

DOCKET NO. 233-SE-0509  
AND  
DOCKET NO. 305-SE-0809

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

DECISION OF HEARING OFFICER

Procedural History

On May 21, 2009, Student (“Student” or “Petitioner”), by next friend, Parent (“Parent”) requested a due process hearing pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEIA”), 20 U.S.C. § 1400 *et seq.* The Respondent is Hamshire-Fannett Independent School District (“Respondent,” “District,” or “HFISD”).

On August 3, 2009, a hearing began in Docket No. 233-SE-0509 and continued into August 4 until a continuance was ordered to resolve discovery disputes. On August 31, 2009, Petitioner filed Petitioner’s second request for due process hearing, Docket No. 305-SE-0809. Without objection to Petitioner’s motion to consolidate the matters, the motion was granted and the due process hearing was continued until November 17 and 18, 2009. Following presentation of testimony, the parties were allowed sufficient time to submit closing arguments, and the decision due date was extended to January 31, 2010.

During the course of the two requests for due process hearing, continuances were granted, Respondent’s motion for summary judgment was denied, and Respondent filed a counterclaim on the issue of least restrictive environment. Subsequently, Respondent requested and was granted a non-suit (or dismissal) of its counterclaim.

At all times during the proceedings, Petitioner was represented by Dorene Philpot, attorney. Respondent was represented by Charlotte Salter, attorney. Petitioner requested and received an open hearing.

Issues

In the requests for due process hearing, Petitioner alleged that the District denied Student a Free Appropriate Public Education (“FAPE”), by its failure to devise and/or implement an appropriate Individualized Education Program (“IEP”), specifically as follows:

- a. Failure to write measurable goals and objectives in Petitioner's IEPs from Student's September 26, 2007 IEP to the current IEP;
- b. Failure to develop and implement an appropriate Functional Behavior Assessment ("FBA") and Behavior Improvement Plan ("BIP");
- c. Failure to develop an appropriate plan for teaching the Student social skills;
- d. Failure to develop an appropriate plan that addressed the Student's dyslexia by use of peer-reviewed, scientifically based instructional methods to address Petitioner's learning disability in reading or that followed the requirements of the Dyslexia Handbook;
- e. Failure to address parent training and in-home training despite requests from the Parent;
- f. Failure to implement the Student's IEP, including the assignment notebook, behavior interventions, and failure to begin agreed-upon dyslexia services at the beginning of the 2008-2009 school year;
- g. Failure to incorporate the autism supplement into the Student's services;
- h. Failure to appropriately train teachers and staff who worked with the Student;
- i. Failure to provide appropriate counseling services to the Student;
- j. Failure to provide Extended School Year ("ESY") services;
- k. Failure to assess and address the Student's assistive technology ("AT") needs;
- l. Disallowing the Parent from visiting the Student's classroom;
- m. Failure to give progress reports on the Student's IEP goals and objectives at least as frequently as regular education students received grade reports;
- n. Making a change to the Student's IEP and services without first informing the Parent;
- o. Failure to provide prior written notice when denying the Parent's request for changes in services and programming;
- p. Failure to protect the Student from bullying by other students.
- q. Failure to give notice of procedural safeguards to Petitioner's parent at any point in the past until May, 2009;
- r. Failure to implement the Student's May 21, 2009 IEP during the 2009 summer months;
- s. Failure to provide 18 times per year of counseling services during the past school year;
- t. Failure to convene an Admission, Review, and Dismissal Committee ("ARDC") meeting in August, 2009 per the Student's IEP;
- u. Failure to implement the Student's homebound services for the 2009-2010 school year; and
- v. Failure to implement the Student's speech services during the past school year.

Petitioner initially raised an issue of appropriate placement. Prior to the hearing date, the parties agreed that the Student requires homebound instruction, and Respondent is providing services in a homebound setting. Therefore, Petitioner withdrew both the placement issue and request for appropriate placement.

In addition, Petitioner requested an order that the one year statute of limitations does not apply as a result of the District's failure to provide copies of procedural safeguards at all required times.

#### Request for Relief

As relief, Petitioner requested an order that directs the District to do the following:

1. Provide the Student with an appropriate IEP;
2. Provide compensatory services in all areas of the Student's needs; and
3. Appropriately train District staff.

In addition, Petitioner requested an order that the one year statute of limitations does not apply as a result of the District's failure to provide copies of procedural safeguards at all required times.

#### Findings of Fact

1. Student is a \*\*\* year old \*\*\* who is eligible for special education and related services. Student was in \*\*\* grade when Student entered the District in the spring, 2005. Student resides within the geographical boundaries of the Hamshire Fannett Independent School District. The District is a member of the Gulf Coast Special Education Cooperative. The HFISD is responsible for providing FAPE to the Student.
2. When the Student enrolled in the District, Student's special education eligibilities were emotional disturbance ("ED") and speech impairment ("SI"). In reading, Student was working on a \*\*\* grade level. Student received speech, modifications for Student's mainstream classes, and BIP. The Parent acknowledged receipt of a copy of procedural safeguards on March 14, 2005. (Respondent's Exhibit Volume I-12, pages 1-28 and Vol. I-9, hereafter referred to as "R. Ex. Vol. \_\_-\_\_, pg. \_\_")
3. When the Student entered HFISD, Student had a history of anger outbursts and impulse control. Student's behavior was described as severe "clearing-the-class" kind of behaviors. Student experienced problems with transition in \*\*\* grade. Student's behavioral problems decreased as each year passed. In \*\*\* grade, the Student had two discipline referrals. (R. Ex. Vol. I-2, pgs. 1-2; Transcript Volume III, pages 149-150, 212-213, hereafter referred to as T. Vol. \_\_, pg. \_\_")
4. In 2003, \*\*\*, Ph.D. diagnosed the Student with Pervasive Developmental Disorder Not Otherwise Specified ("PDD-NOS"). Although Student exhibited some Attention Deficit Hyperactivity Disorder ("ADHD") symptoms, the private examiner did not render that diagnosis. (Petitioner's Exhibit Tab 1, pages 19-25, hereafter referred to as "P. Ex. \_\_, pg. \_\_")

