

Report of Michael Peterson, Ph.D.
In the Matter between Micah Fialka-Feldman
And Oakland University Board of Trustees, et al.

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Purpose of the Report

The purpose of this report is to provide testimony regarding the request of Micah Fialka-Feldman to be able to live in university housing as a student of Oakland University pursuant to the case filed in the United States District Court for the Eastern District of Michigan between Micah Fialka-Feldman, plaintiff, and Oakland University Board of Trustees, Gary D. Russi, Mary Beth Snyder, and Lionel Maten in their official capacities.

Materials and Information Reviewed in Preparation of the Report

In the preparation of this report I reviewed numerous publications and materials which include the following:

Articles and books:

Greenholtz, J., Mosoff, J. & Hurtado, T. (2006). STEPS Forward: Inclusive Postsecondary Education for Young Adults with Intellectual Disabilities. Vancouver, British Columbia: University of British Columbia.

Grigal, M. (Accessed 11/12/09). Transition to College: Program Implementation and Sustainability; Program Development. Rockville, Maryland: Postsecondary Education Research Center. <http://transitiontocollege.net/index.html>

Grigal, M. & Hart, D. (2008). Promising Practices for Postsecondary Education Services for Students with Intellectual Disabilities. Rockville, Maryland: Transcen. <http://transitiontocollege.net/resources.html>

Hart, D., Grigal, M., Sax, C., Martinez, D. & Will, M. (August, 2006). Post-secondary education options for individuals with intellectual disabilities. Research to Practice. Issue 45. Boston: Institute for Community Inclusion.

Neubert, D. A., Moon, M. S., Grigal, M., & Redd, V. (2001). Post-secondary Educational Practices for Individuals with Mental Retardation and Other Significant Disabilities: A Review of the Literature. Journal of Vocational Rehabilitation, 16(3/4), 155-168.

Higher Education Opportunity Act. PL 110-315. Section 707 Part D, Subpart 3--
Transition Programs for Students With Intellectual Disabilities Into Higher
Education. *Page 122 STAT. 3078.*

Hughson, A., Moodie, S. & Uditsky, B. (2005). *The Story of Inclusive Postsecondary Education in Alberta*. Edmonton, Alberta: Alberta Association for Community Living.

Johnson, J. (2008). *Examination of the Status of the Inclusion of Students with Developmental Disabilities, including Significant Cognitive Disabilities, in Postsecondary Education; Proposal Brief, Study 9*. Honolulu, Hawaii: University of Hawaii, Research and Training Center for Postsecondary Education for Students with Disabilities.

Kirkendall, A., Doueck, H. & Saladine, A. (2009). *Transitional Services for Students with Developmental Disabilities: Living in College Dorms*. *Research on Social Work Practice*. 19 (4). P. 434 - 445.

National Center for Education Statistics (2008). *Digest of Education Statistics, Appendix B. Definitions*. Jessup, Maryland: Author.
http://nces.ed.gov/programs/digest/d08/app_b.asp Accessed 11/12/09.

Neubert, D., Moon, S., Grigal, M. & Reid, V. (2001). *Postsecondary education for individuals with mental retardation and other significant disabilities: A review of the literature*. *Journal of Vocational Rehabilitation*. 15: 155-168.

Peterson, M. and Hittie, M. (2009). *Inclusive teaching: The journey towards creating effective schools for all learners*. Columbus, Ohio: Merrill. (This is my own book which includes a substantive synthesis of literature regarding students with and without disabilities learning well together).

Putnam, J. (1981). *Postsecondary Student Terminology: A Handbook of Terms and Definitions for Describing Students in Postsecondary Education*. Jessup, Maryland: National Center for Education Statistics.

Schuh, J. (October, 13, 2009). *Report of John H. Schuh, Ph.D., in the Matter between Micah Fialka Feldman and Oakland University Board of Trustees, et al.*

Wolanin, T. and Steele, P. (2004). *Higher Education Opportunities for Students with Disabilities: A Primer for Policy Makers*. Washington, D.C.: Institute for Higher Education Policy.

Documents and resources on the following sites that specialize in postsecondary education for students with intellectual disabilities:

Postsecondary Education Research Center

<http://transitiontocollege.net/>

College Options for People with Intellectual Disabilities

<http://www.thinkcollege.net/index.php>

The Lawrence B. Taishoff Center for Inclusive Higher Education

<http://www.inclusioninstitutes.org/taishoffcenter/>

Center for Postsecondary Education for Individuals with Intellectual Disabilities.

