

STUDENT b/n/f PARENT	§	BEFORE A SPECIAL EDUCATION
	§	
V.	§	HEARING OFFICER FOR THE
	§	
WACO INDEPENDENT	§	
SCHOOL DISTRICT	§	STATE OF TEXAS

DECISION OF THE HEARING OFFICER

I. Statement of the Case

Petitioner brings this appeal, pursuant to the Individuals with Disabilities Education Improvement Act 20 U.S.C. § 1400 et seq., (hereinafter referred to as "IDEA"), against Respondent (hereinafter referred to as "Respondent" or "School District"). Petitioner (hereinafter referred to as "Petitioner" or "Petitioner") filed a written request for a due process hearing which was received by the Texas Education Agency ("TEA") on January 18, 2012 which was styled and docketed as shown above. In this appeal, Petitioner was initially represented by next friend, Parent of Waco, Texas; Petitioner later obtained counsel and was represented at the due process hearing by Attorney Justin H. Anderson of the Law Office of Justin H. Anderson in Waco, Texas. Respondent was represented by Attorney Peter K. Rusek of Sheehy, Lovelace & Mayfield, P.C. in Waco, Texas. A due process hearing was originally scheduled for Monday, February 27, 2012. However, Petitioner was granted a continuance on that date, over Respondent's objection, to allow Petitioner to obtain counsel. The original disclosure date of February 17, 2012 continued to apply. The Due Process Hearing in this matter was held on Wednesday, March 22, 2012, in Waco Independent School District Administrative Offices in Waco, Texas. At the conclusion of the hearing, the parties agreed that the Decision of the Hearing Officer would be issued on or before Friday, April 13, 2012 to account for the continuance.

A Prehearing Conference was held on Tuesday, February 7, 2012, at which time the parties outlined the issues to be addressed in the due process hearing. Petitioner's Request for Special Education Due Process Hearing and Required Notice ("Complaint") raised the following issues regarding the special education identification, evaluation, placement, programs and services of Petitioner, and Respondent's alleged denials of a free appropriate public education ("FAPE"):

1. Respondent has not abided by the mediation agreement developed during the first Due Process Hearing between the parties in June 2011.
2. Petitioner has experienced "extreme bullying," which caused Student to become ill and made student's learning environment unsafe.

3. Respondent did not provide teachers to help Petitioner study for the four classes missed due to Student's *** teachers not providing instruction for two months. Only one teacher provided instruction; Petitioner's next friend provided instruction in two other subject areas. As a result, the Petitioner complains that Student ***, and was only given half credits instead of full credits for the subjects passed. Petitioner would also like copies of Student's exam papers.

4. Respondent has not provided Petitioner with Transitional Services, Socialization Training, Assistive Technology, and Auditory Processing testing.

5. Student was required to withdraw from School District as a prerequisite of seeking admission to an ***. Petitioner attempted to enroll the Student in one *** school, and provided extensive documentation, but Petitioner was denied admission. As a result, Student did not attend any school from August 2011 to the end of October 2011 when Petitioner was enrolled in a private *** school at the expense of the Petitioner.

7. Respondent agreed to issue a computer for Petitioner to attend a public *** school, but Respondent did not provide Petitioner with a ***, which is needed for the *** school.

8. After not being admitted to *** school, and missing school from August 2011 to October 2011, Petitioner was enrolled in another *** school. Petitioner is not able to afford tuition for the *** school this month, and is seeking payment and reimbursement for Petitioner's placement in the *** private school by petitioner's parent.

As relief in this Special Education Due Process Hearing, Petitioner requests that Respondent be ordered to do the following:

1. Provide Petitioner with Assistive Technology by providing a computer.
2. Provide for Petitioner's placement in a consistent *** school program paid for by Respondent.
3. Provide reimbursement to Petitioner for the cost of private educational services paid for by the Petitioner since October 2011.
4. Perform evaluations based on Petitioner's current diagnosis of Asperger's Syndrome.
5. Provide Petitioner with Auditory Processing evaluations due to problems with Petitioner's hearing.
6. Provide Petitioner with transition services and transition planning in furtherance of Petitioner's ***.
7. Provide Petitioner with community based services and programs.

In its response to Petitioner's Complaint, Respondent disputed the allegations and denied that Petitioner was entitled to any of the requested relief and resolutions.

