

DOCKET NO. 156-SE-0124

STUDENT, B/N/F PARENT	§	BEFORE A SPECIAL EDUCATION
Petitioner	§	
	§	
v.	§	
	§	HEARING OFFICER FOR
	§	
DENTON INDEPENDENT SCHOOL	§	
DISTRICT,	§	
Respondent	§	THE STATE OF TEXAS

DECISION OF THE HEARING OFFICER

Student, by next friend Parent (collectively, Petitioner), brings this action against Denton Independent School District (Respondent or the District) under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. S 1400 et seq., and its implementing state and federal regulations. The issues in this case are whether the District denied Student a free, appropriate public education (FAPE) by failing to appropriately evaluate and develop an appropriate educational program. The Hearing Officer concludes that the District procedurally and substantively complied with the IDEA and that Student’s educational program was reasonably calculated to provide Student with the requisite educational benefit in light of Student’s unique circumstances.

I. Due Process Hearing

The due process hearing convened on April 2, 2024, in-person with an interpreter in attendance throughout the hearing. The hearing adjourned that day after Petitioner requested an extension of the hearing and decision due date seeking more time to fully present its case-in-chief. The motion was granted over Respondent’s objection.

The hearing reconvened on June 27, 2024, again with an interpreter for Parent throughout the hearing. The hearing was recorded and transcribed by a certified court reporter. Petitioner was self-represented. The Parties agreed that Parent’s *** could testify first and then remain in the

hearing as an emotional support person for Petitioner. Respondent was represented in this litigation by its attorney, Jennifer Carroll and Michael Campbell, with the law firm of Walsh, Gallegos, Trevino, Kyle & Robinson P.C. The District's Executive Director for Special Education¹ was the District's party representative on the initial day of hearing. A District School Psychologist was the District's party representative on the second day of the hearing.

Petitioner offered Exhibits P1-21. Respondent initially objected to Petitioner Exhibits P17-21, arguing that the information was not timely disclosed. Respondent withdrew its objections to Petitioner Exhibits P17, and P19-21. Petitioner Exhibits P1-17 and P19-21 were admitted. Petitioner called as witnesses the ***, Educational Diagnostician, Diagnostician, Licensed Specialist in School Psychologist, School Psychology Intern, School Psychologist, ***, Bilingual Speech Language Pathologist, Special Education Speech Therapy Supervisor, and Parent. Respondent offered Exhibits R1-8, all of which were admitted. Respondent presented its case-in-chief during the cross-examination of Petitioner's witnesses. The Decision of the Hearing Officer is due on August 5, 2024.

II. Issues

A. Petitioner's Claims

Petitioner raised the following IDEA issues for decision in this case:

1. Whether the District failed to provide Student with a free, appropriate public education (FAPE) within the meaning of the Individuals with Disabilities Education Act (IDEA) due to finding Student eligible for special education and related services as a student with only a Speech Impairment and only proposing Student receive Walk-In Speech and Language Therapy sessions in the special education setting; and
2. Whether the District's full individual and initial evaluation failed to timely and appropriately evaluate Student in all areas of disability, including Autism.

¹ The Executive Director of Special Education retired from the District prior to the second hearing date and was not in attendance for the second hearing date.

B. Requested Relief

Petitioner requested the following items of relief:

1. Place Petitioner in *** instructional classroom setting for the 2023-2024 and 2024-2025 school year.
2. Convene an Admission, Review, and Dismissal (“ARD”) Committee to develop goals in writing and math.
3. Provide Petitioner instructional services at a different campus other than Student’s current assigned school.

C. Respondent’s Legal Position

Respondent generally denied the allegations and maintains it provided Student a FAPE at all relevant times consistent with its obligations under the IDEA. Respondent contends it developed an appropriate Individualized Education Program (“IEP”) for Student, reasonably calculated to provide Student with a FAPE. Respondent also contends that it timely, appropriately and comprehensively evaluated Student and implemented Student’s IEP in the least restrictive environment appropriate for Student.