<http://www.thinkcollege.net/about-us/think-college-initiatives/center-for-postsecondary-education-for-individuals-with-intellectual-disabilities>

National Center for the Study of Postsecondary Educational Supports - U of Hawaii

<http://www.rrtc.hawaii.edu/intro/index.html>

Inclusive Postsecondary Education Society. Focus on university for adults with an intellectual disability in British Columbia.

<http://www.steps-forward.org/>

I reviewed articles written by Micah and his parents and others regarding his experience at Oakland University.

Fialka-Feldman, M. (2007). Ways to support my learning.

Fialka-Feldman, M. (2007). I wanted to go to college and my dream came true.

Luckerman, S. (2007). Special needs student tastes college life in new inclusion program. Jewish News.

Information on websites of university programs similar to the Options program at Oakland University that provide access for students in these programs to university housing:

Syracuse University and Onandaga Community Living

http://www.oclinc.org/college/college_index.htm

Kelly Autism Program and Western Kentucky University

http://kap.wku.edu/College_Students-KAP_Circle_of_Support.html

Project REACH at the University of Iowa

<http://www.education.uiowa.edu/reach/admissions/index.htm>

Special Needs Housing - Texas A & M Commerce

[http://web.tamu-](http://web.tamu-commerce.edu/studentLife/campusServices/studentDisabilityResourcesAndServices/prospectiveStudents/default.aspx)

[commerce.edu/studentLife/campusServices/studentDisabilityResourcesAndServices/prospectiveStudents/default.aspx](http://web.tamu-commerce.edu/studentLife/campusServices/studentDisabilityResourcesAndServices/prospectiveStudents/default.aspx)

University of North Florida transition program:

http://www.arcjacksonville.org/ask_academies.php#campus

National-Louis University, PACE Program: www.nl.edu/academics/pace

Lesley University, Threshold Program (Boston, Massachusetts):

http://www.lesley.edu/threshold/threshold_home.htm

Minnesota Life College (Richfield, Minnesota): www.mnlifecollege.org

Oakland University's website including information on their present policies regarding university housing: <http://www.oakland.edu/housing/>

Affidavits of two Oakland University students: Nicole Bertrand and Heather Sterner.

Depositions of Micah Fialka-Feldman, Lionel Maten, Mary Beth Snyder, and Robert Wiggins.

Key Questions Guiding the Preparation of the Report

The fundamental question that guides all aspects of this report is this: should Micah Fialka-Feldman, and, by implication, other students with intellectual disabilities in the Options Program at Oakland University, be provided access to and support in living in university housing?

Several subsidiary questions are important to lead to a thoughtful answer to this question. These include the following:

1. What is the history of education for people with intellectual disabilities? How does this frame the issues addressed regarding the request of Micah Fialka-Feldman to live in university housing?
2. What are present trends in the involvement and participation of students with intellectual disabilities in colleges and universities? Do other universities allow

students with intellectual disabilities to live in university housing in programs similar to the options program at Oakland University?

3. What determines eligibility for participation in university housing? When is a student considered a "student"?
4. How may students with intellectual disabilities both benefit from and enhance for other students the established purposes of university housing and student life programs at Oakland and other universities?
5. Will Micah Fialka-Feldman be able to both benefit from and enrich for others from living in university housing?

My hope is that these questions will lead through a logical consideration of the issues at hand.

1. Education of Students with Intellectual Disabilities Implications for this Case

The request of Micah Fialka-Feldman to live in university housing must be understood within a historical context of the movement towards providing quality educational opportunities for individuals with intellectual disabilities. This movement itself occurs in a context of a long history of segregation and oppression.

Students with intellectual disabilities have, for most of educational history, been segregated from other students – first in separate training schools that grew into huge institutions that provided virtually no education at all; later, after the passage of 94-142 (Education for All Handicapped Children Act) public schools were required to provide education for all students with disabilities in the "least restrictive environment". However, for the most part, students with intellectual disabilities were placed in separate schools and classrooms.

This pattern largely continues to this day. Increasingly, however, schools are including students with disabilities, including those with intellectual disabilities, in general education classes with support. These students may receive assistance in public schools from peers, paraprofessionals, special education teachers, and other professionals. General education teachers are learning to use multilevel, differentiated instructional strategies where students with a wide range of abilities can learn well together. Research is clear that such experiences result in increased academic achievement, cognitive growth, and social development for all students, particularly students with intellectual disabilities¹.