5. In April, 2003, a second opinion was rendered by \*\*\*, Ph.D. who did not diagnose Student with PDD-NOS. Dr. \*\*\* did not believe that Student was a child on the autism spectrum. \*\*\* diagnosed Student with some form of attention deficit disorder (“ADD”), a speech/language disorder, and ED (disruptive behavior disorder). (P. Ex. 1, pgs.30-52; R. Ex. Vol. I-2, pgs.1-23)
6. In September, 2005, a review ARDC meeting was held to address the Student’s behavior. Another ARDC meeting was held in November, 2005 at which Student’s BIP was reviewed. The committee confirmed that Student’s IEPs were on a \*\*\* grade level. Invitations to both meetings were given to the Parent and each contained a printed statement that a full explanation of all procedural safeguards was included with the form. (R. Ex. Vol. I-18, pg. 10-11; R. Ex. Vol. I-20, pg. 9)
7. The Student’s annual ARDC meeting was held April 11, 2006 at which time Student was in \*\*\* grade. Student’s eligibilities were ED and SI. In addition to a printed statement regarding provision of procedural safeguards as appeared in prior invitations to meeting, the invitation to this meeting had an additional box that was checked and indicated that procedural safeguards were given to the Parent. The Parent did not attend the meeting. The Student’s behavior had improved in science and social studies classes. IEPs for the coming year in math were written on the \*\*\* grade level, and reading and written language IEPs were written on the \*\*\* and \*\*\* grade levels. Counseling goals included adaptive social skills. Related services for the Student included speech therapy and counseling. Accommodations and modifications were put in place. (R. Ex. Vol. I-22)
8. As part of a three year re-evaluation, a psychological evaluation of the Student, then a \*\*\* grader, was performed in May, 2006, by \*\*\*, Ph.D. Dr. \*\*\* diagnosed Student with Disruptive Behavior Disorder, and determined that Student continued to meet eligibility criteria for Emotional Disturbance (“ED”), and found little support for a diagnosis on the autism spectrum... \*\*\* saw no need for a BIP unless the Student’s behavior problems occurred with a relatively high frequency. He recommended a dyslexia evaluation. (P. Ex. 2, 110-114; R. Vol. I-23)
9. The District’s May, 2006 Full and Individual Evaluation of the Student, who was completing \*\*\* grade, reflected ED, Specific Learning Disabilities (“SLD”), and SI as the Student’s disabilities. Student’s full scale IQ was \*\*\* on the Wechsler Abbreviated Scale of Intelligence (“WASI”). Student’s achievement level was \*\*\* in applied problems, \*\*\* in calculation, \*\*\* in letter/word identification, \*\*\* in passage comprehension, and \*\*\* in writing samples. (R. Ex. Vol. I-23)
10. In the spring, 2005, on the Texas State Developed Alternative Assessment II (“SDAA”), the Student, who was in \*\*\* grade, was expected by Student’s ARDC to achieve, and did achieve, level \*\*\* in

- reading. Student was expected to achieve level \*\*\* in mathematics, and achieved level \*\*\*. (R. Ex. Vol. I-16).
11. In the spring, 2006, on the SDAA, the Student, then in \*\*\* grade, was expected to achieve, and did achieve, level \*\*\* in reading and in mathematics. (R. Ex. Vol. I-25)
  12. In the spring, 2007, on the SDAA, the Student, who was in \*\*\* grade, was expected to achieve level \*\*\* in reading. Student's achievement level was \*\*\*. Student was expected to achieve, and did achieve, level \*\*\* in math. (R. Ex. Vol. I-30)
  13. On September 25, 2006, the ARDC met to review the Student's SDAA scores and the May, 2006 psychological evaluation. There had been no behavioral concerns. (R. Ex. Vol. I-28, p. 14)
  14. In 2006, the District determined that Student was educationally dyslexic under Section 504. The dyslexia teacher indicated that she felt that the Student had "some sort of hearing processing problem." (P. Ex. 2. pgs. 58-63, 89-95; R. Ex. Vol. II-53, pg. 6). Dyslexia services in the HFISD are provided through the regular education program. (T. Vol. I, pp.74, 224; Vol. III, pgs. 273,274, 300)
  15. Near the end of Student's \*\*\* grade year, at Student's April 11, 2007 annual ARDC meeting, the Student's eligibility classifications were ED, SLD, and SI. As related services for the coming year, Student was to receive 30 minutes of speech, twice weekly, and 30 minutes of counseling, 18 times per year. Counseling goals included social skills, and speech goals included continued work on \*\*\*. Student's reading, written language, and math goals were written on \*\*\*and \*\*\* grade levels. Accommodations and modifications included positive reinforcers, modified tests/texts, highlighted texts, shortened assignments, peer tutoring, and behavior management plan.
  16. The April 11, 2007 ARDC documents reflect that the Parent received a copy of the revised Procedural Safeguards. The ARDC checked a box that indicated a FBA and BIP were to be completed although the comments indicated marked improvement in the Student's behavior. No FBA or BIP were completed. (R. Ex. Vol. I-29; P. Ex. 3; pgs.133-170)
  17. A review ARDC meeting was held September 26, 2007. The invitation to the meeting indicated that procedural safeguards were given to the Parent. The Student was in \*\*\* grade and receiving regular education dyslexia instruction. A BIP was addressed and the notes indicate that the Student's behaviors were being addressed through Student's modifications including a cooling off period and positive reinforcers. The Parent was concerned that the Student would take the "new" TAKS over \*\*\* grade curriculum. (P. Ex. 3, pgs. 174-186; R. Ex. Vol. I-32)
  18. On March 11, 2008, toward the end of Student's \*\*\* grade year, the Student's annual ARDC meeting was held. The invitation to the meeting indicated that procedural safeguards were given to the Parent.

