of the child's circumstances." *Endrew F. v. Douglass Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 2017 WL 1066260 (March 22, 2017).

The Sixth Circuit has held that this means "[t]he statute may not require public schools to maximize the potential of disabled students commensurate with the opportunities provided to other children." *Renner v. Board of Educ. v. Public Schools of City of Ann Arbor,* 185 F.3d 635, 644 (6th Cir. 1999). *See also, Doe v. Tullahoma City Schools*, 9 F.3d 455 (6th Cir. 1993)(School district must provide the educational equivalent of a serviceable Chevrolet, not a Cadillac). The U.S. Supreme Court has developed a two-pronged test for determining the appropriateness of a proposed IEP. *Rowley, supra.* First, the IEP must be substantively appropriate by offering goals and objectives that are "reasonably calculated to provide educational benefit" to the child. Second, the procedural safeguards of the Act must be provided to the parents, including the right to participate in the development of the IEP and to receive notification and explanation of their rights. *See also*, *Thomas v. Cincinnati Board of Education*, 918 F.2d 618, 624 (6th Cir. 1990).

The evidence supports ACS' claim that it has procedurally and substantively complied with the IDEA and provided L.K. with a "free appropriate public education" that is "appropriate in light of [his] circumstances." The School District has fully complied with the IDEA's procedural mandates. IDEA, 20 U.S.C. 1415. The School District has convened meetings for L.K. in a timely manner, and with the participation of all required team members. Petitioners attended all meetings and were provided an opportunity for "meaningful participation" in the development of LK's IEPs. It is undisputed that the School District considered all of the voluminous medical information and educational records it received from Petitioners. There is no evidence that the School District violated any of the procedural requirements of the IDEA.

See, e.g., *A.B. v. Franklin Township Community Sch. Corp.*, 112 LRP 48259 (S.D. Ind. 2012)(Expressing a desire to educate a student within the public school system was not 'pre-determinism," given no evidence that the district refused to consider the parents' input); *Deal v. Hamilton Co. Bd. Of Education*, 392 F.3d 840, 857 (6th Cir. 2004)(pre-determinism exists where parents have been deprived of the opportunity for meaningful participation in the IEP process). Assuming, *arguendo,* that the School District committed any minor procedural violations, there would be no basis for relief on those grounds. Technical procedural violations do not render an IEP invalid. *Dong*, at 800 (6th Cir. 1999). *See also, Cleveland Heights-Univ. Heights City Sch. Dist. v. Boss*, 144 F.3d 391, 398 (6th Cir. 1998)(minor technical violations may be excused). Only procedural violations that result in substantive harm constitute a denial of FAPE and justify relief. *Knable v. Bexley City School District*, 238 F.3d 755, 764 (6th Cir. 2001)(Procedural violations must cause substantive harm and constitute denial of FAPE to be actionable). See also, *Board of Education v. L.M.*, 478 F.3d 307, 313 (6th Cir. 2007); *N.L. v. Knox County Schools*, 315 F.3d 688, 693 (6th Cir. 2003)(procedural violations did no harm because child was not eligible). In this case, Petitioners actively participated in all of the meetings convened by the School District on behalf of L.K.; they expressed their disagreement with the proposals made by the School District; they were provided voluminous documents for review by the IEP teams; they received a Prior Written Notice outlining the rationale for the School District's proposals; and they understood their right to initiate a due process hearing.

4. ACS' proposal to provide special education and related services to L.K. at Alcoa High School fulfills the "least restrictive environment" requirement of the IDEA and applicable state law and regulation.

L.K. is entitled by law to be educated "to the maximum extent appropriate" with his non-disabled peers. IDEA, 20 U.S.C. §1412(a)(5); 34 C.F.R. § 300.114(a)(2). The U.S. Court of

Appeals for the Sixth Circuit has developed a two-part test for determining a student's "least restrictive environment." *Roncker v. Walter*, 554 IDELR 381 (6th Cir. 1983). In *Roncker,* the Court requires school districts to determine whether services that make a segregated placement superior could be feasibly provided in a non-segregated setting. There is no dispute that, as a student with autism, L.K. requires special education and related services in order to receive a "free appropriate public education." The proposed IEP for L.K. offers him the opportunity to be educated to the maximum extent appropriate with his non-disabled peers in a normal school setting. Home instruction deprives L.K. of the opportunity to be educated with his non-disabled peers and does not meet the requirements of the IDEA.

