

**DOCKET NO. 195-SE-0417**

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

**DECISION OF THE HEARING OFFICER**

**I. PROCEDURAL HISTORY**

Petitioner, STUDENT, b/n/f PARENT (“Petitioner” or “Student”) brings this action against the Port Arthur Independent School District (“Respondent,” or “the school district”) under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1401-1482 (IDEA) and its implementing state and federal regulations. The main issue in this case is whether the school district’s proposed placement for Student into a Life Skills class on \*\*\* under a proposed \*\*\* is appropriate and the least restrictive environment for Student or whether Student needs continued placement at the \*\*\* (\*\*\*) a \*\*\* center with a \*\*\*.

The hearing officer concludes the proposed placement into a Life Skills class on \*\*\* is appropriate but the school district’s \*\*\* lacks sufficient parent training, criteria for Student’s readiness, and sufficient collaboration between key stakeholders. The hearing officer further concludes Student’s continued placement at \*\*\* is essential and primarily oriented toward enabling Student to obtain an education until an appropriate \*\*\* is designed and fully implemented.

**A. Continuances and Extension of Decision Due Date**

There were no continuances in this case – instead a third day for hearing was added at Petitioner’s request. The hearing was scheduled for June 14-16, 2017, with the decision due July 9, 2017. The decision due date was extended for good cause to August 14, 2017 at the conclusion of the due process hearing by joint request of the parties. The decision was extended again to August 16, 2017, at Petitioner’s request to allow the parties more time to submit written closing arguments.

**B. Legal Representatives**

Student was represented throughout this litigation by Student’s legal counsel Dorene Philpot with the Philpot Law Office and her co-counsel Sharon Ramage and Jacqueline Dodd with the Ramage Law Group. The school district was represented throughout this litigation by its legal counsel Cynthia Buechler with the law firm of Buechler & Associates.

**C. Resolution Session and Mediation**

The parties agreed to attempt mediation in lieu of a Resolution Session. The parties met in mediation on May 31, 2017, but it was not successful.

**D. Preliminary Motions**

There were several preliminary motions resolved prior to the due process hearing. Order No. 3 issued on May 10, 2017, denied Respondent’s Sufficiency Challenge to the Complaint. Order No. 4 issued on May 23, 2017, granted Petitioner’s Request for Parental Observation.

The due process hearing was conducted on June 14-16, 2017. The hearing

3. Implementation: Whether the school district failed to properly implement Student's February \*\*\*, 2016 IEP as written including, for example, whether the school district failed to supply the parent progress reports in a timely manner, failed to supply Student's IEP to \*\*\* in a timely manner, and failed to effectuate the agreed-upon placement at \*\*\* in a timely manner and other allegations stated on page 6 of the Complaint;
4. Procedural: Whether the school district failed to comply with parental and student procedural rights under the IDEA including for example whether the school district changed Student's IEP without parental input, withheld information it was otherwise obligated to provide to the parent, failed to provide sufficient Prior Written Notice when it was required to do so, failed to supply the parent with IEP progress reports in a timely manner, failed to provide the parent with ARD paperwork in a timely manner, whether the school district "pre-determined" Student's IEP and placement, whether parental comments at ARD meetings were correctly stated in the ARD documents, whether the school district failed to provide the parent with \*\*\* at all ARD meetings, and whether the school district w



Petitioner alleges claims under the IDEA beginning with the ARD meeting on February \*\*\*, 2016 and continuing thereafter with Student's placement at \*\*\* in May 2016 and the IEPs implemented for the 2016-2017 school year. Petitioner also alleges claims related to the IEP and change in placement proposed at ARD meetings beginning in February 2017 through the spring of 2017 for the upcoming 2017-2018 school year. Petitioner filed Petitioner's request for a due process hearing (the Complaint) on April 25, 2017. Petitioner's cause of action accrued when Petitioner knew or should have known about the alleged action that serves as the basis of Petitioner's Complaint.

Any claims related to the IEP designed at the \*\*\*, 2016 ARD meeting accrued on that date. Therefore the one year statute of limitations on those claims ran on \*\*\*, 2017.<sup>2</sup> Petitioner's Complaint was not filed until April 25, 2017. Therefore, to the extent any of Petitioner's claims relate to the design or implementation of the IEP developed at the February \*\*\*, 2016 ARD meeting through April 25, 2016 those claims fall outside the one year statute of limitations applied in Texas. 34 C.F.R. § 300.511 (e); 19 Tex. Admin. Code § 89.1151 (c). Claims related to the design or implementation of the IEP developed at the February \*\*\*, 2016 limita. (\*\*\*(6(e

## VI. CLAIMS OUTSIDE HEARING OFFICER'S JURISDICTION

The jurisdiction of a special education hearing officer in Texas is strictly limited to claims arising under the IDEA. Specifically, a hearing officer has the authority to determine claims related to the identification, evaluation, or educational placement of a student with a disability or the provision of a FAPE to the student. 34 C.F.R. §§ 300.507-300.511; 19 Tex. Admin. Code §§ 89.1151 (a), 89.1170.