Student's eligibilities continued to be ED, SLD, and SI. Student's behaviors were addressed through Student's modifications. Student was to receive speech twice weekly at 30 minutes each and 30 minutes of counseling 18 times per year. Counseling goals included social skills. Student almost completed Student's previous IEP goals and objectives in reading which were written on the third through sixth grade levels. Student was changed to the general education reading improvement class for the following year. IEPs were accepted in math, language arts, speech, and counseling. The Parent agreed to the decisions of the ARDC. ( P. Ex. 4; pgs. 187-204; R. Ex. Vol. I-33)

19. The student scored \*\*\* in reading and \*\*\* in math on the TAKS-M in the spring, 2008. (R. Ex. Vol. I-34)
20. The Parent was given a copy of procedural safeguards on November 3, 2008 and gave consent for the Student to be re-evaluated for speech. (R. Ex. Vol. I-36)
21. Beginning in October, 2008, the school counselor regularly checked the Student's assignment notebook. (T. Vol. III, pgs. 266-269)
22. For approximately six weeks during the Student's \*\*\* grade year, Student was erroneously assigned to a regular education mathematics class. (T. Vol. III, pgs. 272-273)
23. Due to parental concerns regarding the Student's academic progress in \*\*\* grade, a review ARDC meeting was held January 23, 2009. The invitation to the meeting indicated that the Parent was given a copy of procedural safeguards. The dyslexia class was explained to the Parent, and the Student's assignment notebook was being checked. The committee determined that the Student would have the dyslexia bundle for reading when Student took the TAKS-A and that Student would take the TAKS-M for math and writing. The committee added a new modification page. All members were in agreement. (R. Ex. Vol. I-40, pgs. 1-14)
24. In February, 2009, as part of a three year re-evaluation, a psychological evaluation of the Student was performed by \*\*\*, Ph.D. who diagnosed the Student with a Phonological Disorder, Reading Disorder, and suggested that Student might also meet 504 criteria for Other Health Impaired ("OHI") due to Student's Oppositional Defiant Disorder ("ODD") and Attention Deficit Hyperactivity Disorder ("ADHD"). She did not diagnose Student as ED. (P. Ex. 5, pp.260-273)
25. In approximately March, 2009, the Parent began requesting a FBA. The District began the FBA but did not complete it before the Student stopped attending school. (T. Vol. I, pg. 111)
26. On March 4, 2009, an annual ARDC meeting was held. The ARDC documents indicated that the Parent was given a copy of procedural safeguards. Dr. \*\*\*'s draft report was discussed. The committee required more information before making a final determination. The Student's eligibilities were ED,

- SLD in basic reading, and SI. The Student was reassigned to reading resource class since Student was struggling on all Student's tests in reading improvement class. IEPs were written for him in reading, language arts, math, and speech. The counselor recommended dismissal from counseling and recommended social skills class. The Parent wanted to wait on a decision regarding counseling until a final diagnosis was determined. Although there was no new counseling IEP, the schedule of services page reflected that the Student would continue to receive 30 minute counseling sessions, 18 times per year. Several modifications were put in place. The meeting ended in agreement. (R. Ex. Vol. I-45)
27. The District's April 6, 2009 Full Individual Evaluation ("FIE") reflected that the Student's grade equivalent in math ranged from \*\*\*. Student's grade equivalent in reading and language ranged from \*\*\* (Tr. Vol. III, pg. 316)
28. One month later, a three year review ARDC was held April 6, 2009. The ARD documents give no indication that procedural safeguards were given either at the meeting or included with the invitation to the meeting. The Student's eligibilities were specific learning disability in basic reading and speech impairment. The classification of ED was removed. The notes reflect that the Student had good social skills and did not need a BIP. What appears as a draft set of behavioral goals was attached to the ARD document along with a modification sheet that added a cooling off period for the Student. The Parent disagreed with Dr. \*\*\*'s final diagnosis and asked for another evaluation. (P. Ex. 5; pgs. 345-360; R. Ex. Vol. II-50)
29. The District agreed to an Independent Educational Evaluation ("IEE"). \*\*\*, Ed.D., performed the IEE and determined that the Student's learning difficulties met the entire criterion of Auditory Attentional Dyslexia. (R. Ex. Vol. II-54)
30. No prior written notice was given regarding the District's intention to remove the eligibility of ED.
31. On April 21, 2009, as a consequence of fighting, the Student and Parent elected that Student receive three swats in lieu of in school suspension. Student did not return to school after April 21. (T. Vol. III, pg. 54)
32. On Friday, May 8, 2009, following the swats given to the Student, Student's doctor, Dr. \*\*\*, diagnosed the Student with Post Traumatic Stress Disorder ("PTSD"), and recommended confinement to home and homebound services until June 10, 2009. The District received Dr. \*\*\*'s recommendation Monday, May 11.
33. On May 19, the District convened an ARDC meeting to address homebound services. The invitation to the meeting indicated that the Parent was given a copy of procedural safeguards. The meeting recessed to allow time for the District to gather more information. (R. Ex. Vol. II-55)

34. The ARDC reconvened on May 21, 2009. At the meeting, the ARDC reviewed Dr. \*\*\*'s new eligibility report that recommended confinement to home until June 10, 2010. The school principal proposed that homebound service begin, and the ARDC reconvene in August to set up a transition plan for the Student with the goal of re-entry to school for at least a half day by Christmas. The Parent agreed. The Student was to continue to receive Student's accommodations on all assignments with four hours per week of homebound services. If Student completed Student's work before the end of July, homebound services would end. Counseling services were to be discussed in August based on input from the Student's doctor and the Student's progress during Student's summertime sessions with the private therapist. The determination of services page of the ARD document did not include counseling or speech time. Invitations to both ARDC meetings indicated that procedural safeguards were given to the Parent. (R. Ex. Vol. II-55 and 58; T. Vol. III, pg. 342)
35. The last speech therapy session in the 2008-2009 school year was April 8, 2009. (R. Ex. Vol. II-67)
36. From August, 2008 through the fourth six weeks of the 2008- 2009 school year, the Student's reading improvement teacher did not know that Student was a special education student. The same teacher provided regular education dyslexia services to the Student during the 2008-2009 school year. (T. Vol. I, 162-169; 296)
37. Homebound services were provided during the summer, 2009 so that the Student could make up missed assignments since Student's last attendance day of April 21. The work that the Student did was determined by the homebound teacher. The Student was given grades for the final six weeks of the 2008-2009 school year. (R. Ex. Vol. II-58 and Vol. III-88)
38. At the beginning of the Student's \*\*\* grade year, an ARDC meeting was convened September 10, 2009 and a copy of procedural safeguards was provided to the Parent. Student's services included 900 minutes per week of homebound services, speech therapy for 30 minutes, twice weekly, and one-hour dyslexia sessions twice weekly beginning September 14. Audiology and speech evaluations were ordered. The ARDC accepted eligibility as LD/Dyslexia based on Dr. \*\*\*'s evaluation.
39. The September, 2009 ARDC also called for two hours of district- wide dyslexia awareness training for all parents, and agreed to provide 30 minutes per week of in- home training upon completion of an assessment, develop independent study skill IEPs, provide school training on bullying, and perform an AT assessment of the Student. The committee required the dyslexia teacher to develop the Student's dyslexia IEP within 10 days and visit the family to review the curriculum. The ARDC agreed to defer removal of eligibility of ED until the next meeting.