III. Findings of Fact

1. Student is a ***-year-old student who resides with Student’s Parent *** within the jurisdictional boundaries of the District. Student speaks *** and English. The primary language spoken at home is ***.²
2. There was no significant health history reported regarding the Student. Parent expressed concerns that Student’s regressive development, problematic behaviors, and sensitivity to noise at home was cause to suspect autism or Attention Deficit Hyperactive Disorder (“ADHD”).³
3. In August 2023, an *** evaluation was conducted for Student at the age of ***.⁴ Student did not meet *** eligibility requirements for services.⁵
4. The Student’s ***, on behalf of Parent, then referred Student for a special education evaluation from the District for the 2023-2024 school year to determine whether Student was a student with a disability eligible for special education services.⁶ The Parent referred

² (R3:01, 10); (R4:01)

³ (R3:10-11)

⁴ (Tr Vol 2 115:19-24)

⁵ (Tr Vol 2. 50:11-15; 115:23-24)

⁶ (Tr Vol 2 116:13-17)

Student for an evaluation regarding parental concerns that Student may have an emotional/behavior disorder, a speech impairment, and/or autism.⁷

5. On August ***, 2023, the District proposed to conduct a Full Individual and Initial Evaluation (“FIIE”) of Student and evaluate Student in the areas of health, motor abilities, emotional/behavioral status, sociological status, intellectual/adaptive behavior, academic performance, and assistive technology using both formal and informal assessments.⁸
6. On August ***, 2023, Student’s parent (“Parent”) consented to the District’s proposal to conduct the FIIE.⁹
7. A multi-disciplinary team conducted the FIIE. The team included a Bilingual Educational Diagnostician, an Educational Diagnostician, a Bilingual Licensed Specialist in School Psychology (Bilingual “LSSP”), a Bilingual Speech Language Pathologist – Intern, and Bilingual Licensed Specialist in School Psychology – Intern.¹⁰
8. The multi-disciplinary team used a variety of assessment tools and strategies to gather functional and developmental information, including reports from Parent, which included the Autism Spectrum Rating Scales (“ASRS”), Conners *** Parent Form, Social Developmental History Form, Psycho-Education Profile- 3rd Edition (PEP-3), Behavior Assessment System for Children – Third Edition (“BASC-3”), *** Fifth Edition (***) ***) Articulation Screener, Informal language dominance and academic assessment, Developmental Profile-4th Edition, and Descriptive Pragmatics Profile from the ***. In addition, the evaluators relied on their observations of Student through play-based assessments, a research-based approach.¹¹
9. On October ***, 2023, the District completed the FIIE. Student was evaluated in all areas of suspected disability, including Speech Impairment, Autism, and Emotional Disturbance.¹² On November ***, 2023, the District sent Parent a copy of the FIIE.¹³
10. Based on the FIIE results, Student’s functional expressive language, auditory comprehension, and total language skills were within the low average range.¹⁴ Student’s articulation skills were typical of same-age peers, and Student’s oral-motor, fluency, and voice skills were observed to be functioning adequately for speech production.¹⁵ The multi-disciplinary team concluded Student met IDEA criteria for having a Speech

⁷ (P5:17; R3)

⁸ (Tr. Vol. 1 130:10-17); (P6; R2:09, 10)

⁹ (R2)

¹⁰ (R3: 1, 30, 31, 32, 35, 38)

¹¹ (R3); (Tr. Vol. 1 131:1-24; 132:1-2)

¹² (R3)

¹³ (P7)

¹⁴ (R3:28)

¹⁵ (R3:28)

Impairment in the areas of expressive and receptive language.¹⁶ To address Student's needs in the speech area, the evaluation team proposed walk-in speech therapy.¹⁷