¹ Peterson, M. and Hittie, M. (2009). Inclusive teaching: The journey towards creating

2. Trends of Students with Intellectual Disabilities in Postsecondary Education

During the last 30 years increasing numbers of individuals with disabilities have attended colleges and universities, participating in classes and student life activities. With the passage of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA) requiring that universities provide reasonable accommodations for students with disabilities, postsecondary programs have established support programs on campus for individuals with disabilities².

However, the vast majority of individuals with disabilities who have attended colleges and universities have been those with learning disabilities and physical disabilities. Until recently, individuals with intellectual disabilities have not had the opportunity to attend college. However, that is changing. In recent years, many programs have been developed on a growing number of college and university campuses that specifically aim to provide opportunities for individuals with intellectual and other developmental disabilities. Such programs have followed one of three basic models³:

1. Inclusive individual support: an individualized program of support is developed to assist students in accessing university resources – courses which they may take for credit, audit, or in which they participate; student life on campus; on or off-campus housing; employment on campus. Adult human service agencies may collaborate with university services in supporting individuals in participating in university life.
2. Separate classes and services: in this approach students participate in specially designed classes in which only students with disabilities participate. Students may also participate in social activities on campus and engage in employment.
3. Hybrid approach: students with disabilities may take both special courses only for students with disabilities and typical university courses. As with other programs, they may take part in on-campus student life programs and obtain employment.

effective schools for all learners. Columbus, Ohio: Merrill.

² Wolanin, T. and Steele, P. (2004). Higher Education Opportunities for Students with Disabilities: A Primer for Policy Makers. Washington, D.C.: Institute for Higher Education Policy.

³ Hart, D., Grigal, M., Sax, C., Martinez, D. & Will, M. (August, 2006). Post-secondary education options for individuals with intellectual disabilities. Research to Practice. Issue 45. Boston: Institute for Community Inclusion.

In these programs a plan is developed for each individual student that will help them access university experiences based on their personal needs and interests and have the support that is needed for this to be a successful experience. Such supports have included but are not limited to⁴:

- Program support staff: typically professionals are hired to coordinate the program and to provide individualized planning and support for students. In separate programs they may also teach some specialized programs.
- Person-centered planning to develop goals and strategies for support for the individual.
- Peer support with students with disabilities: students with disabilities may be with staff support to provide support to one another, talk, 'hang out', and problem-solve.
- Peer mentors: some programs recruit typical university students to provide peer assistance and support to students with intellectual disabilities. Sometimes this is associated with their professional studies - eg. students in a program to become teachers or social workers. In some cases funds may be used to contract with students who will provide support to the individual with a disability. Such funds may be university funds or provided by adult human service agencies, particularly mental health.
- Peer support: students may also access typical university students who may be willing to provide assistance in a course which both students are taking.
- Circle of support: in some cases, students on campus and other friends of the individual with a disability may come together meeting as a group to develop a plan and provide support for the person.
- Faculty course accommodations: students and their supporters may work with faculty to make accommodations and adaptations in course requirements.

Clearly, as postsecondary opportunities for students with intellectual disabilities have been developed, the initial focus has been on accessing courses, obtaining campus

⁴ Grigal, M. (Accessed 11/12/09). Transition to College: Program Implementation and Sustainability; Program Development. Rockville, Maryland: Postsecondary Education Research Center. <http://transitiontocollege.net/index.html>; Grigal, M. & Hart, D. (2008). Promising Practices for Postsecondary Education Services for Students with Intellectual Disabilities. Rockville, Maryland: Transcen. <http://transitiontocollege.net/resources.html> ; Kirkendall, A., Doueck, H. & Saladine, A. (2009). Transitional Services for Students with Developmental Disabilities: Living in College Dorms. *Research on Social Work Practice*. 19 (4). P. 434 - 445; Neubert, D. A., Moon, M. S., Grigal, M., & Redd, V. (2001). Post-secondary Educational Practices for Individuals with Mental Retardation and Other Significant Disabilities: A Review of the Literature. *Journal of Vocational Rehabilitation*, 16(3/4), 155-168;

employment, and participating in on-campus student activities. However, as for all other university students, the need for and interest in participating in university housing has begun to develop and some programs have begun to provide access to typical university housing⁵. To date, the number of such programs is small but growing and includes the following:

- Syracuse University and Onandaga Community Living
http://www.oclinc.org/college/college_index.htm
- Kelly Autism Program and Western Kentucky University
http://kap.wku.edu/College_Students-KAP_Circle_of_Support.html
- Project REACH at the University of Iowa
<http://www.education.uiowa.edu/reach/admissions/index.htm>
- Special Needs Housing - Texas A & M Commerce
<http://web.tamu-commerce.edu/studentLife/campusServices/studentDisabilityResourcesAndServices/prospectiveStudents/default.aspx>
- University of North Florida transition program:
http://www.arcjacksonville.org/ask_academies.php#campus
- National-Louis University, PACE Program: www.nl.edu/academics/pace
- Lesley University, Threshold Program (Boston, Massachusetts):
http://www.lesley.edu/threshold/threshold_home.htm
- Minnesota Life College (Richfield, Minnesota): www.mnlifecollege.org

Planning for involvement in university housing also involves assessment of the capacities of the individual and needs for support. Sometimes individuals with intellectual disabilities do not need any special assistance. In other cases, more substantive support is needed. Similar strategies of support are used as those identified above. (Note that these strategies were identified via personal contacts over the years with a range of individuals and a review of the websites of the programs identified above).

- Program support staff: staff will assist in developing plans for student support. In some cases, staff have been hired to provide direct supports within university housing itself. For students with high physical needs, individuals may be hired to provide help in bathing, bathroom, dressing, and other related needs.

⁵ Johnson, J. (2008). Examination of the Status of the Inclusion of Students with Developmental Disabilities, including Significant Cognitive Disabilities, in Postsecondary Education; Proposal Brief, Study 9. Honolulu, Hawaii: University of Hawaii, Research and Training Center for Postsecondary Education for Students with Disabilities.

- Person-centered planning to develop goals and strategies for support for the individual.
- Peer mentors and supporters: in this case, students may be invited to assist students in living in university housing. Again, in some cases, funds may be used to contract with students for this purpose.
- Circle of support: in some cases, students on campus and other friends of the individual with a disability may come together meeting as a group to develop a plan and provide support for the person.

While access to college and university housing is only just beginning to be provided for students with intellectual disabilities, this topic is receiving increased amounts of attention. Illustrative is a provision of the Higher Education Opportunity Act of 2008. This act has specific funding for demonstration grants for colleges and universities for "comprehensive transition and postsecondary program for students with intellectual disabilities" defined as follows:

The term 'comprehensive transition and postsecondary program for students with intellectual disabilities' means a degree, certificate, or non-degree program that is--

- ``(A) offered by an institution of higher education;
- ``(B) designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an institution of higher education in order to prepare for gainful employment;
- ``(C) includes an advising and curriculum structure; and
- ``(D) requires students with intellectual disabilities to participate on not less than a half-time basis, as determined by the institution, with such participation focusing on academic components and occurring through one or more of the following activities:
 - ``(i) Regular enrollment in credit-bearing courses with nondisabled students offered by the institution.
 - ``(ii) Auditing or participating in courses with nondisabled students offered by the institution for which the student does not receive regular academic credit.
 - ``(iii) Enrollment in non-credit-bearing, non-degree courses with nondisabled students.
 - ``(iv) Participation in internships or work-based training in settings with nondisabled individuals⁶.

While the law does not require access to university housing, it does state that preference will be given to grant applications that . . .

. . . agree to incorporate into the model comprehensive transition and postsecondary program for students with intellectual disabilities carried out under the grant one or more of the following elements . . . (B) In the case of an institution of higher education that provides institutionally owned or operated housing for students

⁶ Higher Education Opportunity Act. PL 110-315. Subpart 3--Transition Programs for Students With Intellectual Disabilities Into Higher Education. Page 122 STAT. 3078.

attending the institution, the integration of students with intellectual disabilities into the housing offered to nondisabled students⁷.

The Higher Education Act of 2008 not only considers an individual with a cognitive disability who is engaged in "non-credit bearing courses" as a student of the university, the act, in its grant making process, also encourages colleges and universities to integrate students with intellectual disabilities into typical university housing.

3. Eligibility for University Housing: When is a Student a Student?

It is clear that the purpose of university housing is to both to (1) provide university students a place to live; and (2) to facilitate student growth, development, and learning through a range of student life opportunities and programs associated with housing, aimed at building learning communities in the institution. Thus, a key question regarding eligibility for university housing is the question: "What is a university student?"

Let's take a look at the concept of what makes a student at a university a "student". First, what is the generic definition of the word "student". Here are two examples:

1 : scholar, learner; *especially* : one who attends a school
one who studies : an attentive and systematic observer <a student of politics> ⁸

The word *student* is etymologically derived through Middle English from the Latin second-type conjugation verb studēre, meaning "to direct one's zeal at"; hence a student could be described as "one who directs zeal at a subject". In its widest use, *student* is used for anyone who is learning⁹.