40. At the beginning of the 2009-2010 school year, the District failed to provide the Student with 15 hours of homebound services. (R. Ex. Vol. III-102)
41. An AT assessment was completed in September, 2009. The evaluator recommended software and a laptop, Classmate Reader, hi-lighter tape, visual schedules and use of speech to text in Microsoft word, as well as training for the Student's educational support staff, as needed. (R. Vol. III-107)
42. The District completed a dyslexia assessment in September, 2009. As \*\*\* grader, the assessment indicated that the Student could read \*\*\* grade passages at a fluency of \*\*\* words per minute. Student's independent/instructional reading level was \*\*\* grade. Student scored \*\*\* on a nonsense word spelling test that was on an approximate \*\*\* grade level. (R. Ex. Vol. III-105)
43. In the fall, 2009, the District proposed counseling and in home training which was rejected by the Student's private counselor, Dr. \*\*\*. (P. Ex. 6, pg. 436-deposition cd; T. Vol. III, pgs. 280-281)
44. The October, 2009 auditory processing evaluation revealed that Student has an auditory processing disorder related to auditory decoding with signs of tolerance fading memory. An individual with auditory decoding problems show signs of difficulties with receptive language, developing a receptive vocabulary and understanding verbal concepts. Problem areas are in reading, word accuracy, sounding out words, phonics, and spelling. An individual with tolerance fading memory will show problems in reading comprehension, memory, understanding in noise, and attention. (R. Ex. Vol. III-112)
45. With the exception of the Student's math IEP, during the IEP dates April 5, 2007 –April 4, 2008, Student's IEPs reflect that regular progress was recorded on the IEPs. Progress reports are sent home with the students. (R. Ex. Vol. I-33; T. Vol. I, pg. 259)
46. During Student's years at HFISD, the Student has received passing report card grades. (R. Ex. Vol. I-26, 31, 35; Vol. II-64).

#### Standard of Review

A petitioner who challenges the school district's eligibility determination or offer of services under the IDEA bears the burden to prove that the child has been denied a FAPE. *Tatro v. State of Texas*, 703 F.2d 832 (5<sup>th</sup> Cir. 1983), *aff'd*, 468 U.S. 883 (1984); *Schaffer v. Weast*, 126 U. S. 528 (2005).

Public school districts must comply with the IDEA procedures for identifying children with disabilities who need special education, and delivering appropriate services as necessary to provide a free and appropriate public education (FAPE). The educational program must be meaningful, and reasonably calculated to produce progress as opposed *de minimis* advancement. 20 U.S.C. § 1412(a)(1); *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, 189 (1982); *Cypress Fairbanks Independent School District v. Michael F.*, 118 F.3d 245 (5<sup>th</sup> Cir. 1997).

### Statute of Limitations

In the second request for due process hearing, Petitioner requested an order that the one year statute of limitations does not apply as a result of the District's failure to provide copies of procedural safeguards at all required times. If a finding is made that the Parent was prevented from requesting a due process hearing because the District withheld information from the Parent that was required under 20 U.S.C. §§ 1411-1419, the Texas one year statute of limitations would not apply. 19 Tex. Admin. Code § 89.1151

A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents —

- (1) Upon initial referral or parent request for evaluation;
- (2) Upon receipt of the first State complaint and upon receipt of the first due process complaint under § 300.507 in a school year;
- (3) In accordance with the discipline procedures in §300.530(h); and
- (4) Upon request by a parent. 20 U.S.C. § 1415; 34 C.F.R. § 300.504.

Based on the evidence presented at hearing, I do not find that the District withheld information from the Parent that was required under the IDEIA. The one year statute of limitations applies, and for purposes of this decision, I find that the one year statute of limitations bars any recovery for the District's actions or omissions occurring prior to May 21, 2008.

### Measurable Goals and Objectives

A special education student must have an IEP that includes a statement of measurable annual goals, including academic and functional goals, designed to meet the child's individual needs to enable him/her to be involved in and make progress in the general education curriculum. For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives are required. The IEP must include how the child's progress toward meeting the annual goals will be measured, and when periodic reports on the progress the child is making toward meeting the annual goals will be provided. 34 C.F.R. § 300.320.

The first set of IEP goals and objectives that must be considered are dated March 11, 2008. Strengths and weaknesses were considered, and IEPs were written in the areas of language arts, math, speech, and counseling. Each IEP was specific and understandable. Each IEP described how progress would be evaluated, and provided a criteria for mastery of each objective. Progress reports were to be provided each six weeks. Although Petitioner questioned the absence of a grade level in the math IEP and the inclusion of grade levels \*\*\* in the written language IEP, the IEPs contained specific grade levels with each objective. Reading each IEP in its entirety, I find that the goals and objectives were measurable. Petitioner failed to carry Student's burden of proof regarding this issue.

### Development/Implementation of a Functional Behavior Assessment and Behavior Improvement Plan

During the relevant time period, the Student's behavior was not of such degree as to require a FBA or BIP. . Student had two or three office referrals during Student's \*\*\* grade year. Despite that, Student's conduct grades were good and Student's teachers saw no need for a BIP. The IDEIA requires a District to conduct a FBA and prepare a BIP only when there is a change of placement for disciplinary reasons. 34 C.F.R. § 300.530. Student's placement was not changed for disciplinary reasons; thus, no FBA or BIP were necessary.

### Plan for Teaching Social Skills

Dr. \*\*\*, the Student's longtime doctor, testified that Student has had social skills deficits as long as he has known him. The school counselor recommended a social skills classroom setting with peers rather than counseling on a one-to-one arrangement. The ARDC took no action on the counselor's recommendation due to the Parent's wish to postpone a decision. After the requests for due process hearing, the District agreed to discuss social skills training with the Student's private counselor, Dr. \*\*\*. The record indicates that those efforts have been thwarted by Dr. \*\*\*. At the time of hearing, no plan for teaching social skills had been devised. Despite the complications that have arisen recently, Respondent continues to have an obligation to devise an appropriate IEP for the Student. In light of the inaction of the ARDC in this respect, I find that Petitioner carried Petitioner's burden of proof regarding this issue.

