

**BEFORE A SPECIAL EDUCATION HEARING OFFICER  
STATE OF TEXAS**

**STUDENT, bnf  
PARENT,  
Petitioner,**

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v.

**DOCKET NO. 306-SE-0813**

**HOUSTON INDEPENDENT  
SCHOOL DISTRICT,  
Respondent.**

**DECISION OF THE HEARING OFFICER**

Introduction

Petitioner, Student bnf Parent (“Petitioner” or “the Student”) brings this action against the Respondent Houston Independent School District) (“Respondent,” or “the school district” or “HISD”) under the Individuals with Disabilities Education Improvement Act, as amended, 20 U.S.C. § 1401 et. seq. (IDEA) and its implementing state and federal regulations.

Party Representatives

Petitioner was represented throughout this litigation pro se by petitioner’s mother \*\*\* (the Student’s mother). Respondent was represented throughout this litigation by its legal counsel Hans Graff, Deputy General Counsel for HISD.

Resolution Session and Mediation

The school district did not convene a Resolution Session by the deadline of September 14, 2013. The parties did not attempt mediation.

Procedural History

The Student filed student’s request for a due process hearing (Petitioner’s Complaint) on August 29, 2013. This case has its genesis in a previous due process hearing under Docket No. 098-SE-1212 – with the school district as a Co-Respondent with a Houston area charter school (the prior case). The school district filed a Motion to Dismiss in the prior case. An evidentiary hearing on the Motion was conducted on March 26, 2013. Written closing arguments were submitted by April 15, 2013. An Order dismissing the school district from the prior case was issued on May 15, 2013. I therefore take judicial notice of the Order on Motion to Dismiss in the prior case and it is incorporated for all purposes into this Decision. *Tex. R. Evid. 201*.

The initial prehearing telephone conference in this case was conducted on September 30, 2013. There is no dispute the school district failed to convene a Resolution Session with the Student’s mother by the September 14, 2013 due date. When a school district fails to convene a Resolution Session in a timely manner the parent may seek the intervention of the hearing officer to begin the due process hearing timeline. *34 C.F.R. § 300.510 (b) (5)*.

A final decision in a due process hearing is due no later than 45 days from the end of the 30 day informal resolution period. *34 C.F.R. § 300.515*. On September 25, 2013 the Student’s mother submitted a request to the hearing officer to begin the due process hearing timeline due to the school district’s failure to convene the Resolution Session. The 30 day informal resolution period ended on that date. Therefore, the 45 day decision due date was

adjusted accordingly to November 9, 2013.

The due process hearing was conducted on October 23, 2013. The Student continued to be represented pro se by student's mother. The school district continued to be represented by its legal counsel Hans Graff, Deputy Counsel for HISD, assisted by his co-counsel Izzy Anderson, Assistant General Counsel for HISD. \*\*\*, appeared as the party representative at the due process hearing.

At the conclusion of the due process hearing the Student's mother requested an opportunity to submit a written closing argument and to extend the November 9, 2013 Decision deadline. The school district agreed with those requests. The parties selected mutually agreeable dates to submit the written closing arguments and to an extension of the Decision due date.

However the next day the Student's mother withdrew the request for an extension of the 45 day deadline. Therefore the decision due date reverted back to the November 9<sup>th</sup> deadline. The request required adjusting the date for submission of the written closing arguments so the hearing officer would have time to review those arguments and meet the adjusted 45 day decision deadline. An Order was issued on October 25, 2013 setting November 5, 2013 for the submission of written closing arguments and confirming the November 9, 2013 Decision due date. Petitioner did not submit a written closing argument. Respondent submitted its written closing argument and brief on November 5, 2013.

### Issues

The issues submitted by the Student for decision in this case are:

1. Whether the school district failed to enroll the Student at student's home campus for the current 2013-2014 school year;
2. Whether the school district failed to provide the Student with an opportunity to visit school district charter schools for the purpose of selecting an appropriate school for the 2013-2014 school year; and,
3. Whether the school district failed to comply with its "Child Find" obligations under the Individuals with Disabilities Education Act (IDEA) for the 2013-2014 school year.