I decided also to consult the same source as Dr. Schuh, the National Center for Education Statistics (<http://nces.ed.gov/>). I found there two useful sources. The first appears to be the same source that Dr. Schuh references. However, the definition in this document was different than that provided by Dr. Schuh. It is as follows:

Student - An individual for whom instruction is provided in an educational program under the jurisdiction of a school, school system, or other education

⁷ Ibid.

⁸ Merriam-Webster Dictionary, <http://www.merriam-webster.com/dictionary/student>)

⁹ Wikipedia, the Online Dictionary. <http://en.wikipedia.org/wiki/Student>

institution. No distinction is made between the terms "student" and "pupil," though "student" may refer to one receiving instruction at any level while "pupil" refers only to one attending school at the elementary or secondary level. A student may receive instruction in a school facility or in another location, such as at home or in a hospital. Instruction may be provided by direct student-teacher interaction or by some other approved medium such as television, radio, telephone, and correspondence. ¹⁰

NCES also has another publication. While dated I understand it to be considered a classic and the first attempt to standardize definitions used in postsecondary education. In this document, "postsecondary student" is defined as follows:

A postsecondary student . . . is defined as a person for whom instruction is provided in postsecondary education . . . under the auspices, of a postsecondary education institution. Such instruction may be provided by direct student-teacher interaction or by some other medium such as television, radio, telephone, or correspondence. ¹¹

As we have seen above, the Higher Education Opportunity Act in its grants for demonstration transition programs for students with intellectual disabilities considers such individuals who take credit and non-credit courses at a university as a student. The Act further encourages, through its grant-making process, access to university housing for these same students.

From these definitions, we can deduce that a university student is one who:

- Attends a university to study and learn;
- Is engaged developing as a human being, whether in class or in on-campus student life activities

In the context of this case, it is notable that neither of the above definitions includes the criteria for taking courses for official credit to be considered a student at a postsecondary institution. This, of course, is consistent with the range of students on a university campus that include:

- Individuals pursuing undergraduate and graduate degree programs;

¹⁰ National Center for Education Statistics (2008). Digest of Education Statistics, Appendix B. Definitions. Jessup, Maryland: Author.
http://nces.ed.gov/programs/digest/d08/app_b.asp Accessed 11/12/09.

¹¹ Putnam, J. (1981). Postsecondary Student Terminology: A Handbook of Terms and Definitions for Describing Students in Postsecondary Education. Jessup, Maryland: National Center for Education Statistics. P. 3 & 9.

- Individuals pursuing certificate programs that incorporate university courses;
- Individuals taking courses for personal interest, enrichment, and continuing education; and
- Individuals auditing courses or participating in courses without earning credit for personal growth, learning, and enrichment.

Universities typically encourage all of these types of endeavors and consider participants in any such activities as students within the university. For example, Oakland University states on its website a mission that includes “degrees at the baccalaureate, master’s and doctoral levels, as well as programs in continuing education” . . . that “provide Michigan residents with high-quality coursework for professional development and personal enrichment” which may be taken for credit or audited¹².

Universities, by design, offer a range of courses and programs aimed at enhancing learning and human development. While the most traditional function of universities has been to provide degrees, universities actively encourage individuals to participate as students in many ways related to their professional and personal interests.

A recent addition to such options is the involvement of individuals with intellectual and related disabilities in university courses. These individuals in the past have been denied access to university opportunities. However, with the move towards inclusive education in public schools where students with significant disabilities participate in regular education classes, they naturally want to pursue higher education along with their peers. Options for being a student on a university campus for individuals with cognitive disabilities include a range of possibilities¹³:

- Taking courses to pursue an undergraduate or graduate degree
- Enrollment for credit in university classes without pursuing a certificate or degree
- Auditing university courses
- Participating in university courses, with permission of instructors, without obtaining university credit and with modifications in assignments.

¹² Oakland University (Accessed 11/12/09) Role and Mission.
http://www.oakland.edu/view_popup.aspx?id=1654&sid=106

¹³ Grigal, M. & Hart, D. (2008). Promising Practices for Postsecondary Education Services for Students with Intellectual Disabilities. Rockville, Maryland: Transcen.
<http://transitioncollege.net/resources.html>; Hart, D., Grigal, M., Sax, C., Martinez, D. & Will, M. (August, 2006). Post-secondary education options for individuals with intellectual disabilities. Research to Practice. Issue 45. Boston: Institute for Community Inclusion.

- Separate classes just for individuals with cognitive disabilities held on the university campus

The term "student" is used for individuals who pursue a range of academic and educational opportunities on a university campus.