### Dyslexia

The Student's eligibility for special education did not include dyslexia until the September 10, 2009 at which time the ARDC accepted eligibility as Learning Disabled ("LD")/dyslexia. Since September 10, 2009, dyslexia services were put in place and Student receives dyslexia training 30-60 minutes, twice weekly at Student's home. Student's teacher is a Neuhaus Education Center trained teacher. The evidence supported daily dyslexia training as an ideal situation, but Petitioner failed to prove that the District had a legal obligation to provide such services on a daily basis, or that the Student's current dyslexia training was deficient.

For the applicable time period until September 10, 2009, while the Student received dyslexia training through the regular education program, the issue of failure to develop an appropriate plan that addressed the Student's dyslexia is outside the jurisdiction of this hearing officer. Since that time, the evidence supports a finding that the District provided an appropriate dyslexia program to the Student.

## Refusal of Requested Parent Training and In-Home Training

Parent training is a related service such as counseling and transportation that may be required to assist a child with a disability to benefit from special education. 34 C.F.R. § 300.34. Although the Parent made requests for suggestions and software ideas that she could use with Student at home, there is no evidence that she requested in-home training at the ARDC meetings. There is evidence that the Student's teachers responded to the Parent's numerous emails with their suggestions, strategies, and website suggestions. One teacher suggested that the Parent "google" dyslexia and get information. The same teacher also sent strategies that she used in the classroom that the Parent could implement at home. Petitioner failed to present sufficient evidence that such training is necessary and that the District refused to provide requested in-home and parent training or that there was an identified or identifiable educational need exhibited by the Student for such training. *Student v. Houston ISD*, TEA Dkt. No. 183-SE-0406 (December 6, 2006).

### Failure to Implement IEP including Assignment Notebook, Behavior Interventions, Agreed-upon Dyslexia Services

As noted in the above Findings of Fact, the assignment notebook was checked regularly and behavior modifications were in place during the applicable time. As above stated, this hearing officer has no jurisdiction over general education dyslexia services. The Petitioner failed to carry Petitioner's burden of proof on this issue.

### Autism Supplement

Although in earlier years, the Student was diagnosed with PDD-NOS, later diagnoses ruled out that disability. Because the Student is not identified as a student on the autism spectrum, incorporation of the autism supplement into the Student's services is not required.

### Staff Training

The evidence supports a finding that the District staff members who worked with the Student were adequately prepared and trained, and had the content knowledge and skills to serve him. Petitioner failed to carry Petitioner's burden of proof on this issue.

### Appropriate Counseling Services

Counseling services were not provided after April 21, 2009, the date the Student stopped attending school. Prior to that time, the Student received appropriate counseling for Student's needs and progressed to such a degree that the counselor recommended dismissal and assignment to a social skills class in lieu of one-to-one counseling. Any failure to provide counseling through the end of the 2008-2009 school year was *de minimis*. The Student's private counselor, Dr. \*\*\*, has responded unfavorably to counseling services by District staff. The District offered to provide counseling services by Dr. \*\*\* and to obtain input for counseling objectives from Dr. \*\*\*. The record is unclear whether the Parent accepted the offer.

### Extended School Year Services

The term extended school year services means special education and related services that are provided to a child with a disability beyond the normal school year of the public agency. 34 C.F.R. § 300.106. When considering a failure to provide ESY, the issue is whether the benefits accrued to a child during the regular school year would have been significantly jeopardized if Student was not provided an educational program during the summer months. *Alamo Heights Independent School District v. State Board of Education*, 790 F.2d. 1153 (5<sup>th</sup> Cir. 1986). It is incumbent upon Petitioner to demonstrate, in a particularized manner relating to the Student, that ESY is necessary to avoid something more than adequately recoupable regression. *Cordrey v. Euckert*, 917 F.2d 1460, 1473 (6<sup>th</sup> Cir. 1990).

Petitioner failed to present evidence that the benefits that Student received during the regular school year were significantly jeopardized by the absence of a summer program in 2008. He received ESY in the summer, 2009.

### Assistive Technology

An assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. 34 C.F.R. § 300.5. While the Petitioner presented evidence that the District failed to assess and address the Student's AT needs, he failed to present sufficient evidence that Student needs assistive technology to access the educational curriculum. The District's diagnostician testified that she did not believe that Student needed an AT evaluation. The fall, 2009 assessment was offered and conducted in an effort to placate the Parent.

### Parent Visits to Student Classroom

The only evidence that Petitioner presented on this issue was the Parent's testimony that Parent asked the diagnostician about sitting in the Student's classroom and the response was, "I don't think they're going to let you do that." The Parent gave no indication that Parent asked any of the Student's teachers about visiting the classroom. In fact, Parent gave no further testimony regarding this issue. Petitioner failed to prove that the Respondent did not allow Parent to visit the Student's classroom.

### Changes to IEP and Services Without Informing Parent

For the first six-weeks of the school year 2008-2009, the Student was assigned by mistake to a regular education math class rather than a resource math class as required by Student's IEP. The Student was struggling in math, and, subsequently, the Parent discovered the mistake and informed the District. During the course of that six-week period, the Student's IEP requiring him to be in math resource class was not implemented. Consequently, the Student's IEP was changed and the District, being unaware of its error, did not inform the Parent.

### Prior Written Notice

Prior written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. 34 C.F.R. § 300.503.

While it is clear that the Parent actively participated in most of the Student's ARDC meetings, and discussed dyslexia services, a BIP, and other services, the record does not support a finding that Parent requested and was refused changes in any services or programming. Under the circumstances, prior written notice was not required.

No prior written notice was provided prior to the District's proposal to change the Student's identification as a child with an ED. Petitioner's pleading was specific and did not include this issue. Regardless, the District's failure to provide prior written notice when it intended to drop the eligibility of ED is *de minimis* since the September, 2009 ARDC deferred the ED eligibility issue until its next meeting.

### Protection from Bullying by Other Students

The Parent believed that the Student was bullied by other students. Parent spoke with the counselor who investigated an incident and concluded that what the Parent perceived as bullying was “more of a taking on each other type thing.” Petitioner failed to provide sufficient evidence to support this issue.