After considering the evidence of record, the Special Education Hearing Officer makes the following Findings of Fact and Conclusions of Law:

II. Findings of Fact

1. Petitioner is a ***-year old child with a disability who resides within the attendance zone of Waco Independent School District; however, Petitioner withdrew from School District in July, 2011.

2. The School District is a political subdivision of the State of Texas and a duly incorporated Independent School District. Respondent is responsible for providing Petitioner a free appropriate public education in accordance with the Individuals with Disabilities Education Improvement Act, 20 U.S.C.A. § 1400, *et seq.*, and the rules and regulations promulgated pursuant to IDEA.

3. Petitioner is eligible for special education as a child with a disability who meets eligibility criteria under the following handicapping conditions: Emotional Disturbance and Other Health Impairment.

4. Petitioner is reticent to agree to Student's placement in School District because Petitioner had a very difficult early childhood. Petitioner was *** at age *** and received counseling and began to improve. Petitioner began school at age *** in School District and was known to be very intelligent and inquisitive. After one year, Petitioner moved to an adjacent school district for approximately *** years.

A. In the other school district, Petitioner experienced severe bullying. School personnel in that other school said Student would not be successful because ***, and Student would return from school with ***. There were numerous incidents when Student would return home from school and have to be ***. Petitioner had ***.

B. Petitioner disagreed strongly with the other school district's response to the bullying Student experienced in the *** years Student attended. Petitioner believed that Student was held responsible for the incidents, even though Student was always the injured party. Petitioner also noted that Student was placed in a self-contained behavior unit, rather than the Gifted and Talented Program for which Student could have qualified. Other students in the behavior classroom in the other school district self-mutilated, bit each other and bumped their heads; Student was frightened of the other students in the behavior classroom who were not on student's intellectual level.

C. After the approximately *** years of attending the other school district, Student returned to School District. The two different behavior classrooms where Student was placed at *** School District *** schools were either not well controlled by the teacher, or did not provide appropriate levels of support for Student. Student *** after an illness *** that resulted in *** that resulted in Student's receiving ***. Subsequently, Student left School District and ***, where Student continued to have difficulties with peers and receiving punishments, in at least one case under a mistaken conclusion that Student was responsible for the incident.

D. After the difficulties at the third school, Petitioner ***. Petitioner then *** School District, because members of Petitioner's support system live in Waco.

5. During the time before Student's third enrollment in School District, Student had a comprehensive psychological and educational evaluations completed in October, 2009 and July, 2010. Student was found to have average intelligence, with strong written expression, and problems with peer interaction. Student was diagnosed with depression and anxiety, and Post Traumatic Stress Disorder related to the ***, ongoing nightmares, and continuing problems in school with teachers and students. Student was also diagnosed as having Panic Disorder, Conversion Disorder, Attention Deficit Hyperactivity Disorder, asthma, and Asperger's syndrome. Petitioner believes that the Asperger's diagnosis explains Student's deficits in social skills, difficulties in peer relationships and social situations, along with the high levels of interest and achievement in *** and ***. Petitioner believes that Student has difficulties in conversation, because Student does not understand non-verbal cues, and Student also has a tendency to go on at length instead of allowing for dialogue and normal speaking pauses.

6. At Petitioner's request, Student was enrolled in *** Grade by parental choice in ***, *** school ***. Petitioner chose *** because it is *** and ***. An Admission, Review or Dismissal Committee meeting ("ARD") was held on December 14, 2012 to consider Student's temporary placement. Student was placed in all general education (mainstream) classes with content master support in all classes except Math. Student was also provided special education transportation.

7. Student adjusted well to ***. Student did especially well in *** and ***, and teachers would show student extra attention in support of student's interest and enthusiasm. Student had some behavior incidents, but none were significant enough to warrant consideration of a change in placement and the associated manifestation determination review.

8. On ***, 2011, Student was involved in an altercation *** with another Student. The two students argued and Student called the other student a "b****." Both students were referred to mediation with the Assistant Principal, warned, counseled, and referred to In School Suspension for the remainder of the day. Student's parent was called and advised of the incident and provided with a Discipline Referral Form showing the incident and school response. In this case, both students received counseling and punishment, not just Student.

9. On ***, 2011, a student reported that Student had accosted other students and told the one student to "shut the f*** up," and told another student "****" Review of video of the location at the time of the incident with and without Student present did not show Student accosting anyone. A Discipline Referral Form was completed to document the incident and the investigation. There was no punishment or other response by school personnel following the investigation of these allegations.