11. The District explored alternative speech therapy options, including as indirect or consultative services within the general education environment. However, the multi-disciplinary team ultimately recommended speech therapy be conducted as a pull-out service because Student needed a small group or individual setting staffed by trained, licensed, or certified professionals to meet the IEP goals. Additionally, Student needed instruction in fundamental skills within a smaller, focused setting before those skills could be effectively applied in the broader general education context.¹⁸
12. The District proposed Student receive Speech and Language Therapy services for 30 minutes a week.¹⁹ In addition, the ARD committee developed five different language goals that incorporated both academic and functional skills in each goal.²⁰ The District ARD Committee members proposed language goals to address: (i) identifying/using pronouns; (ii) given cues point to appropriate objects or pictures; (iii) given cues point to appropriate actions; (iv) use 2-3 phrases to comment or request; and (v) naming the function of objects.²¹
13. The observations conducted as a component of the FIIE showed Student demonstrated appropriate social behaviors and expression of emotions and feelings/feelings.²² Student had no significantly unusual behaviors, no stimming-type behaviors, and no mouthing-type behaviors. In addition, when Student was redirected a preferred task, Student made eye contact and was able to work on assigned task. Moreover, Student's attention was at least as good, if not better, than most of the ***.²³
14. Student also demonstrated the ability to make direct eye contact, direct facial expressions at others, express appropriate emotions, and shared Student's enjoyment with others.²⁴ Student responded appropriately to requests, transitioned easily between tasks, responded to tangible rewards and praise, and demonstrated age-appropriate attention span.²⁵ Throughout the testing session, Student did not need prompting to stay on task, as prompting was only used when it appeared Student did not understand the tasks.²⁶ Finally, Student did not display sensitivities to sensory experiences such as loud noises, textures, and bright lights, and Student did not inappropriately mouth at and/or smell objects.

¹⁶ (R3:28, 32)

¹⁷ (Tr Vol 1 150:6-11); (Tr Vol 2 59:15-25; 60:1-11; 61:2-6)

¹⁸ (R4:10; Tr. Vol. 2 60:14-21)

¹⁹ (R4:12)

²⁰ (R4:04-06)

²¹ (R4:04-06)

²² (R3:29)

²³ (Tr Vol 1 137:1-15)

²⁴ (R3:29)

²⁵ (R3:29)

²⁶ (R3:29)

Student demonstrated developmentally appropriate fine and gross motor skills.²⁷ Student did not meet the criteria for autism or as a student with an emotional disturbance.²⁸

15. The Behavior Assessment System for Children-3rd (BASC-3) Edition, one of the measures used in the FIIE, is a broad ban screener designed to collect information based on Parent's report across a wide variety of behaviors and symptoms.²⁹ There was an elevation or significant clinical markings in all categories, indicating a significant behavioral distress or an issue with the way information was reported.³⁰ The parent reported very significant, emotional behavioral concerns in the home setting and a fairly significant deficit in overall skill level.³¹ Those results were not consistent with what was observed. Instead, Student was very pleasant and responsive during the FIIE.³² Student did not exhibit any hyperactivity or aggression.³³ Student came with the evaluators willingly and did everything the evaluators asked Student to do.³⁴ Student did not struggle with anger or acting out, and Student was able to calm ***self in a reasonable manner and in a reasonable amount of time after falling down from running.³⁵
16. The F-index is an internal validity scale for the BASC-3.³⁶ Parent's F-Index was in the extreme caution range.³⁷ A F-index elevation generally indicates that there are either various significant behaviors that are occurring at a rate that you would not expect in the general population or there was some sort of difficulty with completing the assessment.³⁸
17. Student exhibited deficits in Student's communication skills but the other areas were within an adequate range.³⁹ Based on the results, Student qualified for services as a student with a speech impairment but did not qualify as a student with an autism spectrum disorder or an emotional disturbance.⁴⁰
18. There is a difference between a skill deficit and a performance deficit.⁴¹ A skill deficit is when a child is incapable of doing the task and/or behavior.⁴² On the other hand, a performance deficit is when a child is capable of doing the task and/or behavior but is not performing it for any number of reasons.⁴³

²⁷ (R3:29)

²⁸ (R3:29)

²⁹ (Tr Vol 1 133:13-25; 134:1) (R3:14-16)