### Provision of Procedural Safeguards

The evidence supports a finding that procedural safeguards were provided to the Parent at least one time a school year as required by the IDEIA. The IDEIA requires a District to provide a copy of procedural safeguards upon the receipt of the first due process complaint in a school year; however, Petitioner presented no evidence that speaks to that requirement; thus, Petitioner failed to carry Petitioner’s burden of proof regarding this issue.

### Failure to Implement the May 21, 2009 IEP during the Summer, 2009

The term extended school year services means special education and related services that are provided to a child with a disability beyond the normal school year of the public agency. 34 C.F.R. § 106. Homebound service denotes the location at which a Student receives special education instruction as an alternative placement. 34 C.F.R. § 300.115.

Petitioner mistakenly argues that Student’s May 21, 2009 IEP calls for 120 minutes of homebound per week plus four hours of ESY, or a total of six hours of instruction. The schedule of services page of the ARDC document reflects “homebound” as the Student’s placement and requires services in the amount of 120 minutes per week. The ARDC notes indicate that the Student was to receive four hours per week of homebound services during the specified summer months. Undeniably, there could be confusion about the amount of time the Student was to receive services, but the confusion would be whether Student was to receive 120 minutes or four hours of instruction, not a total of six hours. Petitioner does not argue that Student did not receive four hours, but that Student did not receive six hours.

In keeping with the ARDC documents, the Student received services at his home during the summer and made up the assignments that Student had missed during the last six weeks of school. Student received grades for that grading period. The May 21, 2009 schedule of services does not provide for speech or counseling. The notes indicate that the Parent would meet with the speech therapist to discuss a horn system that had been agreed upon. The Student was to use the system over the summer. Petitioner failed to present sufficient evidence to find that the District failed to implement the May 21, 2009 IEP during the summer, 2009.

As confusing as the documents may be in regard to the Student's summer services, Petitioner failed to prove that Student's IEP was not implemented.

#### Counseling Services During the 2008-2009 School Year

Petitioner was to receive counseling services during Student's \*\*\* grade year in the amount of 18 sessions. Petitioner refused to attend school after April 21, 2009, and complains that Student did not receive all 18 sessions. Respondent did not dispute Petitioner's allegation. The Student had a need for social skills instruction, whether Student received it via a social skills class or one-to-one counseling. Student's current IEP supports that need by continuing to require counseling as a related service for this year.

#### Failure to Convene an ARDC Meeting in August, 2009

The May, 2009 ARDC notes reflect that the principal "proposed" that the committee reconvene in August to set up a transition plan for Petitioner. The evidence is clear that the District attempted to hold the August meeting, but was unable to do so because of calendar conflicts of the parties' legal counsel. The meeting was held September 10, 2009. Petitioner's evidence failed to support this issue.

#### Implementation of Homebound Services for the 2009-2010 School Year

The Respondent acknowledged that it did not provide 15 hours of homebound services at the beginning of the 2009-2010 School Year.

#### Speech Services During the 2008-2009 School Year

The Student was to receive speech twice weekly during the 2008-2009 school year. The last documented speech session with the Student was April 8, 2009.

#### Provision of FAPE

Public school districts must comply with the IDEA procedures for identifying children with disabilities who need special education, and delivering appropriate services as necessary to provide a free and appropriate public education (FAPE). 20 U.S.C. §1412(a)(1); *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, (1982); *Cypress Fairbanks Independent School District v. Michael F.*, 118 F.3d 245 (5<sup>th</sup> Cir. 1997).

Because the question of a denial of FAPE is at the heart of this due process matter, attention is directed to the requirements of FAPE as those requirements are applied to the evidence. The Fifth Circuit has further defined a free appropriate public education by delineating four factors to consider as indicators of whether an educational plan is reasonably calculated to provide the requisite benefits: 1) Is the educational program individualized on the basis of the child's assessment and performance; 2) Is the program administered in the least restrictive environment; 3) Are the services provided in a coordinated and collaborative manner by the key



stakeholders; and 4) Are positive academic and non-academic benefits demonstrated? *Cypress Fairbanks*, 118 F.3d at 253.

#### Is the Educational Program Individualized on the Basis of the Child's Assessment and Performance

In May, 2006, the District performed an assessment of the Student's educational performance levels. Applied problem grade equivalent was \*\*\*, calculation was \*\*\*, letter word identification was \*\*\*, passage comprehension was \*\*\*, and writing samples was \*\*\*. In April, 2007, the ARDC committee wrote Student's reading, language arts and math goals and objectives on a \*\*\* and \*\*\* grade level. The ARDC reviewed Student's progress and all members agreed to the decisions. The Student was finishing Student's \*\*\* grade year.

In March, 2008, in preparation for the Student's \*\*\* grade year, the ARDC wrote the majority of Student's language arts objectives for the coming year on a \*\*\* grade level, and included some on the \*\*\* grade level. The majority of Student's math objectives were on the \*\*\* and \*\*\* grade level. Student's math teacher reported that Student was working on many grade level objectives. The committee agreed that Student would try the reading improvement class the next year.

A three year re-evaluation was performed in early 2009. Information was gathered from the Parent, and Student's teachers. The Woodcock-Johnson III was used to assess achievement, and a psychological evaluation was performed by Dr. \*\*. Report cards were reviewed. Reports were given at the March, 2009 ARDC meeting, and Student was reassigned to a resource reading class. The ARDC wrote new IEPs for Student in math, language arts, reading, and speech. The counselor recommended that Student receive social skills class in lieu of one-to-one counseling. No final determination was made since the Parent wanted to wait for further information.

Based on the credible evidence, Petitioner did not carry Petitioner's burden of proving that Student's educational program was not individualized on the basis of assessment and performance. The first prong of the test for FAPE was satisfied.

#### Is the Program Administered in the Least Restrictive Environment

Petitioner does not argue that the Student's placement is not the LRE. While a \*\*\* grader, Student received 90 minutes of instruction in special education class. The remainder of Student's day was in general education... Due to PTSD, the Student's doctor prescribed homebound services until June, 2010. The parties agreed that currently, the Student's proper placement is homebound, and neither requests a determination of LRE. Based on the evidence presented, I find that the second prong of the test for FAPE was satisfied.