Therefore, to the extent Petitioner raises claims under laws other than the IDEA, those claims shall be dismissed as outside the jurisdiction of the hearing officer, including specifically claims under Section 504 of the Rehabilitation Act of 1974; the Americans with Disabilities Act; the Family Educational Rights & Privacy Act; the No Child Left Behind Act; Section 1983 and Title VI of the Civil Rights Act of 1964; and, the Technology Related Assistance for Individuals with Disabilities Act.

In addition, Petitioner's Complaint includes a statement placing Respondent "on notice" that Petitioner intends to seek attorney's fees and litigation costs under the IDEA and other federal statutes. The parent of a child with a disability may be entitled to an award of attorney's fees as a prevailing party. An award of attorney's fees is within the sole discretion of either the federal district court or a state court of competent jurisdiction upon appeal of the hearing officer's decision. Reimbursement for attorney's fees and litigation costs are outside the hearing officer's jurisdiction

educational/developmental deficits in the areas of \*\*\*. Student's adaptive behavior and cognitive functioning are delayed.<sup>5</sup>

2. \*\*\*. \*\*\*.<sup>6</sup> Student has a history of \*\*\* and \*\*\* behaviors both at home and in school. Specifically Student has exhibited \*\*\* and \*\*\*, \*\*\*, \*\*\* behavior, and \*\*\*. Student loves to \*\*\*.<sup>7</sup>

3. Student has fairly limited \*\*\*. Student can \*\*\* and is able to socialize \*\*\* but needs \*\*\* to address \*\*\* deficiencies. \*\*\*. Student typically \*\*\*.<sup>8</sup> "TM6h avudENOVMS)4@k0'00Ea0ZT 16'39



**DOCKET NO. 195-SE-0417**



17. \*\*\*,<sup>36</sup> The \*\*\* included a set of steps to be taken five months before the end of the calendar year of the \*\*\* placement. The set of steps required the involvement of staff from both \*\*\* and the school district. \*\*\* would make recommendations about the design of the \*\*\* based on Student's academic and behavioral needs.<sup>37</sup>
18. The \*\*\* noted Student needed an intense behavior management program to decrease attention seeking motivated behaviors. Under the plan, the school district needed to secure adequate staff and provide training to ensure it could provide Student with the highly structured learning environment Student needs. The \*\*\* contemplated consult and collaboration with \*\*\* staff prior to and during Student's \*\*\* as well as on-going consultation with a Board Certified Behavioral Analyst (BCBA).<sup>38</sup>
19. The \*\*\* also contemplated family training to teach the family effective behavior management techniques so Student's behavior would generalize into the home and other settings. The plan contemplated family training would be provided by the school district, \*\*\*, and \*\*\* (\*\*\*).<sup>39</sup> Services from \*\*\* are conditioned upon availability and are secondary to services from the school district.<sup>40</sup>
20. The \*\*\* included development of an \*\*\* to include both behavior management and \*\*\* along with short term assistance or placement from \*\*\*. The \*\*\* required Student meet a set of criteria in order to implement the \*\*\* process including a \*\*\* – the criteria and \*\*\* were to be stated in ARD documentation along with appropriate staff training.<sup>41</sup>
21. Student's \*\*\*\* under the plan hinged on Student's behavioral progress as measured by reports from \*\*\* to the parent and school district. ARD meetings were to be scheduled as needed to make adjustments to Student's IEP. Consultation with a BCBA was contemplated to ensure continuity of educational programming between \*\*\* and the school district. On site observations by school district staff and in-home training for the family were also included in the plan.<sup>42</sup>
22. As part of the intake process \*\*\* staff administered assessments to determine Student's

**DOCKET NO. 195-SE-0417**

**DECIS**

29. \*\*\* prepared a set of recommendations for Student's \*\*\* planning. \*\*\* recommended Student demonstrate significant progress towards treatment goals before \*\*\* should be considered. The following factors were to be considered in making the \*\*\* decision: availability of in-home support; an appropriate educational setting able to meet Student's needs; on-going \*\*\*

visual supports. Student needs instructional staff with significant training in behavioral interventions. Student needs consistency from staff in implementing the educational and behavioral program.<sup>66</sup>

are needed for in-home and parent-training, community based instruction, and parent counseling as components of Student's \*\*\*. Student needs a consistent level of mana-0.006 Tw 3.036 0

added to the weekly schedule if Student did well. If Student continued to do well \*\*\* in the school district. The school district would provide transportation to and from the school district.<sup>88</sup>