The school district submitted the following additional issues for decision in this case:

4. Whether the Student's mother has a legal right to an Independent Educational Evaluation (IEE) at school district expense and whether the Student has the right to pursue any claims in a due process hearing under the IDEA. The school district contends the Student does not have the legal right to pursue any claims under IDEA because student is no longer eligible for special education due to lack of parental consent and cooperation with a re-evaluation.

### Relief Requested

The Student's requests for relief are as follows:

1. An order directing the school district to comply with its "Child Find" duties under the IDEA;
2. An order directing the school district to provide the Student with an IEE including specifically, a psycho-neurological, academic and achievement testing, and a psychological evaluation;
3. Placement at an educational setting that reflects the recommendations of the IEE; and,

4. Compensatory educational services in the form of individual tutoring before or after school that addresses areas that need attention as identified by the IEE.

The school district requests dismissal of all of the Student's claims.

#### Findings of Fact

1. The Student was identified as eligible for special education services as a student with an emotional disturbance impairment in \*\*\* grade. (Respondent's Exhibit 2, referred to hereafter as "R. Ex. \_\_\_"). The Student was re-evaluated in \*\*\* grade and continued to meet eligibility as a student with an emotional disturbance while continuing to attend school within HISD. (R. Ex. 4).
2. In \*\*\* grade during the 2009-2010 school year the school district re-evaluated the Student using a Review of Existing Evaluation Data (REED). The Student continued to be eligible for special education as a student with an emotional disturbance. (R. Ex. 6). The three year re-evaluation was due March 10, 2013. (R. Ex. 9).
3. In \*\*\* grade the Student was initially enrolled at \*\*\* School within HISD. The Student continued to receive special education services as a student with an emotional disturbance. (R. Ex. 11) (R. Ex. 13). The Student withdrew from the school district on August 12, 2011. (R. Ex. 12). In November 2011 the Student enrolled in a local open enrollment charter school not affiliated with HISD (the charter school) and finished the 2011-2012 school year there. (R. Ex. 10) (R. Ex. 14) (Order on Motion to Dismiss).
4. The Student began the 2012-2013 school year at the charter school but left on September \*\*\*, 2012. (R. Ex. 23, p. 339) (Order on Motion to Dismiss). Thereafter the Student's mother filed a due process hearing request alleging claims against both the charter school and the school district (the prior hearing). The Student was apparently home-schooled for the remainder of the 2012-2013 school year. (Petitioner's Exhibit J, referred to hereafter as "P. Ex. \_\_\_")(Due Process Hearing Transcript, Volume I., p. 175, referred to hereafter as "Tr. Vol. I., p. \_\_\_").
5. In the summer of 2013, while the prior hearing was still pending, the Student's mother communicated with the school district through a series of emails submitting several requests that the school district arrange parent and student visits to unspecified school district charter schools. The emails suggested the Student's mother planned to re-enroll the Student in the school district for the upcoming 2013-2014 school year. Questions arose about which \*\*\* campus the Student could attend which school district staff attempted to answer. School district staff asked the Student's mother to provide some specific dates in order to set up the charter school campus visits but she declined to do so. (P. Ex. K) (P. Ex. M) (R. Ex. 22, p. 267) (R. Ex. 27) (Tr. Vol I. pp. 164-165, 173-174, 183-184).
6. The Student and student's mother initially attempted to enroll at \*\*\* School – however, \*\*\* School, not \*\*\*, was the Student's home campus. Enrollment at \*\*\* required a transfer. The Student's mother did not follow the steps to request a transfer. (Tr. Vol. I., pp. 102-104, 106, 150, 166). On September \*\*\*, 2013 the Student's mother notified the Special Education Senior Manager she would be enrolling the Student at \*\*\* School the next morning. (Tr. Vol. I., p. 174)(R. Ex. 22, p. 312).
7. The Special Education Senior Manager made arrangements to meet the Student and student's mother on September \*\*\*, 2013 at \*\*\* School. (R. Ex. 27, pp. 368-369) (Tr. Vol. I., pp. 174, 185, 196). Although missing a birth certificate (a document required for enrollment) school district staff made an exception and worked with the Student's mother to complete the enrollment process that day. (Tr. Vol. I., pp. 175-176, 197-198).