Public school districts are required to educate students with disabilities in the "least restrictive environment." IDEA, 20 U.S.C. 1412(a)(5). The IDEA states, in part:

> To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 20 U.S.C. 1412(a)(5)(A).

Controlling judicial precedent informs the "least restrictive environment" obligation. In *Roncker v. Walter*, 700 F.2d 1058 (6th Cir. 1983), the court stated:

> Framing the issue in this manner accords the proper respect for the strong preference in favor of mainstreaming while still realizing the possibility that some handicapped children simply must be educated in segregated facilities either because the handicapped child would not benefit from mainstreaming, because any marginal benefits received from mainstreaming are far outweighed by the benefits gained from services which could not feasibly be provided in the non-segregated setting, or because the handicapped child is a disruptive force in the non-segregated setting. *Roncker, Id.*

The Sixth Circuit Court of Appeals has recently affirmed the *Roncker* analysis. See, *e.g.*, *I.L. v. Knox Cty. Bd. of Educ. and Tennessee Dep't. of Educ.*, 2017 WL 2610505 *18 (E.D. Tenn. 2017); *Deal v. Hamilton Cty. Bd. of Educ*, 392 F.3d 840, 863 (6th Cir. 2004)(Generally, schools must teach disabled children in the regular class).

In this case, the preponderance of the evidence clearly supports ACS' decision to educate L.K. in a regular high school setting with his non-disabled peers. There is no evidence to support Petitioners' claim that L.K. has medical conditions that prevent his safe attendance at a "brick and mortar" school. On the contrary, the evidence presented demonstrates that L.K. benefits from academic instruction *only* when he is engaged in a structured environment and not distracted by the presence of his parents and others in the home. Additionally, the evidence shows that, as a student with autism, L.K. needs opportunities to develop appropriate social skills that can best be taught in a regular school setting with both disabled and non-disabled peers. Finally, there is no evidence to support Petitioners' claim that L.K.'s behavior will present a danger to other students and AHS staff.

i. There is no evidence to support Petitioners' claims that L.K. has medical conditions that prevent his safe attendance at a "brick and mortar" school.

L.K. is a student with autism and related disorders (i.e., obsessive-compulsive disorder). He does not have the medical conditions claimed by his parents (Chronic Lyme disease, Variable Autoimmune Disorder, PANDAS, or life-threatening, seizure-inducing allergies). There is no evidence to support the parents' claim that L.K. will be medically compromised if he attends a public school. Moreover, the federal courts have held that physicians "cannot simply prescribe special education." *Marshall Joint Sch. Dist. No. 2 v. C.D.*, 616 F.3d 632, 2010 WL 2990839 (7th Cir. 2010). The testimony of L.K.'s treating physicians Dr. Daniel Kalb and Dr. Brian

Bonfardin is not credible for the reasons stated previously and ACS was not bound to adopt their recommendations for L.K.'s instructional needs or setting.

ACS was not obligated to accede to the parents' demand for Homebound instruction simply because they presented a physician's statement authorizing this type of educational setting. Under the circumstances, ACS was justified in seeking a qualified physician to conduct a medical examination and to provide an opinion as to L.K.'s medical condition and his ability to safely attend public school.

ii. The evidence demonstrates that L.K. benefits from academic instruction only when he is engaged in a structured environment and not distracted by the presence of his parents and others in the home.

L.K.'s homebound teachers testified that he is able to maintain adequate focus and concentration to succeed in his academic work, so long as he is not distracted by the presence of his parents (particularly his mother), pets, food, or others in the home setting. The evidence shows that L.K.'s overall academic performance has been limited because he does not complete homework or other assignments unless a teacher is present. The evidence further shows that L.K. is capable of making significant academic progress in a structured educational setting. In fact, L.K.'s current math teacher (and former Homebound instructor) testified that L.K. is capable of successfully participating in a general education Algebra class at AHS. L.K. requires the structure of a classroom setting in order to derive adequate benefit from his academic instruction, and can make appropriate academic progress in such a placement.

iii. L.K. needs opportunities to develop appropriate social skills that can best be taught in a regular school setting with peers.