³⁰ (Vol 1 134:4-11)

³¹ (Vol 1 147:14-17), (R3-28)

³² (Tr. Vol. 1 134:16-17)

³³ (Tr. Vol 1 134:17-18)

³⁴ (Tr. Vol 1 134:18-19)

³⁵ (Tr. Vol 1 134:19-25; 135:1-4)

³⁶ (Tr. Vol 1 135:6-7)

³⁷ (Tr. Vol 1 135:17)

³⁸ (Tr. Vol 1 136:2-6)

³⁹ (Vol 1 147:5-12)

⁴⁰ (Vol 1 147:8-11)

⁴¹ (Tr. Vol 1 157:17-20).

⁴² (Tr. Vol 1 157:20- 21)

⁴³ (Tr. Vol 1 158:2-4)

19. More specifically, for non-verbal communication, the FIIE considered what Parent reported about Student, along with the evaluator's observations, and showed there was a performance deficit – not a skill deficit because Student was capable of showing how to non-verbally communicate with intent.⁴⁴ Similarly, Student did not have a skill deficit in social interaction.⁴⁵
20. There was elevated peer socialization and very elevated social functioning.⁴⁶ Although Parent reported elevated defiance and aggression,⁴⁷ the evaluators did not observe any defiance or aggression by Student during their assessment period.⁴⁸
21. Prior to the ARD Committee meeting, the District gathered information from the Parent and Parent was present for the evaluation.⁴⁹
22. On November ***, 2023, the ARD Committee convened to review the FIIE.⁵⁰ An interpreter was provided for Parent, and Parent's *** was also present.⁵¹
23. The District explained the FIIE recommendation that Student qualify for special education and related services as a student with a Speech Impairment in the areas of expressive and receptive language.⁵² The District to Parent that based on the FIIE results, Student did not meet the criteria for having autism or an Emotional Disturbance and therefore Student did not qualify for special education and related services under those disabilities.⁵³ Parent disagreed with those conclusions and the emotional/behavior assessment and academic assessment.⁵⁴ The ARD committee agreed to recess the ARD committee meeting.⁵⁵
24. The District sent Parent the FIIE report.⁵⁶ Parent and the *** discussed the evaluation. The *** recommended that Parent get an independent evaluation from a licensed psychologist.⁵⁷ Sometime thereafter, the District offered Parent an independent educational evaluation (IEE).⁵⁸ The Parent did not respond to the District's offer because Parent had already made an appointment with an outside private evaluator of Parent's choice.⁵⁹

⁴⁴ (Tr. Vol. 1 158:8-23)

⁴⁵ (Tr. Vol 1 158:24; Tr. Vol 1. 159:1)

⁴⁶ (Tr Vol 1 159:4-9), (R3-15), (R3-19)

⁴⁷ (Tr. Vol. 1 159: 11-12)

⁴⁸ (Tr. Vol. 1 159:11-14)

⁴⁹ (Tr Vol 2 58:1-5)

⁵⁰ (R4)

⁵¹ (R4)

⁵² (R4)

⁵³ (R4)

⁵⁴ (P19)

⁵⁵ (P19), (R4:16)

⁵⁶ (Tr Vol 2 58:7-8)

⁵⁷ (Tr Vol 2 117:9-10)

⁵⁸ (Tr Vol 2 25:12)

⁵⁹ (Tr Vol 2 117:12-14)