8. At the time of student's enrollment at \*\*\* the school district knew the Student's special education re-evaluation was overdue and thus student's eligibility for special education in doubt. (R. Ex. 6) (R. 27, p. 372) (Tr. Vol. I., pp. 186-187, 199). Therefore, the Special Education Senior Manager arranged for a licensed specialist in school psychology (LSSP) and a \*\*\* Special Education Program Specialist to meet with the Student's mother on September \*\*\*, 2013. Between the three school district staff members they assisted the Student and student's mother to complete the enrollment process. The evaluation process and parental consent needed to initiate the re-evaluation were also reviewed and explained to the Student's mother. (Tr. Vol. I., pp. 53, 112, 137, 185-186, 194, 199).
9. The Student's mother signed the requisite consent form that same day. (R. Ex. 24) (Tr. Vol. I., pp. 112, 154). The school district conducted academic achievement and cognitive testing and an emotional/behavioral assessment. The Student and student's teachers completed behavior rating scales as part of the evaluation. A behavior rating scale was also sent to the Student's mother; although she initially resisted completing the scale she ultimately did so while this litigation was pending. (P. Ex. L) (R. Ex. 31, p. 436) (Tr. Vol. I., pp. 145-146).
10. However, the school district's evaluation is not yet complete because the Student's mother has not yet provided updated sociological information and a \*\*\*. (Tr. Vol. I., pp. 55, 117, 126-127, 153). The updated sociological information is required so the school district can rule out exclusionary factors such as health issues, prior educational experience, and/or attendance issues in determining whether the Student's academic performance and behavior is a result of sociological factors as opposed to a disability. (Tr. Vol. I., pp. 56-57, 65-66).
11. The \*\*\* provides the parent with an opportunity to share thoughts about appropriate \*\*\* for the student. That information assists the school district and parent in educational planning, \*\*\*, and, identifying potential services in meeting those goals. The \*\*\* information may therefore call for additional inquiry as a component of the FIE. (Tr. Vol. I., pp. 68, 181-182). The Student provided the school district with some \*\*\* information during the student interview conducted as part of the evaluation. (Tr. Vol. I., pp. 146-147).
12. During the September \*\*\* meeting to discuss the evaluation the Student's mother told school district personnel the Student wanted to \*\*\*. (Tr. Vol. I., pp. 148-149). However, that brief conversation was not sufficient for purposes of the evaluation. The Texas Legislature recently passed a bill with a renewed emphasis on \*\*\*. The school district has a number of programs and services to address \*\*\*. (Tr. Vol. I., pp. 177-179). Information on the \*\*\* would be helpful in identifying which of those programs or services might be appropriate for the Student. (Tr. Vol. I., pp. 176-177).
13. While the \*\*\* information is important for purposes of educational planning the evaluation can be completed without it so long as the school district documents the attempts to secure that information from the parent. However, for purposes of determining eligibility the evaluation cannot be completed without the updated sociological information. (Tr. Vol. I., pp. 79-82, 89).
14. The school district gave the Student's mother the sociological form to fill out on September \*\*\*, 2013 when she first met with special education staff. Once the school district received parental consent the assessment staff reviewed available records and determined what supplemental information would be helpful as the evaluation process evolved. For example, when the school district reviewed the Student's records and noted student's prior eligibility classification as a student with an emotional disturbance that led to the collection of updated behavioral data from the Student, student's mother, and student's teachers through the behavior rating scales. (Tr. Vol. I., pp. 119-121).