43. Transitions that have been historically successful from \*\*\* included a “two-way” approach where school district personnel spend time with the staff and the student in the classroom and then \*\*\* staff go to the school district and spend time with the staff and student there. The staff at \*\*\* has a lot of experience assisting students to \*\*\*. School district staff and school district behavioral consultants conducted some observations at \*\*\* but the “two-way” approach was not implemented.<sup>89</sup>
44. A series of ARD meetings were held beginning in February 2017, April 2017 and May 2017. The purpose of the meetings was to plan for Student’s \*\*\*.<sup>90</sup> School district staff communicated with \*\*\* to exchange information in planning for and following up on the ARD meetings in the spring of 2017.<sup>91</sup>
45. The February \*\*\*, 2017 ARD was Student’s annual ARD.<sup>92</sup> Student’s mother and \*\*\* attended the meeting. \*\*\*. \*\*\* staff (including Student’s teacher, the Case Manager, and the \*\*\* \*\*\*) participated in the February 2017 ARD by telephone. Representatives from \*\*\* also participated in the ARD.<sup>93</sup> Student’s teacher at \*\*\* drafted a set of proposed



**DOCKET NO. 195-SE-0417**

**DECISION OF THE HEARING OFFICER**

classroom. A BCBA is available to provide on-going consultative support to the teacher throughout the year. The Life Skills teacher is familiar with behavior data collection and

**DOCKET NO. 195-SE-0417**

**DECISION OF THE HEARING OFFICER**

placement issue and lack of services in August but agreed to reconvene.<sup>121</sup> The ARD reconvened on April \*\*\*, 2017, to continue discussions about the proposed \*\*\*. Student's mother and \*\*\* attended. An \*\*\* was again present. \*\*\* staff again participated by phone. A representative from \*\*\* attended.<sup>122</sup> Student's mother continued to agree to the ESY program but also continued to disagree with the school district's proposal to return Student to the school district for the 2017-2018 school year. Student's mother expressed concerns about Student's continued \*\*\* behavior. Student's \*\*\* voiced concerns over Student's inappropriate \*\*\* which were often precursors to \*\*\* behavior.<sup>123</sup>

61. The \*\*\* in the \*\*\* was now included in the set of ARD documents for the April \*\*\*, 2017 meeting.<sup>124</sup> Despite a successful \*\*\* the family continued to express concerns over Student's inappropriate \*\*\* and \*\*\* behavior.<sup>125</sup> Student's \*\*\* requested the ARD documents be provided \*\*\*. A copy of the ARD was provided at the end of the April \*\*\* ARD to Student's mother along with Prior Written Notice.<sup>126</sup> The family had some concerns \*\*\* for Student's mother.<sup>127</sup>
62. From November 2016 to February 2017, Student had \*\*\* successful on campus visits with family. Student also had \*\*\* unsuccessful \*\*\* visits \*\*\*. Student's mother reported Student exhibited \*\*\* and \*\*\* during \*\*\*.<sup>128</sup> Student's mother and other \*\*\* need more parent training to support Student's successful \*\*\*.<sup>129</sup>
63. Parent and \*\*\* need CPI training before Student \*\*\*.<sup>130</sup> A planned \*\*\* in June, 2017 was \*\*\* because Student exhibited \*\*\* behavior \*\*\* including \*\*\* and \*\*\*.<sup>131</sup> Student still exhibits \*\*\* when Student \*\*\*.<sup>132</sup> Student's mother, \*\*\*, and \*\*\* need training in \*\*\* techniques.<sup>133</sup>
64. Student's mother needs in-home training with Student in prompting, compliance, and

---

121

behavior momentum. She also needs training in setting up a structured schedule, learning effective communication strategies and assistance in coping with feeling overwhelmed.<sup>134</sup> She needs help \*\*\* and training in the consistent use of appropriate behavior interventions.<sup>135</sup> Behavioral issues during Student's \*\*\* confirm the need for more parent training<sup>136</sup>

