

DOCKET NO. 171-SE-0310

STUDENT,	§	BEFORE A SPECIAL EDUCATION
	§	
B/N/F PARENTS	§	
	§	HEARING OFFICER
VS.	§	
	§	
CORPUS CHRISTI INDEPENDENT	§	FOR THE STATE OF TEXAS
SCHOOL DISTRICT	§	

DECISION OF THE HEARING OFFICER

Statement of the Case

The student, by the student's parent as next friend (hereinafter "Petitioner" or "the student"), brought a complaint pursuant to the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §1400, et seq., complaining of Corpus Christi Independent School District (hereinafter "Respondent" or "CCISD").

Petitioner was represented by Christopher Jonas, an attorney in Corpus Christi. Respondent was represented by John Janssen, an attorney with the Corpus Christi Independent School District. Petitioner's request for hearing was filed on March 12, 2010, and came on for hearing by agreement of the parties and order of the hearing officer on May 17, 2010. Counsel filed written closing arguments, and the parties agreed that the decision would be timely issued on or before July 2, 2010, in accordance with the statutory and regulatory time-line.

Petitioner alleged that CCISD failed to provide appropriate educational programming, supplemental support services, and appropriate related services for the student. Petitioner alleged that CCISD did not provide appropriate 1-on-1 or small group support in special education tutoring services. Petitioner alleged the district failed to conduct appropriate psychological and counseling evaluations and that the district failed to provide the student with a free appropriate public education. As relief, Petitioner seeks an order requiring an appropriate

educational placement, appropriate evaluations, and appropriate modifications, interventions, and services which, when properly implemented, would be an appropriate educational program for the student.

Based upon the evidence and argument of counsel, the Hearing Officer makes the following findings of fact and conclusions of law:

Findings of Fact

1. The student resides with the student's parent within the Corpus Christi Independent School District. [Transcript Page 16]

2. At the time of the hearing, the student was *** years old. [Transcript Page 16]

3. The student has been served by the district based upon eligibility criteria for special education of emotional disturbance and learning disabilities. [Petitioner's Exhibits 10-12 & 14-23 and Respondent's Exhibits 9-12 & 16-35]

4. The student's parent testified that the student is ***. The student has problems with *** and anxiety about it. [Transcript Page 17]

5. During the *** school year the student attended the *** grade at *** school. [Petitioner's Exhibits 11 & 12, Respondent's Exhibit 12 and Transcript Page 117]

6. During the *** school year, the student was expelled from the *** school for ***. [Transcript Pages 116-118]

7. After the student's expulsion, no other *** school would accept the student and the student returned to CCISD. The student was placed in a behavior class and attended regular education classes. [Petitioner's Exhibit 12, Respondent's Exhibit 12 and Transcript Page 136]

8. An admission, review and dismissal ("ARD") meeting was conducted for the student in *** to design an individual education plan ("IEP") for instruction ***. The IEP included objectives to increase positive behaviors and decrease negative behaviors, the use of

patterns to describe relationships and make predictions, the use of attributes to identify, compare, and contrast shapes and solids, the use of a variety of strategies to comprehend selections read aloud and selections read independently, the development of an extensive vocabulary, reading widely for various purposes and various sources, listening skills in a variety of settings, learning and understanding geographic factors in economics, politics, and policies of societies, writing in a variety of forms, relying on the conventions and mechanics of written language including grammar and written expression, and development of appropriate social skills. The student's parent concurred with the IEP. [Petitioner's Exhibit 8 and Respondent's Exhibit 11]

9. The student has had a history of truancy. Prior to the date of the hearing the student had missed a *** classes during the 2009-2010 school year. [Petitioner's Exhibit 22 and Transcript Page 112]

10. The student's parents are divorced and there is a history of *** in the family. ***. [Transcript Page 80]

11. In December 2009, the student *** was hospitalized for ***. [Petitioner's Exhibits 25 & 26 and Transcript Pages 24 & 28]

12. A physician treating the student recommended *** services for the student and the district placed the student in *** services. The student's parent concurred. [Petitioner's Exhibit 26 and Respondent's Exhibit 9]