25. On December ***, 2023, the ARD Committee reconvened.⁶⁰ An interpreter was again provided for Parent, and Parent's *** was again present at the meeting.⁶¹ Parent agreed Student has a speech delay but disagreed with the other findings of the evaluation and the proposed IEP goals or services.⁶² The ARD Committee meeting again ended in disagreement.⁶³ Due to Parent's expressed disagreement, the ARD Committee agreed to reconvene again.
26. On January ***, 2024, the ARD Committee reconvened to discuss the areas of disagreement.⁶⁴ An interpreter was again provided for Parent, and Parent's *** was again present at the ARD committee meeting.⁶⁵ The District ARD committee members reviewed and addressed Parent's concerns during the meeting.⁶⁶ The ARD Committee meeting again ended in disagreement, with Parent continuing to express disagreement with Student's eligibility, the proposed goals, and the proposed schedule of services for Student.⁶⁷
27. On January ***, 2024, the District sent Parent a letter notifying Parent the District was ready, willing, and able ("Ready, Willing, and Able Letter") to provide Student with the special education and related services proposed by the ARD committee as soon as Student enrolled in the District.⁶⁸
28. On January 23, 2024, Petitioner filed Petitioner's Notice of Filing of Request for Special Education Due Process Hearing.⁶⁹
29. On March ***, 2024, the District, via email, proposed an amendment to Petitioner's IEP, specifically, to offer a bilingual speech therapist at the babysitter's house to provide speech services twice a week for at least twenty minutes each time.⁷⁰
30. Parent never responded to the District's proposed IEP amendment or offer of services, nor did Parent request any revisions to the proposed amendment.⁷¹
31. Parent received an independent evaluation report from a private psychologist on March ***, 2024, and provided the District with the evaluation on March ***, 2024.⁷²

⁶⁰ (R4:16, 17)

⁶¹ (R4:16)

⁶² (P20), (R4:16)

⁶³ (R4:16)

⁶⁴ (R4:17, 18)

⁶⁵ (R4:17, 18)

⁶⁶ (P21), (R4:17, 18)

⁶⁷ (R4:17, 18)

⁶⁸ (R6:01)

⁶⁹ (P1)

⁷⁰ (R8:15)

⁷¹ (Tr. Vol. 2 26:13-25, 27:1-25)

⁷² (R17)

32. As of the last hearing date, Parent had not enrolled Student in the District, nor has Student received services.⁷³
33. If Student had enrolled in the District and engaged in the services proposed by the ARD committee members the District could have tracked data and made observations on Student's progress.⁷⁴ Through observation and data collection, the District and Student's ARD committee could have made targeted decisions to address the lack of progress, if applicable, including revising Student's IEP or looking at alternative placement options.⁷⁵

IV. Discussion

A. Burden of Proof

In a due process hearing, the burden of proof rests with the party contesting the IEP. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62 (2005). Petitioner has the burden of proof to demonstrate the District did not provide the Student with FAPE and failed to propose a program designed to deliver the necessary educational benefits to the Student.

B. Free Appropriate Public Education

The purpose of the Individuals with Disabilities Education Act (IDEA) is to ensure that all children with disabilities are provided a FAPE that is tailored to their unique needs that equips them for future education, employment, and independent living. 20 U.S.C. § 1400(d)(1)(A). Public school districts must offer FAPE to all eligible children with disabilities between the ages of 3 and 21 within their jurisdiction. 34 C.F.R. §§ 300.101(a), 300.201; Tex Educ. Code § 29.001.

A school district must provide each student with individualized instruction and adequate support services that cater to their unique needs, ensuring they derive educational benefits. This instruction and support must be offered free of charge and must align with the student's Individualized Education Program (IEP). 20 U.S.C. § 1400(9); *Bd of Educ. Of Hendrick Hudson Cent. Sch. Dist. v Rowley*, 458 US 176, 188-89, 200-01, 203-04 (1982). The pivotal inquiry is whether a school district provided an educational program that "was reasonably calculated to

⁷³ (Tr. Vol. 2 27:23-35)

⁷⁴ (Tr. Vol. 2 61:21-25, 62:1)

⁷⁵ (Tr. Vol. 2 61:21-25, 62:1)

enable the child to make progress appropriate in light of the child's circumstances.” *Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017).

1. Evaluation Under the IDEA

The Petitioner claims the District failed to thoroughly evaluate Student across all areas of suspected disability and used inappropriate assessments. Respondent maintains that the FIIE conducted was thorough and met IDEA criteria. Under the IDEA, a school district must employ multiple assessment tools and strategies to collect essential functional, developmental, and academic information about the child, including information provided by the parent. These evaluations must not rely solely on one measure and should use technically sound instruments that assess cognitive, behavioral, and physical or developmental factors. 34 C.F.R. § 300.304(b). Importantly, the child must be assessed in all suspected areas of disability. 34 C.F.R. § 300.304(c)(4).

