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| STUDENT, B/N/F PARENT | § | BEFORE A SPECIAL EDUCATION |
| | § | |
| | § | |
| VS. | § | HEARING OFFICER |
| | § | |
| HUNTSVILLE INDEPENDENT SCHOOL DISTRICT | § | FOR THE STATE OF TEXAS |

DECISION OF THE HEARING OFFICER

Statement of the Case

STUDENT, by next friend and parent (hereinafter “Petitioner” or “the student”), brought a complaint pursuant to the Individuals with Disabilities Education Improvement Act (“IDEA”), 20 U.S.C. §1400, ~~et seq~~, complaining of the Huntsville Independent School District (hereinafter “Respondent” or “the district”).

Petitioner’s request for hearing was filed on September 13, 2016. Petitioner was represented by Carolyn Morris, a lay parent advocate with ~~Parent~~ Parent Connectio in Lancaster, Texas. Respondent was represented by Paula Maddox Roalson and Christian L. Garcia with the offices of Walsh, Gallegos, Treviño, Russo & Kyle, P.C., in their office in Houston, Texas, and Oscar G. Treviño from the Austin office in that law firm.

The matter came on for hearing in Huntsville on December 14, 2016, in the offices of the district by agreement of the parties and order of the Hearing officer. At the close of the hearing, Respondent moved for an extension of the decision deadline so that written closing arguments could be filed; the parties agreed that the arguments would be filed on or before December 28, 2016, and agreed that the decision in2(i)-2(e)-6(ns)-6(ns(t)-2(t)2(e)4(ns)7(e)4-6(r8l)-2(d be)4(f)32(i)-

Petitioner alleged thate the district was not providing the student with a free appropriate education in the least restrictive environment. Petitioner also alleged that Petitioner was entitled to an independent educational evaluation (“IEE”) at public expense. Petitioner later dropped its claim for an IEE.

During the course of the proceedings, Respondent filed a motion for partial dismissal of Petitioner’s original claims. In a previous request for hearing by Petitioner, the parties entered into a settlement agreement on March, 2016, the student was ***on that date, and Petitioner

The student *** in the 2016-2017 school year. The student was found to be eligible for special education and placed in special education on September ***, 2016. Because all matters previously in controversy were resolved on March ***, 2016, and Petitioner released all claims against the district through that date, the Hearing Officer dismissed any claims arising on or after March ***, 2016. Only claims arising before that date were considered at this hearing.

As relief, Petitioner is seeking:

1. 1:1 (one-to-one) services for the student in the school setting for all academic instruction and *** services;
2. inclusion for the student in general education classes for more than ***% of the instructional day;
3. a meeting of the student's admission review and dismissal ("ARD") committee to consider the student's ***, taking into consideration the student's *** and all *** when determining the student's *** placement;
4. *** that run "parallel with the curriculum"; and
5. the provision of the student's progress reports on the individual education plan ("IEP") every three weeks to the student's parent.

At the beginning of the hearing, the parties sought introduction into evidence for a number of exhibits. Respondent's exhibits were admitted. Respondent objected to the admission of any exhibits of the Petitioner because they were not disclosed to Respondent by the due date. (d(m)-()-10(e)471n: po-1(ponde)4(nt)-2(b)-sipo-1(ponde) w11(e)4(t d(dm)-()-10(e m)-2(or)3(2(n

The student has received special education services from the district since ***. [Respondent's Exhibit 18 and Transcript Page 205]

10. The district completed the additional assessment agreed to by the student's parent on October 2016, and asked the student's parent to attend another ARD committee to review the assessment, update the assessment, and discuss the assessment. The student's parent stated that the parent would not be available for a meeting until January 2017. [Respondent's Exhibits 28 & 29 and Transcript Pages 148-149]

11. The ARD committee for the student on September 2016, considered a continuum for educational placements for the student. The district determined that the student needed a placement in special education for core academic courses based upon available assessment and the student's present level of academic performance. The student's parent insisted on a general education placement for more than 50% of the time. The district personnel believed that academic placement in general education classes for core subjects exceeded the student's current levels of educational performance and would be educationally inappropriate. The district believed placement in general education would not allow the student to make appropriate educational progress. [Respondent's Exhibit 18 and Transcript Pages 164-167]

12. Witnesses at the hearing consistently and credibly testified that the student is making academic progress in the current educational setting. [Transcript Pages 142-147, 157-162, 164-182 & 188-201]

13. Because the committee could not reach consensus with the student's parent, the committee offered the student's parent an opportunity to submit a written statement of disagreement, a recess of the committee, and a reconvening of the committee in ten days or less. The parent agreed to the recess but before the committee could reconvene, the student's parent filed this request for a due process hearing. The committee has not been able to reconvene the meeting. [Respondent's Exhibit 18 and Transcript Pages 668-71]

14. After the request for hearing was filed, the district held a resolution session. School District 5 (es) 60366 (en) 2134 (of) 2 (in) 34 (7) 365-34 (7) 68) J. Anesosi (4) Th 24 392-

The law is clear, however, that the parent in this case bears the burden of proof to show that the district is not offering an educational program which can confer both academic and non academic progress.

Petitioner failed to meet its burden.

ORDER

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

SIGNED this 13th