The development of social skills is one of the primary goals of public education, and is especially important for students with autism who typically have deficits in this area. L.K. needs

to be educated with peers in order to develop and practice the social skills necessary for his to become as independent and self-sufficient as possible. As Dr. Rostetter, expert witness for ACS testified, "The best preparation for an integrated life is an integrated education." Unnecessarily perpetuating homebound instruction for L.K. would deny L.K. his civil and legal right to attend public school, and will also deprive him of the opportunity to develop friendships, a sense of community, and to learn the skills needed to acquire gainful employment and self-independence. See also, *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877 (9th Cir. 2001)(Autism is a developmental disorder affecting communication skills, social interaction, and motor control, and these children need highly structured, specialized, and individualized programs.)

iv. There is no evidence that L.K.'s behavior will present a danger to other students and AHS staff.

ACS offers the services of a doctoral-level Board Certified Behavior Analyst (BCBA-D), along with special education and general education staff at Alcoa High School who are trained in crisis prevention and de-escalation techniques. L.K.'s occasionally aggressive or non-compliant behaviors are typical of students with autism, and can easily be dealt with by AHS and its behavioral support staff.

5. The medical examination conducted by Dr. Steve Shore was appropriate within the meaning of the IDEA and applicable state law and regulation.

The expert testimony offered by Steve Shore, M.D., a board-certified pediatrician and immunologist from Atlanta, Georgia, was highly credible and informative. The medical examination conducted by Dr. Shore was appropriate and warranted. Therefore, ACS is not obligated to provide an "independent educational evaluation (IEE)" as requested by Petitioners.

Petitioners C.K. and Ch. K. clearly believe that L.K. cannot be appropriately or safely educated in a "brick and mortar" school setting. However, parental preference does not override ACS' obligation to comply with the law. The U.S. Court of Appeals for the Sixth Circuit has ruled that the IDEA does not compel school districts to provide special education and related services that are preferred by a child's parent. *Tucker v. Calloway County Board of Educ.*, 136 F.3d 495, 505 (6th Cir. 1998). Several courts have considered the role of parental distrust of school officials in determining whether school districts have provided a "free appropriate public education" to students with disabilities. *M.T.V. v. DeKalb County School District*, 446 F.3d 1153 (11th Cir. 2006). In *M.T.V.*, the Eleventh Circuit affirmed a hearing officer's order permitting a public school district to evaluate a child over the parents' objection ruling that "the school cannot be forced to rely solely on an independent evaluation conducted at the parents' behest." (*citing Johnson v. Duneland Sch. Corp.*, 92 F.3d 554, 558 (7th Cir. 1996). These cases illustrate that parental mistrust of school districts does not overrule a school district's obligation to provide appropriate educational services to a child with disabilities. The fear and mistrust of this mother, along with her belief that L.K. suffers from debilitating medical conditions, does not obligate the School District to ignore the clear weight of the evidence, the legal mandates, its obligation to provide a "free appropriate public education" in the "least restrictive environment" to this student.

ORDER

1. Petitioners' claims are **DENIED** in their entirety.

2. ACS is the "prevailing party" in this dispute, and has complied with all procedural and substantive requirements of the IDEA and applicable state law and regulation.

3. Lastly, the record shows that L.K. has likely been harmed by his severely restricted diet and the excessive use of antibiotics. Further, his educational advancement has been inadequate due to parental interference. These ongoing harms to L.K. warrant a referral of this matter to the Blount County Juvenile Court.

It is so **Ordered**.

Entered this the 8TH day of November 2017.

Steve R. Darnell
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 8TH day of NOVEMBER 2017.

J. Richard Collier

J. Richard Collier, Director
Administrative Procedures Division

Notice

Any party aggrieved by this decision may appeal to the Chancery Court for Davidson County, Tennessee or the Chancery Court in the county in which the petitioner resides or may seek review in the United States District Court for the district in which the school system is located. Such appeal or review must be sought within sixty (60) days of the date of the entry of a Final Order. In appropriate cases, the reviewing court may order that this Final Order be stayed pending further hearing in the cause.

If a determination of a hearing officer is not fully complied with or implemented, the aggrieved party may enforce it by a proceeding in the Chancery or Circuit Court, under provisions of Section 49-10-601 of the Tennessee Code Annotated.