Are individuals, however, who are in the Options Program considered a "student". The answer is clearly, "Yes". Students in the Options Program take classes in the university. They come to class, engage in class assignments, collaborate with other students in doing class work. According to the National Center for Education Statistics, this is the definition of a postsecondary student (see above).

In fact, Oakland University itself has recognized students in the Options Program as university "students". Students in this program have been issued a student card on which is their name and the word "student" that describes their status on campus. In addition, Oakland University proudly states on its website that it is a leader in providing access to "non-traditional students"¹⁴.

Dr. Schuh, in his report, however, is making the case that Mr. Fialka-Feldman, and others in the Options Program, are not students and, therefore, are not eligible for participation in university housing. Dr. Schuh quotes a definition from documents published by the National Center for Educational Statistics: "Students registered at an institution of higher education who are working in a program leading to a baccalaureate degree or other formal award below the baccalaureate, such as an associated degree"¹⁵. Curiously, if this is the definition of "student", graduate students would not be considered students at Oakland University according to Dr. Schuh.

A last comment is useful. In seeking to understand the meaning of words in the language human beings use, people analyze and document typical understandings of a word. This is how dictionaries are created. However, any person or organization may also create its own "operational definition". If, for example, I am conducting a research study on first year students at a university, I could decide, for my purposes, to define "student" as black, age 18-20, female, and heterosexual. If, in my research, I have reasonable reasons to thus limit my definition of the term "student" then a dissertation research committee may approve this line of thinking. However, this does not change the generally understood definition of the term "student" that dramatically varies from my operational definition.

¹⁴ Oakland University, Mission and Role (Accessed 11/12/09).
http://www.oakland.edu/view_popup.aspx?id=1654&sid=106

¹⁵ Schuh, J. (October, 13, 2009). Report of John H. Schuh, Ph.D., in the Matter between Micah Fialka Feldman and Oakland University Board of Trustees, et al. P. 6.

4. Benefits and Contributions of Students with Intellectual Disabilities in University Housing and Student Life Programs

Now that we have established that there are a range of students on a university campus and that students in the Options program are, indeed, university students, let us consider why involvement in university housing may, on the one hand, be beneficial to students with intellectual disabilities and, on the other hand, actually strengthen and deepen the experience for all students.

Dr. Schuh in his report has provided an excellent review of the purposes and benefits of university housing and student life programs. In summary, he indicates the following benefits for participation in university housing for students¹⁶:

- Living on campus increases the likelihood that students will complete college. University housing and student life programs help students develop psychologically and socially.
- They may also be aligned to student's academic program thus strengthening academic learning.
- Students may participate in learning communities that strengthen them academically, socially and psychologically.
- In such communities, they share with other students, form study groups. Peer interactions have a strong positive impact on learning.

First, let us consider how participation in university housing may benefit students with intellectual disabilities. Literally every one of the benefits articulated by Dr. Schuh for university students equally apply to students with intellectual disabilities. However, there are some special nuances that are particularly applicable to these individuals which include the following (note that these benefits were identified via personal contacts over the years with a range of individuals and a review of the websites of the programs identified above)¹⁷:

- Involvement in university housing helps students with intellectual disabilities learn how to live more independently in a supportive environment;
- Students with intellectual disabilities will develop relationships that will be important to them the rest of their lives, often having impact in later years outside the university setting;

¹⁶ Ibid.

¹⁷ Hughson, A., Moodie, S. & Uditsky, B. (2005). *The Story of Inclusive Postsecondary Education in Alberta*. Edmonton, Alberta: Alberta Association for Community Living; reviews of websites of programs providing access to university housing (see above).

- Students with intellectual disabilities may be stimulated to deepen and strengthen their learning and growth by being around individuals who are also learning, discussing issues, and engaging in a range of student life activities.

While these benefits are particularly applicable to and important for individuals with intellectual disabilities, it's also apparent that each of these applies equally to all other students. The fact is that students with intellectual disabilities are people first; their disability does not define their identity.

What is most promising and interesting, however, is the manner in which students with intellectual disabilities can strengthen the very purposes and benefits that Dr. Schuh so eloquently describes for university housing. I will use Dr. Schuh's key points that I summarized above to discuss this.

Living on campus increases the likelihood that students will complete college Most students with intellectual disabilities will not complete a formal degree program. (A few will, however, even though it may take them much longer than for other students.) However, students with intellectual disabilities often are very avid students. They realize the opportunity that they are being given and do not take opportunities for learning for granted. While, of course, this will not occur with every student with an intellectual disability, it is often the case. Their example of perseverance in the face of challenges and their hard work often acts as a model for other students. Thus, students with intellectual disabilities can encourage and inspire other students to achieve¹⁸.