Are the Services Provided in a Coordinated and Collaborative Manner by the Key Stakeholders

For the first six weeks of the Student's \*\*\* grade year, Student was placed erroneously in a regular education math class in contravention of Student's IEP which called for special education math class. It was not until the Parent called attention to District staff that the mistake was discovered and corrected. During that time, Student's math IEP was not implemented.

From the beginning of Student's \*\*\* grade year and continuing through the 4<sup>th</sup> six weeks, Student was in a reading improvement class. Student's teacher did not know that Student was a special education student. Since she was not informed of Student's disabilities, she did not know that Student had several modifications and accommodations in place to be used in reading. Student's modifications included checking for understanding, positive reinforcement, setting defined limits where behavior is concerned, checking assignment notebook, oral directions, and providing correctly completed examples.

The Coop Special Education Director testified that the Parent wanted a FBA performed and a BIP developed, and the District saw no indicators of behavior that would trigger the FBA. The parent brought up the subject several times until Parent "had finally worn us down." The FBA process began in early April, 2009 and three teachers completed teacher interviews. The process was not completed before the Student stopped attending school. The ARDC documents prior to the beginning of the FBA make no mention of an agreement to conduct the assessment.

When the 2009-2010 school year began, the District did not provide homebound services for approximately one week, or the equivalent of 15 hours. The September 10 ARDC acknowledged the lapse in services and was to prepare a proposal to address the issue within two weeks; however, at the time of hearing, the 15 hours had not been addressed.

In 2006, when the Student was screened for dyslexia services, the teacher indicated that Student appeared to have a hearing processing problem. There is no evidence that the teacher's concerns in 2006 were discussed or considered until the September 10, 2010 ARDC meeting when the committee agreed to have an audiology evaluation done.

After the Respondent started dyslexia services in the fall, 2010, Student's teachers were changed. As a result, Student did not receive dyslexia services for a week. To date, counseling services have not begun, albeit Petitioner's private counselor's reticence to cooperate with planning Student's program has been a factor.

Failure to communicate and collaborate among school staff can contribute to a denial of FAPE. *Houston Independent School District v. Juan and Sylvia P.* 566 F.3<sup>rd</sup> 459 (5<sup>th</sup> Cir. 2009). The third prong of the test for FAPE was not satisfied.

### Are Positive Academic and Non-Academic Benefits Demonstrated

The Student made passing grades during the applicable time period, and was promoted from grade to grade. District staff testified that Student had made academic progress. Although Student's math skills reflect improvement, Student remains at the \*\*\* and \*\*\* grade level in reading and language skills when given standardized achievement tests. The evidence shows that Student can read on the \*\*\* grade level, particularly when it is something that Student really enjoys. Student passed the TAKS \*\*\* grade reading and math tests at the end of Student's \*\*\* grade year. During \*\*\* grade, Student read successfully at \*\*\* grade level in *Cirque du Freak* book series. Presently, Student reads independently at \*\*\* grade level. In other words, the Student has remained on a \*\*\* grade reading level for the past year. The \*\*\* prong of the test for FAPE was not satisfied by Respondent.

The test for the provision of FAPE requires that all four prongs are met in order to find that the educational plan was reasonably calculated to provide the requisite benefits. If so, FAPE was provided. If a district does not meet one or more of the prongs, then a finding that FAPE was not provided is made. In this matter, FAPE was not provided by the Respondent.

It should be noted that, at the September 10, 2009 ARDC meeting, the District commendably offered numerous services to the Student and Parent.

### Conclusions of Law

1. Student is eligible for special education and related services under the IDEIA, and the Hamshire-Fannett Independent School District is the local education agency responsible for providing those services to him. 20 U.S.C. § 1400 *et seq.* and its implementing regulations.
2. Hamshire-Fannett Independent School District's educational program is entitled to a legal presumption of appropriateness. *Tatro v. State of Texas*, 703 F.2d 832 (5<sup>th</sup> Cir. 1983), *aff'd*, 468 U.S. 883 (1984); The Petitioner has the burden of proving that Student's special education program was not appropriate, or that the District did not comply with the procedural requirements of the IDEIA and denied him FAPE. *Schaffer v. Weast*, 126 U. S. 528 (2005). Petitioner met Petitioner's burden of proof. During the applicable time period, Respondent's educational program for the Student, was not appropriate and denied him FAPE.

### Order

Based upon the record of this proceeding and the foregoing Findings of Fact and Conclusions of Law, Respondent is ordered to take the following actions:

1. Convene an Admission, Review, and Dismissal Committee meeting at the earliest practicable time to put in place a specific, timely plan for the provision of the following:

- a. Compensatory services in the amount of 15 hours of homebound services;
- b. Compensatory speech therapy services in the amount of time that was not provided after April 8, 2009 through the end of the 2008-2009 school year;
- c. Compensatory dyslexia services in the amount of one week per the Student's IEP;
- d. Compensatory services to address the Student's reading deficits in a total amount of three hours per week for one school year; such services may be in reading tutoring or dyslexia services, or both, at the discretion of the ARDC, and may span the course of two years' time, if necessary for scheduling purposes;
- e. Prompt completion of all services offered in the September 15, 2009 ARDC meeting including review of Lamar University auditory and speech evaluations, and revision, if needed, of speech therapy goals; provide dyslexia awareness training to District parents; adopt an appropriate dyslexia IEP immediately; complete and begin in home training/parent training; develop independent study skill IEP; provide school training on issue of bullying; consider results of assistive technology evaluation and determine need, if any, for assistive technology; in cooperation with Dr. \*\*\*, provide make-up counseling services; communicate with Dr. \*\*\* regarding counseling with pertinent staff members and the family regarding anxiety related to return to school and provide such training timely, development of a transition plan for the Student's re-entry onto District campus, and development of social skills training for the Student;
- f. In cooperation with Dr. \*\*\* consider provision of homebound services in a setting with fewer distractions;
- g. Develop a plan for communication and collaboration between District staff regarding the implementation of the Student's education program; designate an individual responsible for coordination of the plan, including reports to the Parent as contemplated in the September 10, 2009 ARDC agreement; and
- h. Devise a schedule for completion of this order that includes specific, timely completion dates and designates individuals who are responsible for ensuring that the completion dates are met.

All other relief not specifically granted is hereby DENIED.