10. The ***, 2011 incident was related to problems Student experienced on the bus. Before ***, 2011, Student rode the special education bus, which included students with cognitive disabilities in the special education Life Skills program. *** and focused attention on Student, which Student did not want. These students may have *** or behaved in other ways inappropriately. School District responded by changing

Student's bus assignment to one which did not include Life Skills students generally, nor *** who had been the source of problems for Student. Before the change, the bus driver reported that Student had not had any problems on the bus.

11. A follow up and annual ARD was held on February 8, 2011 to confirm Student's placement, develop a *** plan and consider transition planning issues, and address behavior issues through a Functional Behavioral Assessment and Behavior Intervention Plan. The ARD committee specifically considered the Asperger's Disorder diagnosis in the July 2012 evaluation from ***. All ARD committee members, including Petitioner, agreed that Student's eligibility classifications of Emotional Disturbances and OHI remained appropriate and were addressed by the agreed upon Individualized Education Program ("IEP") developed at the ARD.

12. On ***, 2011, a behavior incident occurred in one of Student's classes. Student was talking to *** who then asked the teacher to "shut [Student] up." The teacher diffused the situation and then Student stated that ***. The teacher counseled Student regarding the consequences for making threats, and no Discipline Referral Form was completed to document the incident. Student's parent was called regarding the incident and advised of how the teacher had worked with Student during the incident.

13. Student was particularly enthusiastic in the *** class, and participated actively in the class discussions. Because Student was not proficient in translating non-verbal cues, Student's verbal enthusiasm was the source of some ridicule from other students. The teacher intervened on Student's behalf, counseling the students, in class or out in the hall, as to the inappropriateness of their behavior. None of the incidents in the *** class rose to the level of discipline referrals for the students, including Student, and the *** teacher tried to provide some social guidance for Student in navigating the social waters of *** school. Student's enthusiasm, questions, and obvious readiness for higher level thinking was appreciated by student's *** teacher, even though Student was behind in classwork due to Student's almost mid-year arrival at ***.

14. One project of the *** class was to participate in the *** by ***. Student was very interested in participating in *** and did student's best to *** in the very short time student had before the ***. Student's *** could not be *** before the ***, and other students with their *** were chosen ***. The *** teacher made special arrangements for Student to attend the ***.

15. The *** occurred on ***, 2011. The *** teacher advised Student's parent that Student could attend and that it would not be necessary for Student's parent to attend also. The *** teacher accompanied the students, but had to leave early to attend to a personal matter. At one point, Student was following some girls, who seemed uncomfortable. At another point, Student was at the end of a line and then pushed to the front of a group to see, and bumped a few of the other students. One of the girls who had been bumped said, "Could you please say excuse me?" Student retorted, "I don't have to say excuse me, you were in the way." Student became argumentative when confronted about the behavior, and when talking to the teacher in the hallway who told Student it *was* rude to refuse to say "excuse me" to the girl who had been bumped. After the incident, Student and the *** teacher returned to the auditorium to finish participating in the *** program. No disciplinary action other than the discussion in the hall between Student and the *** teacher was taken.

16. After each disciplinary of conflict incident Student became frightened and upset, in spite of the fact that no major disciplinary consequences ensued. Student found the experience at the *** deeply disturbing, in part because Student's *** could not ***, and in part because of the unfamiliar and exciting circumstances, and, in part, because the *** teacher, who was developing a very supportive relationship with Student, had to leave early.

17. Student was very anxious and upset by the *** experience and stated to Parent that the *** teacher had said Student was only allowed to participate to show other students what *not* to do. This was an incorrect assessment by the Student of the *** experience and the difficulties associated with Student's not being able to *** in time for the ***. Student's anxiety is in keeping with current diagnoses of both Asperger's Syndrome and Emotional Disturbance which determined that Student "became overly frightened by harmless events."

18. In response to Student's anxiety following the ***, Student's parent removed Student from school, even though Student stated an unwillingness to leave school. Based on Student's pediatrician's recommendation Student was initially given *** following an ARD on March 21, 2011. The March 21, 2011 ARD committee also reviewed current medical information which indicated that Student was in need of counseling and psychiatric services. The ARD committee agreed that Student should have a counseling assessment by May 15, 2011. The homebound placement was scheduled to end and Student was expected to return to *** in early ***, 2011, but despite Respondent's repeated requests for Student's return, Student never returned.