University housing and student life programs help students develop psychologically and socially. Getting to know a student with an intellectual disability provides an opportunity to understand a very different perspective on the world. Since many people have not had prior relationships with individuals with intellectual disabilities, this will be a psychological learning experience for university students, not unlike getting to know a person from a radically different culture. Consistently, however, as typical college students form relationships with individuals with intellectual disabilities they develop psychologically and socially in deep ways. They learn that all people are valued and have something to offer. They learn about courage and perseverance. They learn about discrimination and oppression. They learn in a new and deep way how to reach out and care for other people¹⁹.

¹⁸ Greenholtz, J., Mosoff, J. & Hurtado, T. (2006). STEPS Forward: Inclusive Postsecondary Education for Young Adults with Intellectual Disabilities. Vancouver, British Columbia: University of British Columbia; Hughson, A., Moodie, S. & Uditsky, B. (2005). The Story of Inclusive Postsecondary Education in Alberta. Edmonton, Alberta: Alberta Association for Community Living.

¹⁹ Ibid.

University housing and student life programs may also be aligned to student's academic program thus strengthening academic learning. Students may participate in learning communities that strengthen them academically, socially and psychologically. In such communities, they share with other students, form study groups. Peer interactions have a strong positive impact on learning. For most students university housing is for them, first and foremost, a place to relax, play, have fun, and develop relationships. In fact this is well stated on the housing section of Oakland University's own website:

The on-campus experience offers students convenience, a sense of community, lasting friendships and many opportunities for involvement in student life (Oakland University, accessed 11/12/09).²⁰

However, it is reasonable that the university seeks to strengthen student learning and growth as part of the university housing experience. Comments regarding students with intellectual disabilities made above are applicable in this context as well. The fact is, however, that students with intellectual disabilities can and do participate in learning communities. They may need assistance and support in doing so. However, when typical students provide learning support to individuals with intellectual disabilities something amazing often happens: they find that, as they break the information down so the person with an intellectual disability can understand it, they actually learn the information better themselves²¹.

Along these lines a few relevant quotes a student peers of Micah Fialka-Feldman may be useful. Nicole Bertrand, a student at Oakland University, shared her experience in interacting with Mr. Fialka-Feldman. She shared these comments²²:

I have shared 2 classes with Micah which primarily entailed lecture and not class discussion. Micah was not disruptive in class. He sat still and listened to the lectures without interrupting them or whispering as other students did . . . He arrived at least 5 minutes early to class . . . I was in a study group with Micah . . . For the first class we studied with an international student. We liked that because it was a sociology class and so she had witnessed different examples than us. We would discuss the topic of the class and one of us asked him questions to see what he already knew. I also learned what I did not know. We would provide a few examples. Sometimes it was difficult to grasp the concept or give an example, for

²⁰ Oakland University (Accessed 11/12/09). <http://www.oakland.edu/housing/>

²¹ Peterson, M. and Hittie, M. (2009). *Inclusive teaching: The journey towards creating effective schools for all learners*. Columbus, Ohio: Merrill.

²² Affidavit. (n.d.) Nicole Bertrand. Case # 08-CV-14922.

him, and at times for both of us. However, we worked hard together until we had a full understanding. While we discussed, and provided each other examples I would write/draw: pictures, charts, key words, main ideas, examples, and symbols. He would later study these. . .

From what I have seen of Micah as a classmate and study partner, I believe if he lived in a dorm, he would not be disruptive to his roommates at any time. In class he is not disruptive and he studies quietly. If he had the same class as his roommate(s) he may want to study with them, but would understand when his roommate(s) want(s) to study alone. He would then study alone quietly or engage in a non-disruptive activity. . . If I was living in a dorm with Micah I would feel privileged.

Heather Sterner was another Oakland University student who studied with Micah²³:

I am Heather Sterner and Micah and I first met in the winter of 2008, in our Theatre Class . . . Micah stood up and asked if there was anyone interested and available to help him with his studies and I happily volunteered. Micah and I stayed after class to discuss what it was he needed and what was expected of me. Micah was great at explaining to me what it meant to be a peer tutor. . . There was a project in our Theatre Class where we were broken into groups. Each group had to write, direct and put on a play. With this particular project Micah has several responsibilities. He was stage manager, he was an actor and he was in charge of all the music that was to be played throughout the play. I was very grateful to be in a group with Micah, because not only did he do well, we all did and ended up receiving a very good grade on the project, a grade that would not have been possible without the leadership that Micah displayed as stage manager. . . I believe that Micah would do well in a dorm setting. For many reasons! Micah is friendly and always respectful. Micah is a leader and a wonderful student. In fact I believe that Micah would serve as a positive influence to his fellow roommates.