The district shall timely implement this Decision within 10 school days in accordance with 19 T.A.C. §89.1185(q) and 34 C.F.R. §300.514. The following must be provided to the Division of **Special Education Programs and Complaints** at the Texas Education Agency and copied to the Petitioner within 15 school days

from the date of this Decision: 1.) Documentation demonstrating that the Decision has been implemented; or 2.) If the timeline set by the Hearing Officer for implementing certain aspects of the Decision is longer than 10 school days, the district's plan for implementing the Decision within the prescribed timeline, and a signed assurance from the superintendent that the Decision will be implemented.

Finding that the public welfare requires the immediate effect of this Final Decision, the Hearing Officer makes it effective immediately.

**SIGNED** on the 31<sup>st</sup> day of January, 2010.

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Brenda Rudd  
Special Education Hearing Officer  
For the State of Texas

**NOTICE TO THE PARTIES**

The decision issued by the hearing officer is final, except that any party aggrieved by the findings and decision made by the hearing officer, or the performance thereof by any other party, may bring a civil action with respect to the issues presented at the due process hearing in any state court of competent jurisdiction or in a district court of the United States. A civil action brought in state or federal court must be initiated not more than 90 days after the date the hearing officer issued his or her written decision in the due process hearing. 20 U.S.C. §§1415(i)(2) and (3)(A) and 1415(l).

DOCKET NO. 233-SE-0509  
AND  
DOCKET NO. 305-SE-0809

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

SYNOPSIS

**Issue Number 1:** Whether the District denied Petitioner FAPE through its failure to devise and/or implement an appropriate Individualized Education Program (“IEP”)  
**Held:** For the Student.  
**Citation:** 34 C.F.R. §§ 300.17, 300.324; *Tatro v. State of Texas*, 703 F.2d 832 (5<sup>th</sup> Cir. 1983), *aff’d*, 468 U.S. 883 (1984); *Schaffer v. Weast*, 126 U. S. 528 (2005)

**Issue Number 2:** Whether the one year statute of limitations should apply  
**Held:** For the School District  
**Citation:** 34 C.F.R. § 300.507; 19 Tex. Admin. Code 89.1151

**NOTE: The following items were pled as sub-issues of Issue Number 1:**

**Issue Number 3:** Whether the District failed to write measurable goals and objectives in Petitioner’s IEPs  
**Held:** For the School District  
**Citation:** 34 C.F.R. § 300.320

**Issue Number 4:** Whether the District failed to develop and implement an appropriate Functional Behavior Assessment (“FBA”) and Behavior Improvement Plan (“BIP”)  
**Held:** For the School District  
**Citation:** 34 C.F.R. § 300.530

**Issue Number 5:** Whether the District failed to develop an appropriate plan for teaching the Student social skills  
**Held:** For the Student  
**Citation:** 34 C.F.R. § 300.320

**Issue Number 6:** Whether the District failed to develop an appropriate plan that addressed the Student’s dyslexia by use of peer-reviewed, scientifically based instructional methods to address Petitioner’s learning disability in reading or that followed the requirements of the Dyslexia Handbook  
**Held:** For the School District

**Citation:** 34 C.F.R. § 300.320

**Issue Number 7:** Whether the District failed to address parent training and in-home training despite requests from the Parent

**Held:** For the School District

**Citation:** 34 C.F.R. §300.34

**Issue Number 8:** Whether the District failed to implement the Student's IEP, including the assignment notebook, behavior interventions, and to begin agreed-upon dyslexia services at the beginning of the 2008-2009 school year

**Held:** For the School District

**Citation:** 34 C.F.R. §300.320

**Issue Number 9:** Whether the District failed to incorporate the autism supplement into the Student's services

**Held:** For the School District

**Citation:** 34 C.F.R. § 300.8

**Issue Number 10:** Whether the District failed to appropriately train teachers and staff who worked with the Student

**Held:** For the School District

**Citation:** 34 C.F.R. §300.156

**Issue Number 11:** Whether the District failed to provide appropriate counseling services to the Student

**Held:** For the School District

**Citation:** 34 C.F.R. § 300.34

**Issue Number 12:** Whether the District failed to provide Extended School Year services

**Held:** For the School District

**Citation:** 34 C.F.R. § 300.106

**Issue Number 13:** Whether the District failed to assess and address the Student's assistive technology needs

**Held:** For the School District

**Citation:** 34 C.F.R. §300.324

**Issue Number 14:** Whether the District disallowed the Parent from visiting the Student's classroom

**Held:** For the School District

**Citation:** 34 C.F.R. § 300.507

**Issue Number 15:** Whether the District failed to give progress reports in the Student's IEP goals and objectives at least as frequently as regular education students received grade reports

**Held:** For the School District

**Citation:** 34 C.F.R. § 300.320

**Issue Number 16:** Whether the District made a change to the Student's IEP and services without first informing the Parent

**Held:** For the Student

**Citation:** 34 C.F.R. § 300.324

**Issue Number 17:** Whether the District failed to provide prior written notice when denying the Parent's request for changes in services and programming

**Held:** For the School District

**Citation:** 34 C.F.R. § 300.503

**Issue Number 18:** Whether the District failed to protect the Student from bullying by other students

**Held:** For the School District

**Citation:** 34 C.F.R. § 300.1

**Issue Number 19:** Whether the District failed to give notice of procedural safeguards to Petitioner's parent at any point in the past until May, 2009

**Held:** For the School District

**Citation:** 34 C.F.R. § 300.504

**Issue Number 20:** Whether the District failed to implement the Student's May 21, 2009 IEP during the 2009 summer months

**Held:** For the School District

**Citation:** 34 C.F.R. § 300.320

**Issue Number 21:** Whether the District failed to provide 18 times per year of counseling Services during the past school year

**Held:** For the Student

**Citation:** 34 C.F.R. § 300.320

**Issue Number 22:** Whether the District failed to convene an Admission, Review and Dismissal Committee meeting in August, 2009 per the Student's IEP

**Held:** For the School District

**Citation:** 34 C.F.R. § 300.320

**Issue Number 23:** Whether the District failed to implement the Student's homebound services for the 2009-2010 school year

**Held:** For the Student

**Citation:** 34 C.F.R. § 300.320

**Issue Number 24:** Whether the District failed to implement the Student's speech services during the past school year

**Held:** For the Student

**Citation:** 34 C.F.R. § 300.320