19. Petitioner withdrew Student from School District as of July ***, 2011, and School District continued providing services through August, 2011. Petitioner never returned Student to school, however, and Petitioner filed a Request for Special Education Due Process Hearing in May, 2011, and then the current Complaint in January, 2012.

20. Petitioner and Respondent met for informal negotiations regarding the previous Due Process Hearing (TEA Docket No. 194-SE-0511) on July 12, 2011. No mediation was held, but Respondent agreed to provide *** through the summer, and Petitioner notified Respondent that Student was withdrawn from School District to attend *** school.

21. After difficulty enrolling Student in *** school program, Petitioner located another *** program which accepted Student and did not require School District participation. Student never returned to public *** school, although Petitioner is not always able to afford the monthly expenses of the *** school. Therefore, Petitioner seeks payment for the *** school from Respondent through this Due Process Hearing.

22. Student's pediatrician believes that medical records from the pediatric psychiatrist indicate that Student can return to school when Student's Asperger's issues are addressed, behavioral incidents are down, and Student's emotional disturbance is under control such that Student can function effectively in the classroom. Student's doctor noted that Student suffers from a condition called non-epileptic form convulsions, where seizure symptoms are manifest as a result of extreme emotional distress and anxiety. Student's pediatrician believes that Student should return to school with appropriate psychological supports, and expected Student to return to school after intensive psychiatric intervention in the summer of 2011. While understanding

Petitioner's anxiety, Student's pediatrician agrees with Respondent that Student should attend school in order to learn how to l***.

23. The homebound services provided by Respondent were intended to cover core subject areas, including ***, through a computer program, **. Although Respondent established the software and student account, Petitioner did not have immediate access to the internet. The ** services provided by Respondent ** were provided to allow Student to catch up on all ** Grade credits. Student's transcript, however, indicates that Student received only 2.500 credits under the semester 1 heading in year 2010-2011 when Student was in ** Grade at **. Respondent's testimony regarding Student's transfer ** with a different schedule did not explain why Student's transcript reflected that Student had earned all credits in Semester 1, but not in Semester 2.

24. Petitioner understands that Student's return to public school would be beneficial to Student in terms of improving Student's social skills by increasing Student's social interactions with peers in the classroom and through Student's participation in extracurricular activities. Because Petitioner had such ** in Student's early school years, however, and based on Student's emotionally disturbed view of events at **, Petitioner **, and has become convinced that Student cannot be safe at school, even though Petitioner has suffered no physical harm and has had no significant disciplinary problems in the short time Student attended **.

25. If Student were to return to school, School District could again offer special education services to Student in accordance with the IEP developed at Student's annual ARD on February 8, 2011. Under the IEP, Student would return to ** and continue to pursue student's interest in **. Following a counseling evaluation, Student would also be provided with additional counseling and social skills training to assist Student in developing adaptive behaviors to address student's disabilities in social settings and with peers. Student could participate in credit recovery classes to allow Student to **

26. Petitioner has received transition services from School District and from the Regional Education Service Center.

III. Discussion

The primary relief requested by Petitioner in this Due Process Hearing is Student's continued placement in a private ** school at public expense. Legal guidelines for reimbursement for private school placement at public expense are specified in IDEA and its implementing Federal regulations. Specifically, IDEA at 20 United States Code, §1412(a) (10) (C), states, in part:

“[A] hearing officer may require the agency (school district) to reimburse the parents for the cost of that [private school] enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child prior to that enrollment [in private school].”

A review of the evidence in this case establishes, without a doubt, that Respondent did not fail to offer Petitioner a free appropriate public education.

Unquestionably, Student had *** experiences in student's early life, including *** and ***. But, Student's experiences at *** were neither ***. Objectively, Student did not experience "extreme bullying" at ***. In fact, Student appears to be going through the normal process of growing up and entering the world of peers, in an environment particularly suited to Student's interests and abilities. Unfortunately, one of Student's disabilities, Emotional Disturbance, by definition, colors everything about how Student sees the world and the school experience. The disability, Emotional Disturbance is defined in IDEA regulations as follows:

34 Code of Federal Regulations, Sec. 300.8(a)(4)(i): Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- (C) Inappropriate types of behavior or feelings under normal circumstances.
- (D) A general pervasive mood of unhappiness or depression.
- (E) A tendency to develop physical symptoms or fears associated with personal or school problems.