15. The school district made three separate attempts to secure the sociological information needed from the Student's mother. (Tr. Vol. I., pp. 58-59). The Student's mother attempted to fax some of the completed forms to \*\*\* School but there was some technical issues with \*\*\* school's fax machine so the information was never received. (Tr. Vol. I., pp. 138-140).
16. There is a long history of litigation and disagreement between the parties, especially over the issue of parental consent for special education evaluations. (P. Ex. A)(P. Ex. B)(P. Ex. C)(P. Ex. D)(P. Ex. E)(P. Ex. F)(P. Ex. G)(P. Ex. H)(R. Ex. 25)(R. Ex. 26)(R. Ex. 29)(R. Ex. 30).

## Discussion

### Right to a Due Process Hearing

A parent has a right to a due process hearing related to the identification, evaluation and/or educational placement of a child with a disability or the provision of a free, appropriate public education. *34 C.F.R. §300.507 (a)(1); 19 Tex. Admin. Code §§ 89.1150 (b)(6); 89.1151 (a)*. The school district has the responsibility under IDEA to identify, locate, and evaluate all children with disabilities who are in need of special education and related services who reside within its jurisdictional boundaries. *34 C.F.R. §300.111 (a)(1)(i)*. This responsibility is known as "Child Find." *Id.*

The Student asks whether the school district failed to conduct an updated evaluation to confirm special education eligibility and need for services in a timely manner for the current school year. This issue falls under the school district's "Child Find" duties and is a proper subject matter for a due process hearing. Child Find issues are related to the identification and evaluation of the Student for special education under both state and federal IDEA regulations. Therefore I conclude the Student has a cognizable claim under IDEA and the right to invoke the due process hearing procedures to resolve the Child Find issue. *34 C.F.R. §300.507 (a)(1); 19 Tex. Admin. Code §§ 89.1150 (b)(6); 89.1151 (a)*.

### Petitioner's First Two Issues are Factual Not Legal Claims Under IDEA

Petitioner's first two issues are questions of fact not legal issues under the IDEA. The first poses a factual issue as to whether the school district failed to enroll the Student in a timely manner. The second asks whether the school district failed to provide the Student and student's mother with an opportunity to visit HISD charter school campuses. These factual issues may be of some relevance to the issue of whether the school district met its Child Find obligations but they are not legal issues under the statute itself.

Furthermore, even if they are legal issues, they are outside the jurisdiction of the hearing officer because they address general education matters not special education issues under the IDEA. The first issue relates to procedures the school district uses to enroll students under the Texas Education Code whether they are students with special needs or not. *See, Tex. Educ. Code §§ 25.001 (b)(c), 25.002 (a)(1)(2)(3)*.

The second issue relates to the student's ability to choose attendance at a charter school created and operated by the school district. That too is a general education matter and not an issue under the IDEA. Consideration of an appropriate charter school might be a placement issue discussed by an ARD Committee but simply alleging the school district did not facilitate visiting its charter school campuses without more is insufficient to raise an IDEA issue. *See, Tex. Educ. Code § 12.001*. Therefore, these are questions of fact, not legal issues, with some relevance to the school district's Child Find obligations.

### Child Find

The credible evidence shows the school district met its Child Find obligations under the IDEA. Once senior special

education staff knew the Student's mother was ready to enroll the Student at student's home \*\*\* campus arrangements were made to make assessment personnel and special education staff available on the day of enrollment. The evidence shows that when the Student and student's mother arrived at \*\*\* on September \*\*\*, 2013 the special education staff facilitated the enrollment process, provided the Student's mother with the requisite notice of the planned evaluation, and had the requisite parental consent forms available so the process could begin.

Until the Student actually enrolled in the school district there was no duty to begin the formal evaluation process. Email communications between the parties in the summer of 2013 indicated the possibility the Student would be returning to the school district but the date was uncertain up until September \*\*\*, 2013. The school district certainly had notice that the Student needed to be re-evaluated through its experience with the prior litigation. The school district kept in communication with the Student's mother. Once the Student and student's mother appeared on campus and went through the enrollment process the school district contemporaneously initiated the evaluation process and thus fulfilled its duty under Child Find.