Both of these students shared examples of experience in studying and working with Mr. Fialka-Feldman that exemplify the best in how learning communities should work and the contributions made by Mr. Fialka-Feldman.

I'd like now to briefly address Dr. Schuh's statements in his report regarding the participation of individuals with intellectual disabilities in university housing²⁴. First, what is notable, is that Dr. Schuh does not at all address the issue of whether students

²³ Affidavit. (n.d.) Heather Sterner. Case # 08-CV-14922.

²⁴ Schuh, J. (October, 13, 2009). Report of John H. Schuh, Ph.D., in the Matter between Micah Fialka Feldman and Oakland University Board of Trustees, et al.

with intellectual disabilities could both benefit from and contribute to the purposes of university housing. His argument is as follows: students in the Options program are not students. He then goes on to discuss the problems of having "non-students" in university housing. His thesis can be synthesized in two statements:

1. Non-students do not have academic goals and needs. Therefore, they cannot participate in the learning communities that are so central to student life in university housing.
2. If "anyone can live on campus who wants to" this changes university housing from an educational enterprise to the management of apartments, thus destroying the purpose of university housing.

Regarding the first statement, I trust that I have adequately dealt with this above. In summary, students with intellectual disabilities who are part of the Options Program are specifically involved in the University as students. They take courses, participate in assignments, work on group projects, and engage in any activity in which students participate in the university. They attend the university because, like all university students, they have both academic and social needs and goals. These students fit the definition of the word "student" provided by the National Center for Education Statistics (see discussion above). Thus, all the arguments made for the benefit of university housing and student life programs apply precisely to these students as much as any other student. It is true that most will not pursue an academic degree. However, to suggest that they are not, therefore, involved in academic pursuits that will make them a part of the learning community ignores the facts.

Regarding point 2, no one is suggesting that "anyone can live on campus who wants to"; quite the opposite. The case of Mr. Fialka-Feldman is not predicated on suggesting that the university change its policy that university housing is only for students. As discussed above, the difference is the clear understanding that Micah Fialka-Feldman and others in the Options Program *are*, in fact, students. Therefore, the discussion associated with this point of the argument is moot.

5. Will Micah Fialka-Feldman be Able to Both Benefit From And Enrich Others by Living in University Housing?

Mr. Fialka-Feldman is requesting to be able to live in university housing. He is a student of the university. He has developed relationships with many faculty and students within the university and is liked and respected by many individuals. He has the abilities to get around campus and take care of himself. He does need support in some tasks in classes. However, he is able to ask for and receive assistance. The Options program has support available to Mr. Fialka-Feldman. Students who know him believe

he would be an asset to other students living in university housing and would contribute to creating real learning communities among students.

Based on a review of materials and information cited above, it is my professional opinion that Micah Fialka-Feldman is a student of Oakland University and is an excellent candidate for benefitting from and contributing to the experience of learning communities as part of university housing.

I appreciate the opportunity to provide a professional opinion in this important case.

Other Information Regarding My Work on this Case

Qualifications. I have attached a copy of my vita. I have worked with individuals with intellectual and other disabilities for some 40 years. This has included direct service and teaching, research, university instruction of professionals, and, in recent years, development and coordination of an international network that has developed a school reform approach in which the inclusion of students with disabilities learning together with other students is a key component. I received my doctoral degree from the University of North Texas in 1980, have over 100 publications, have worked in many schools related to inclusive education, and operated numerous federal research grants related to school and community inclusion of individuals with disabilities.

My experience has focused on K-12 schools. However, in recent years I have become increasingly involved in applying these same lessons in higher education. I participated for a year on a committee at Wayne State University in which we worked to develop a prototype for a program for students with autism and intellectual disabilities to participate on the university campus. During this time I reviewed much information regarding different approaches to postsecondary education for students with intellectual disabilities. I have personally known and worked with many individuals with intellectual disabilities over the years.

Vita. I provided this to the staff of Michigan Protection and Advocacy. It is attached to this report. It is accurate and includes all my publications, including those within the last 10 years.

Other cases. I have not served as an expert witness during the last four years.

Compensation. I am being paid \$ 150 per hour for services rendered for this case and will be paid \$ 150 per hour for testimony in the case.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michael Peterson". The signature is written in black ink and is positioned below the typed name "Michael Peterson".