In the instant case, a multidisciplinary team performed the FIIE, evaluating the Student across various domains — health, motor skills, emotional/behavioral status, social skills, intelligence, academic performance, and assistive technology needs. This assessment included concerns specified by the Parent, including evaluating Student to determine eligibility for special education services as a student with autism, a speech impairment, and/or a student with an emotional disturbance.

The record revealed the multi-disciplinary team, including a range of bilingual specialists, utilized both formal and informal play-based assessments, a method validated for *** who may not engage well with direct assessments. This approach allowed the team to observe the Student’s educational strengths and needs effectively. The District’s use of play-based assessment is research-based and appropriate for a ***. Moreover, various tools and parent-

provided reports were also utilized in conducting the FIIIE, contributing to a comprehensive understanding of the Student's needs.

Moreover, the record reflected that during the assessments, the Student demonstrated appropriate social behaviors, emotional expressions, and an ability to engage with tasks and transitions effectively. The team noted no behaviors typical of a student with autism and/or a student with an emotional disturbance.

Specifically, the credible evidence showed Student was responsive and cooperative during the assessments, with no significant behavioral concerns observed by the evaluator. The discrepancy between the Parent's observations and the evaluators' findings suggested that while at home, the Student might exhibit different behaviors than those observed during the evaluation.

The record showed Student's language skills were within the low average range, with typical articulation skills for Student's age. Based on these findings, the team concluded Student met the criteria as a student with a speech impairment in expressive and receptive language.

In summary, Petitioner did not provide sufficient evidence to controvert the District's FIIIE complied with IDEA criteria. Instead, the record reflects the District followed the required evaluation procedures. 34 C.F.R. §§ 300.301, 300.304, 300.306.

2. Educational Program

An IEP encompasses more than just a statement of annual goals and objectives. It must detail related services, supports, instructional arrangements, program modifications, and the specifics of service delivery, as mandated by 34 C.F.R. §§ 300.22, 300.323(a). When developing an IEP, the District must consider the Student's strengths, parental concerns, recent evaluation data, and the Student's academic, developmental, and functional needs (34 C.F.R. § 300.324(a)(1)).

While the IEP need not be the optimal one or designed to maximize the Student's potential, it must provide a meaningful educational benefit, aimed at progression rather than regression or minimal advancement. *Houston Indep. Sch. Dist. v. V.P. ex rel Juan P.*, 582 F.3d 576, 583 (5th Cir. 2009). The critical question is whether the IEPs proposed were reasonably calculated to allow the Student to make appropriate progress. *Andrew F.*, 580 U.S. at 399.

This jurisdiction applies a four-factor test to determine whether a school district has provided a student with FAPE. *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F.*, 118 F.3d 245, 253 (5th Cir. 1997). These factors are:

- Individualization of the program based on the student's assessment and performance.
- Administration of the program in the least restrictive environment.
- Coordination and collaboration in service provision by key stakeholders.
- Demonstration of positive academic and non-academic benefits.

These factors are not weighted in any specific manner but serve as indicators of an appropriate program, guiding the detailed evaluation required for assessing the educational program. *Richardson Indep. Sch. Dist. V Michael. Z.*, 580 F.3d 286, 294 (5th Cir. 2009).

a. Assessment and Performance Drives Individualization of Program

The Petitioner asserted that the IEP did not address all areas of suspected disability and that 30 minutes of walk-in speech therapy weekly was insufficient for achieving the IEP communication goals. However, Petitioner presented no evidence to suggest that the Student would not progress with the proposed therapy schedule. The evidence showed that the IEPs were designed on the basis of assessment results and performance in targeted areas. The ARD Committee considered the Student's strengths and the Parent's input in developing the five language goals integrating academic and functional skills, to meet Student's communication needs.