Furthermore, the credible evidence showed the school district's inability to complete the evaluation was due to a lack of parental cooperation. Cooperation and collaboration between parents and schools is at the heart of the IDEA. *Schaffer v. Weast*, 546 U.S. 49, 53 (2005). See, also, 34 C.F.R. §300.321 (a)(1)(IEP team must include parents of the child); 34 C.F.R. § 300.322 (school district must take steps to ensure parental participation in IEP meetings); 19 Tex. Admin. Code § 89.1040 (b)(determination of eligibility for special education made by student's Admission, Review and Dismissal Committee [ i.e. the IEP team]); 19 Tex. Admin. Code § 89.1050 (h)(all members of ARD have opportunity to participate in a collaborative manner).

Courts have generally denied relief to parents who do not cooperate with the school district during the evaluation process. See for e.g., *Patricia P. v. Bd. of Educ.*, 203 F. 3d 462, 469 (7<sup>th</sup> Cir. 2000)(parents who failed to cooperate with school district in its diligent execution of its obligation under the IDEA to evaluate the student were not entitled to reimbursement for unilateral private placement). In this jurisdiction it is well settled that school districts have an unqualified right to conduct their own evaluation with school district personnel for the purpose of determining eligibility and special education services. Parents cannot force a school district to rely solely on an independent evaluation. *Andress v. Cleveland Ind. Sch. Dist.*, 64 F. 3d 176, 178-179 (5<sup>th</sup> Cir. 1995).

For all these reasons I conclude Petitioner did not meet Petitioner's burden of proof on this issue. 34 C.F.R. §300.111 (a)(1)(i); See, *Schaffer v. Weast*, 546 U.S. at 62.

#### Petitioner's Right to an IEE

The parent of a student with a disability has the right to obtain an independent educational evaluation subject to certain specified conditions under the IDEA. 34 C.F.R. § 300.502 (a)(1). The school district must provide an IEE at public expense once it is requested by the parent and share information about where the IEE may be obtained and applicable school district criteria. 34 C.F.R. § 300.502 (a)(2)(3)(ii). However, the right to an IEE is for a parent of a child with a disability; i.e., a student who meets the eligibility criteria of the IDEA. 34 C.F.R. §§300.8, 300.502 (a)(1) (b). In this case, the Student's evaluation is not yet complete so it is uncertain, at this time, whether student qualifies as a "student with a disability" for purposes of triggering the parental right to an IEE.

#### Accrual of the Right to an IEE at School District Expense

Furthermore, the parental right to an IEE at public expense arises when the school district has completed its own evaluation and the parent disagrees with that evaluation. 34 C.F.R. § 300.502 (b)(1). If a parent requests an IEE at public expense the school district must either agree to provide the IEE or submit a claim in a due process hearing that its own evaluation is appropriate. 34 C.F.R. § 300.502 (b)(2). In this case the school district submitted the issue as to whether the Student's mother is entitled to an IEE at school district expense when the school district's

own evaluation has not yet been completed. If the school district's evaluation is found to be appropriate under the IDEA the parent may still secure an IEE but not at the school district's expense. Any IEE obtained by the parent must be considered (if it meets the school district's criteria) in any decision-making with regard to providing the student with an appropriate education. 34 C.F.R. § 300.502 (b)(3)(c)(1). The parent may also present the IEE as evidence in a subsequent due process hearing. 34 C.F.R. § 300.502 (b)(3)(c)(2).

#### School District Must Complete Own FIE

The evidence in this case shows that the school district has not been able to complete its evaluation because the Student's mother has declined to provide the school district with updated sociological information it needs in order to rule out exclusionary factors for eligibility purposes. While the evidence also showed that the Student's mother declined to provide updated parent transition information, the record also establishes that the school district's evaluation could be completed without that information so long as its efforts to secure the information were properly documented.