The testimony and evidence establishes that Student has the characteristics of Emotional Disturbance which significantly affect the ability to learn. Student is of average intelligence, is a competent scholar and is able to work in a general education classroom with special education supports and services. Nothing in the Petitioner's brief experience at *** demonstrates that Student faced a serious or ongoing threat to Student's safety or well being. To the contrary, Petitioner had some social difficulties in class and minor conflicts with peers as a result of the disability and the adjustment to a new school and ***. Respondent, guided by the IEP developed by the ARD committee, addressed Student's special educational needs, including social and psychological needs related to growing up and gaining independence appropriately.

IDEA requires consideration of more than Petitioner's viewpoint and feelings when developing a special education program. Student's ARD Committee must also consider Student's unique needs based on the disabilities, Student's least restrictive environment ("LRE"), including the opportunity to participate in school activities with non-disabled peers, appropriate Assistive Technology for Student to access the instruction. Federal regulations implementing IDEA impose a mandatory obligation on school districts through the ARD Committee to consider LRE as an essential element of the student's IEP. The specific regulation provides:

20 United States Code Annotated, §1412(a):

[The State must have] in effect policies and procedures to ensure that the State [program for implementing IDEA] meets each of the following conditions:

(5) Least restrictive environment. (A) In general. 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 nondisabled, and **special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily.**

[Emphasis Supplied.]

Accordingly, LRE must be a primary concern of the ARD Committee; Related services such as counseling, social skills training and transition services must also be considered. Without the support of the other members of Student's ARD Committee, Petitioner attempted to fashion an appropriate educational program for Student. But in the absence of the expertise and objectivity of school personnel and especially School District's resources, even Petitioner would admit that Petitioner's program fell short in addressing Student's unique needs. Petitioner requires the additional supports, services and resources which School District can provide.

All things considered, learning *** in isolation, away from non-disabled peers—***—is not Petitioner's least restrictive environment. Petitioner should continue the psychiatric and medical therapies ***, but should return to school in order to make educational progress ***. Then, Student can access the special education support agreed upon at the February 8, 2011 ARD to assist Student in moderating the extreme emotions surrounding normal social conflicts, classroom dynamics, and the emotional highs and lows of participating in public education ***. It is essential for Student to continue to interact with peers as a means of developing necessary social skills. At the same time, Student's public school experience also allows Student to gain the social benefits of increased independence. Petitioner can learn to address student's Emotional Disturbance appropriately, without losing objectivity by adopting Student's disturbed point of view. The Hearing Officer can see no long term benefit for Petitioner or Student to be gained from continuing Student's education *** in isolation from non-disabled peers. Student has shown competence in navigating the *** school social scene, and, according to Petitioner and Student's pediatrician, Student's special education must continue to focus on developing social skills and adaptive behaviors for social interactions with peers.

Petitioner raised the question of Student's credits, and the record establishes that Student's status is unclear. Student earned a total of 2.5 credits in the *** Grade, while attending school for approximately 2.5 months, and receiving *** through *** 2011. There was no evidence that Respondent's assignment of *** teachers was a significant contributing factor in Student's lack of *** Grade Credits. There was also no evidence of Student's earning credits in the *** school attended after withdrawing from ***. Accordingly, Student will have to participate in credit recovery or some type of make-up program provided by Respondent.

Petitioner and Respondent have discussed Student's enrollment in another *** school in School District. The evidence in this case suggests to the Hearing Officer that Student's strength and interests might best be served by re-enrollment at *** with its focus on *** which Student enjoys so much. Student's demonstrated interest in *** could be nurtured in the *** program. Decisions regarding Student's placement, however, must

be based on the deliberations and consensus of a duly constituted ARD. Placement decisions regarding specific campuses in Waco ISD are outside the scope of this Due Process Hearing.

Most importantly, the evidence establishes that Respondent is capable and willing to provide Petitioner a free appropriate public education in a mainstream instructional setting, including all the evaluations and services requested by Petitioner in the Complaint. But, in order for Respondent to provide those special educational services sought by Petitioner, Petitioner must re-enroll Student in School District. Once re-enrolled, Petitioner can end Student's *** from non-disabled peers, begin to catch up on missing *** school credits needed to complete Student's *** and access the special education and related services Respondent would then be obligated to provide as part of Student's free appropriate public education.