b. Selection of Least Restrictive Environment for Student's Needs

The IEP in dispute, rooted in comprehensive evaluation data, aimed for the Student to reach age-appropriate language development levels. The proposed services of speech/language therapy in a 1 to 1 or small group setting was the placement Student needed to gain the anticipated educational benefit. The proposed special education setting for the therapy balanced Student's need for specialized instruction with the IED's broader goal of integration into a general education setting. This placement decision was made with the goal of allowing Student to eventually participate in general education settings, adjusting services as necessary to achieve this outcome in the least restrictive environment. The ARD Committee considered Parent's input and concerns and developed the goals to be implemented and mastered simultaneously.

c. Services Delivered through Collaboration and Coordination by Key Stakeholders

The IDEA emphasizes a collaborative process between the school district and the parents. *E.R. bnf S.R. v. Spring Branch Indep. Sch. Dist.*, 909 F.3d 754 (5th Cir. 2018). However, the IDEA does not require the school district to simply agree to all of a parent's demands. While parents have the right to meaningful participation, this does not grant them the authority to dictate the educational decisions or possess a veto over the school district's decisions. *Blackmon ex rel. Blackmon v. Springfield R-XII Sch. Dist.*, 198 F.3d 648, 658 (8th Cir. 1999); *White ex rel. White v. Ascension Parish Sch. Bd.*, 343 F.3d 373, 380 (5th Cir. 2003). A school district fulfills the IDEA's collaborative requirements as long as there is no bad faith exclusion of or refusal to listen to the parents.

The evidence showed the District collaborated with the Parent by listening to and considering Parent concerns and requests, including the District's offer for the IEE and by holding multiple ARD meetings to address parental disagreements. Additionally, school districts must ensure that parents understand the proceedings of an ARD Committee meeting, which may

include providing an interpreter for parents whose native language is not English. 34 C.F.R. § 300.322(e). The District met this duty by providing Parent with an interpreter at every ARD Committee meeting.

In this case, the evidence shows Parent was actively involved in all ARD Committee meetings. In addition to the interpreter, Parent's *** was also present, ensuring comprehensive support and understanding for the parent. There is no evidence the District excluded Parent in bad faith or refused to listen. The record reflects the District collaborated and coordinated with the Parent as a key stakeholder.

d. Demonstration of Positive Academic and Non-academic Benefits

The record shows the District encouraged the Parent to start proposed services. If the Student had enrolled and participated in the proposed therapy, the District would have been able to monitor Student's progress through data tracking and observations. This ongoing assessment would have allowed the ARD Committee to make informed adjustments if necessary, such as revising the IEP or considering alternative placements. The goals and services designed by the ARD Committee were reasonably calculated to enable the Student to make progress in overcoming Student's communication deficits with the goal of reaching age-appropriate levels in expressive and receptive language skills.

V. Conclusion

The preponderance of credible evidence showed that the Student's educational program was individualized based on assessment and performance, provided in the least restrictive environment, and coordinated collaboratively by key stakeholders. Furthermore, the evidence demonstrated that Student's IEP was reasonably calculated to address Student's needs in light of

the Student's unique circumstances. *Rowley*, 458 U.S. at 188-89, 203-04; *Endrew F.*, 580 U.S. at 399.

VI. Conclusions of Law

1. As the challenging party, petitioner has the burden of proof to establish a violation of the IDEA.
2. Respondent's evaluation of student was appropriate.
3. Students educational programs were reasonably calculated to confer educational benefit in light of Student's circumstances.
4. Petitioner did not meet the burden of proving that Respondent denied student a FAPE.
5. Petitioner did not meet the burden of providing that the District's FIIE failed to timely and appropriately evaluate Student in all areas of suspected disability.

VII. Orders

Based upon the foregoing findings of fact and conclusions of law, it is ordered that Petitioner's requests for relief are **DENIED**.

August 2, 2024
Signed Date

Patricia Hollis McGruder
Special Education Hearing Officer
For the State of Texas