The Student's mother is not entitled to an IEE at the school district's expense until it can complete the evaluation in progress. The school district cannot complete its evaluation until the Student's mother provides the updated sociological information needed for determining eligibility. Only when she does so, and only when the school district's FIE is completed and *if* she disagrees with it, does the parental right to an IEE accrue. Therefore, I conclude Petitioner's request for an IEE at school district expense is not yet ripe for adjudication. The Student's mother is free to secure her own IEE at her own expense. The school district must consider that IEE, so long as it meets school district criteria, in making any educational decisions about the Student. At this point, however, there is no parental right to an IEE at school district expense. 34 C.F.R. § 300.502 (b)(1).

#### Reimbursement of Parental IEE as Equitable Remedy

This conclusion is distinct from the question of whether reimbursement for an IEE is an appropriate form of relief as an equitable remedy under the IDEA. If, for example, the school district had not met its Child Find obligations and the parent secured an IEE at parental expense, a hearing officer could make an award of reimbursement for the cost of the IEE as an appropriate equitable remedy. *See, Sch. Comm. of Burlington v. Dept. of Educ.*, 471 U.S. 359, 374 (1985)(*equitable considerations in fashioning relief under the IDEA are appropriate*).

In this case however the evidence supports the conclusion the school district has certainly attempted to fulfill its Child Find duties. The only obstacle in completing the evaluation is the parent's refusal to provide updated sociological information in order to determine eligibility. Under these circumstances, the parent is not entitled to reimbursement for the cost of the parent's own IEE as equitable relief because Petitioner did not prevail on the Child Find issue.

#### Conclusions of Law

1. Issues regarding whether the school district failed to enroll Petitioner on petitioner's home campus or failed to provide Petitioner and petitioner's mother with an opportunity to visit school district charter schools are not legal issues that arise under the Individuals with Disabilities Education Act; instead those issues may constitute claims under the Texas Education Code and as such are outside the jurisdiction of a special education hearing officer in a special education due process hearing. 34 C.F.R. §300.507 (a)(1); 19 Tex. Admin. Code §§ 89.1150 (b)(6); 89.1151 (a). *See, Tex. Educ. Code* §§ 25.001 (b)(c), 25.002 (a)(1)(2)(3).
2. Petitioner did not meet petitioner's burden of proving Respondent failed to comply with its "Child Find" obligations for the 2013-2014 school year; instead, the credible evidence showed the Respondent was prepared to and did initiate an evaluation to determine special education eligibility and the need for special education services upon Petitioner's enrollment. 34 C.F.R. §300.111 (a)(1)(i)(c)(1); *See, Schaffer v. Weast*,

546 U.S. 49, 62 (2005). The lack of parental cooperation in completing the school district's evaluation cannot be used to impose liability on the school district under Child Find. *See, Andress v. Cleveland Ind. Sch. Dist.*, 64 F. 3d 176, 178-179 (5<sup>th</sup> Cir. 1995).

3. Petitioner had the right to bring petitioner's Child Find claim in a special education due process hearing. *C.F.R. §300.111 (a); 34 C.F.R. §300.507.*
4. Petitioner's request for an Independent Educational Evaluation at Respondent's expense is not yet ripe for adjudication; Petitioner's right to seek an IEE at Respondent's expense does not accrue unless and until Respondent completes its own evaluation and the parent disagrees with it. The Respondent's completion of its evaluation depends on parental cooperation in providing sociological information that is critical to the determination of eligibility for special education under the IDEA. *34 C.F.R. §§ 300.303, 300.304 (b), 300.502 (b) (1).*

### **ORDERS**

Based upon the foregoing findings of fact and conclusions of law, it is therefore **ORDERED** that Petitioner's requests for relief are **DENIED**. It is further **ORDERED** that Respondent's request for relief is **GRANTED** and Petitioner is not entitled to an Independent Educational Evaluation at public expense at this time. It is further **ORDERED** that Petitioner's mother shall complete and provide to the Respondent within seven school days of the date of this Decision the updated sociological information on the form previously provided to the parent so the Respondent may complete the pending evaluation for purposes of determining eligibility and need for special education under the IDEA.