IV. Conclusions of Law

1. Petitioner is a student who resides within the School District who is eligible for special education as a child with the disabilities Emotional Disturbance and Other Health Impairment. [20 U.S.C.A. §1401(3); 34 C.F.R. §300.8[(a) (4) and (9)]; 19 T.A.C §89.1040 [(c) (4) and (8).]

2. Respondent has a responsibility to provide Student with a free appropriate public education in Petitioner's least restrictive environment which could include reimbursement for Petitioner's private school placement if Respondent denied Petitioner a free appropriate public education before Petitioner withdrew from public school. [20 U.S.C.A. §1412, especially §1412(a) (10) (C); 34 C.F.R. §300.129--§300.148; 19 Tex. Admin. Code, §89.1001; and§89.1096.]

3. Petitioner did not prove that Respondent had not provided a free appropriate public education before Petitioner withdrew from Respondent School District, nor did Petitioner prove that Respondent could not offer Student a free appropriate public education, such that Petitioner is entitled to reimbursement for Petitioner's private school placement. [20 U.S.C.A. §1414; and §1412(a) (10) (C); 34 C.F.R. §300.148; §§300.320-300.325; 19 Tex. Admin. Code, §89.1050; §89.1055; and §89.1096.]

4. Petitioner did not prove that Petitioner's Least Restrictive Environment was the *** private *** school for which Petitioner seeks reimbursement. [20 U.S.C.A. §1412(a) (5); 34 C.F.R. §300.114; 19 Tex. Admin. Code, § 89.63.]

5. Petitioner did not prove that Respondent denied Petitioner evaluations or failed to consider current evaluations or Student's Assistive Technology needs as required under IDEA to develop an appropriate Individualized Educational Program for Petitioner. [20 U.S.C.A. §1414; 34 C.F.R. §300.305; 19 Tex. Admin. Code, § 89.1050; and §89.1055.]

6. Petitioner did not prove that Respondent denied Petitioner a *** or Transition Services as required by IDEA. ***

7. Petitioner did not prove that Respondent denied Petitioner a free appropriate public education or that Respondent was responsible for Petitioner's lack of educational progress or lack of success in obtaining sufficient credits for promotion from *** Grade while Petitioner enrolled in Respondent School District.

Respondent proved that resources were available in School District to assist Petitioner in credit recovery and to “catch Student up” with peers. [*Bd. Of Education v. Rowley*, 458 U.S. 176, 73 L.Ed 2d 690, 102 S. Ct. 3034(1982), *Cypress Fairbanks ISD v. Michael F.* 118 F.3d 245 (5th Cir. 1997)].

V. Order

After due consideration of the record, the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer ORDERS that the relief sought by Petitioner be DENIED.

ISSUED in Austin, Texas this 13th day of April, 2012.

Gwendolyn Hill Webb
Special Education Hearing Officer

STUDENT b/n/f PARENT	§	BEFORE A SPECIAL EDUCATION
	§	
V.	§	HEARING OFFICER FOR THE
	§	
WACO INDEPENDENT	§	
SCHOOL DISTRICT	§	STATE OF TEXAS

SYNOPSIS

Issue: Was Petitioner entitled to reimbursement from School District for expenses associated with a private *** school where the evidence indicated that Student had high anxiety, depression and physical symptoms associated with relatively minor conflicts with *** school peers and low social skills associated with Emotional Disturbance?

Federal Citation: 20 U. S. C. A., §1412; 20 U. S. C. A., §1414; 34 C.F.R. §300.129--§300.148; and 34 C.F.R., §300.320 - §300.325.

Bd. Of Education v. Rowley, 458 U.S. 176, 73 L.Ed 2d 690, 102 S. Ct. 3034(1982).

Texas Citation: 19 T.A.C., §89.63 (c); 19 T.A.C. §89.1050; 19 T.A.C. §89.1055; and 19 T.A.C. §89.1096.

Cypress Fairbanks ISD v. Michael F. 118 F.3d 245 (5th Cir. 1997)

Held: Where the evidence established that Respondent School District was able to provide Petitioner a free appropriate public education in mainstream *** school classes with supplementary aids and services, Respondent School District was not required to reimburse Petitioner for expenses of a private *** school where Petitioner unilaterally placed a child with a disability.