13. The ARD committee making the *** placement for the student developed an IEP which included behavior goals, social skills goals and academic goals. [Petitioner's Exhibit 26 and Respondent's Exhibit 9]

14. Petitioner has made little academic progress and has been unsuccessful on the TAKS test. [Transcript Page 118]

15. Because of the student's absences, the student failed to make academic credits during the 2009-2010 school year. [Petitioner's Exhibit 24 and Transcript Pages 118, 119 & 153]

16. For two years in the student's placement at *** school, the student received no academic credits at all. [Petitioner's Exhibit 27 and Transcript Pages 43 & 44]

17. The student's *** in the Fall of 2009 occurred shortly after *** against the student and the student's parent. [Petitioner's Exhibit 9 & 15]

18. The student's parent agreed with the characterization that the filing of the due process hearing was "really all about the truancy charges" against the student and against the student's parent. [Transcript Pages 135 & 136]

19. The truancy charges were dismissed by the Court. [Petitioner's Exhibit 1]

20. A psychotherapist treating the student wrote a letter to the Justice of the Peace about the truancy charges and stated that the CCISD had failed to handle the student appropriately. The psychotherapist, however, is not qualified to render opinions about educational progress or special education. [Petitioner's Exhibit 9 and Transcript Pages 29-45]

Discussion

The student presents a number of difficulties for the CCISD and for the student's parent. The student's educational disabilities, though, have been addressed by CCISD, and the student's problems in school are largely related to truancy. Though the Petitioner brought a complaint alleging violations of IDEA, the student's parent admitted telling school officials that the complaint's filing was a response to truancy charges.

Petitioner failed to provide credible evidence that the educational program for the student and its implementation resulted in a denial of a free appropriate public education for the student.

The parent has the burden of proof to demonstrate that the district failed to follow the law in providing an appropriate educational placement and related services necessary for the student to make educational progress. The parent failed to meet the burden of proof.

Conclusions of Law

1. The student is eligible for special education and related services under the provisions of IDEA, 20 U.S.C. §1400, et seq., and related statutes and regulations.
2. The Corpus Christi Independent School District is the local education agency responsible for the provision of the student's free appropriate public education. The IEPs provided by the district for the student were appropriately developed by district personnel – in collaboration with the student's parent – and provide an educational placement and related services reasonably calculated to enable the student to receive educational benefit under the standard of Board of Education of the Hendrick Hudson School District v. Rowley, 458 U.S. 176 (1982), 34 CFR 300.552, and 19 T.A.C. §89.1055.
3. CCISD provided a program which was individualized on the basis of the student's assessment and performance; the program was administered in the least restrictive environment; the services were provided in a coordinated and collaborative manner by key stake holders; and positive academic and nonacademic benefits were demonstrated. Cypress-Fairbanks ISD v. Michael F., 118 F.3d 245 (5th Cir. 1997), 34 CFR 300.300, and 19 T.A.C. §89.1055.
4. Petitioner failed to meet Petitioner's burden to prove that the district's actions in developing and implementing the student's educational program were inappropriate or that the student's placement was inappropriate. Tatro v. Texas, 703 F.2d 823 (5th Cir. 1983), Adam J. v. Keller ISD, 328 F.3d 804 (5th Cir. 2003).

ORDER

Based on the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED that all relief requested by Petitioner is DENIED.

SIGNED this 2nd day of July, 2010.

 /s/ Lucius D. Bunton
Lucius D. Bunton
Special Education Hearing Officer

DOCKET NO. 171-SE-0310

STUDENT,	§	BEFORE A SPECIAL EDUCATION
	§	
B/N/F PARENTS	§	
	§	HEARING OFFICER
VS.	§	
	§	
CORPUS CHRISTI INDEPENDENT	§	FOR THE STATE OF TEXAS
SCHOOL DISTRICT	§	

SYNOPSIS

ISSUE: Whether the district failed to provide an appropriate educational placement for the student.

CFR CITATIONS: 34 CFR 300.552 and 34 CFR 300.300.

TEXAS CITATION: 19 T.A.C. §89.1055

HELD: For Respondent.