All other relief not specifically stated herein is **DENIED**.

**SIGNED the 7th day of November 2013**

\_\_\_\_\_  
Ann Vevier Lockwood  
Special Education Hearing Officer

### **NOTICE TO THE PARTIES**

The Decision of the Hearing Officer in this cause is a final and appealable order. Any party aggrieved by the findings and decisions made by the hearing officer 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. *19 Tex. Admin. Code Sec. 89.1185 (p); Tex. Gov't Code, Sec. 2001.144(a) (b).*

**BEFORE A SPECIAL EDUCATION HEARING OFFICER  
STATE OF TEXAS**

**STUDENT, bnf  
PARENT,  
Petitioner,**

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v.

**DOCKET NO. 306-SE-0813**

**HOUSTON INDEPENDENT  
SCHOOL DISTRICT,  
Respondent.**

**SYNOPSIS**

**ISSUE NO. 1:**

Whether school district failed to enroll \*\*\* student on home campus for current school year.

**HELD:**

**For the school district.**

Factual issue not a legal claim under the IDEA. Might constitute a claim under general enrollment provisions of the Texas Education Code but not within the jurisdiction of a special education hearing officer in a special education hearing. Not an issue regarding the student’s identification, evaluation, educational placement or the provision of a free, appropriate public education under the IDEA. **34 C.F.R. § 300.507 (a); Tex. Educ. Code §§ 25.001, 25.002**

**ISSUE NO. 2:**

Whether the school district failed to provide \*\*\* student and parent with opportunity to visit school district charter schools for purpose of selecting a campus for current school year.

**HELD:**

**For the school district.**

Factual issue not a claim under the IDEA. Might constitute a claim under provisions of the Texas Education Code but not within the jurisdiction of a special education hearing officer in a special education hearing. **34 C.F.R. § 300.507 (a); Tex. Educ. Code § 12.001**

**ISSUE NO. 3:**

Whether school district failed to comply with its “Child Find” obligations under IDEA for \*\*\* student who previously attended \*\*\* school within school district but had not been enrolled in school district for past two school years and did not re-enroll until \*\*\* of current school year despite email communications between parties over the summer and involvement in prior litigation.

**HELD:**

**For the school district.**

Credible evidence showed school district was ready and did initiate evaluation process when student appeared on campus with parent to enroll. School district staff present to facilitate student's enrollment and reviewed evaluation process and parental consent form with parent on same day. School district began evaluation once parental consent received. School district could not complete evaluation until parent provided updated sociological information needed to rule out exclusionary factors in order to determine student's eligibility. **34 C.F.R. §§ 300.111; 300.303; 300.304.**

**ISSUE NO. 4:**

Whether student entitled to due process hearing where student's eligibility for special education expired given student's last evaluation was over three years old, student had not been identified as eligible for special education due to lack of parental cooperation in completing required re-evaluation, and given that parties had long history of litigation and disagreement over lack of parental consent for evaluations.

**HELD:**

**For the student.**

Student raised cognizable claim whether school district fulfilled its duty to identify, locate, and evaluate student for purposes of determining eligibility for special education under IDEA. Student not required to be identified as eligible for special education in order to pursue Child Find claim in a due process hearing. **34 C.F.R. §§ 300.111; 300.507.**

**ISSUE NO. 5:**

Whether parent entitled to Independent Educational Evaluation (IEE) at school district expense.

**HELD:**

**For the school district.**

Parental right to IEE at school district expense accrues only after school district completes its own evaluation and if parent disagrees with it. School district had not yet been able to complete its own evaluation because parent did not cooperate in providing sociological information needed to determine student's eligibility for special education. Parental right to IEE not ripe for adjudication; parent might be entitled to IEE at school district expense as equitable relief for school district's failure to timely comply with Child Find but student did not prevail on that legal issue in this case so equitable relief was not awarded. **34 C.F.R. § 300.502.**