65. \*\*\* provided Student's mother with three family training sessions but they did not begin until February 2017.<sup>137</sup> Parent training at \*\*\* can be requested by the parent or recommended by the \*\*\* – however, \*\*\* does not impose parent training on a parent.<sup>138</sup> The delay in providing parent training at \*\*\* was due to a lack of \*\*\* staff.<sup>139</sup>
66. The school district offered Student's mother parent-training opportunities during the 2016-2017 school year. The trainings were provided through Region V Educational Service Center over two consecutive days. One of the training topics was \*\*\* – not an especially helpful topic for Student's mother. The Region V trainings were not individualized for Student. Student's mother was unable to attend the trainings offered because Student's \*\*\*.<sup>140</sup>
67. The school district enlisted two behavioral consultants during the 2016-2017 school year who observed Student at \*\*\*, wrote reports, and made recommendations related to Student's \*\*\*.<sup>141</sup> One of the BCBA consultants included a detailed set of training recommendations for both school district staff and for the family in a February 2017 report.
68. The BCBA recommended parent training should begin in February 2017 \*\*\* by the beginning of the 2017-2018 school year.<sup>142</sup> The school district did not make those reports available to Student's mother or share or discuss the reports at ARD meetings in the spring of 2017.<sup>143</sup> Both consultants also prepared additional reports after the spring 2017 ARD meetings that were not shared.<sup>144</sup>

---

<sup>134</sup> Tr. III: 1098, 1118-1123.

<sup>135</sup> Tr. III: 1003, 1007.

<sup>136</sup> Tr. II: 471-472, 721-722.

<sup>137</sup> P428:0:c10:1w 266 (T)245(F)1.7(P)30.3(F.)1( II:)17( 4)-2.1(7)-4f:11-2 Tm ( ee)1759 0 2ddi f: T spring





revised based on ARD discussions, and then approved by the 2017 spring ARD committees. The Behavior Intervention Plan was based on a FBA completed by \*\*\* just before the first ARD meeting in February.



**F. In-Home and Parent Training**

In Texas, p

visited that were missed – when both the staff at \*\*\* and the school district left it to parental request to initiate training. Had the school district designed and implemented a parent/family training program that included the features recommended by its own experts Student’s mother might have been more receptive to Student’s \*\*\* for the upcoming 2017-2018 school year.

## **G. FAPE**

### **1. The Four Factors Test**

In Texas, the Fifth Circuit has articulated a four factor test to determine whether a school district’s program meets IDEA requirements. Those factors are:

The program is individualized on the basis of the student’s assessment and performance;

The program is administered in the least restrictive environment;

The services are provided in a coordinated, collaborative manner by the “key” stakeholders; and,

Positive academic and non-academic benefits are demonstrated. *Cypress Fairbanks Ind. Sch. Dist. v. Michael F.*, 118 F. 3d 245, 253 (5<sup>th</sup> Cir. 1997).

These four factors need not be accorded any particular weight nor be applied in any particular way. Instead, they are merely indicators of an appropriate program and intended to guide the fact-intensive inquiry required in evaluating the school district’s educational program for reimbursement purposes. *Richardson Ind. Sch. Dist. v. Leah Z.*, 580 F. 3d 286, 294 (5<sup>th</sup> Cir. 2009).

### **2. Individualized on the Basis of Assessment and Performance**

First, the evidence showed the IEP implemented during the relevant time period was individualized on the basis of assessment and performance. For the period of time from April \*\*\*, 2016 to February 2017 and from February 2017 through the end of the 2016-2017

school year the IEP goals and objectives addressed Student's needs based on assessment and performance. The IEP goals and objectives proposed for the 2017-2018 school year also addressed all areas of Student's needs, included academic goals and objectives in line with Student's functional performance, and were based upon information from the staff at \*\*\* who worked with Student on a daily basis.

### **3. Least Restrictive Environment**

Second, the evidence showed Student needed \*\*\* placement for the remainder of the 2016-2017 school year. \*\*\*\*\* placement was not in dispute through May 2017. The evidence further showed the school district's proposed placement in a Life Skills classroom at the \*\*\* met the IDEA's preference for educating children with disabilities to the maximum extent appropriate with their non-disabled peers. 34 C.F.R. § 300.114.

In the proposed self-contained special education Life Skills classroom Student would have an opportunity to access non-disabled peers in \*\*\* and \*\*\* and interact with friends. Furthermore, the proposed placement contemplated an appropriate student to teacher ratio. The evidence showed the assigned Life Skills teacher was trained and experienced in the use of appropriate behavioral strategies to be implemented in the proposed setting. All features of the classroom at \*\*\* can be replicated in the Life Skills classroom.

However, successful \*\*\* also necessarily requires \*\*\*. The evidence showed the school district proposed such a plan and was willing to revise the schedule to meet parental concerns and suggestions by the staff at \*\*\*. Therefore, to the extent the school district's proposed placement in the Life Skills classroom at the \*\*\* was predicated on a \*\*\* the record shows the proposed change in placement met the requirements for placement in the least restrictive environment. 34 C.F.R. § 300.114.

### **4. Services Provided in a Coordinated, Collaborative Manner by Key Stakeholders**

Third, the evidence showed Student's services at \*\*\* were provided in a coordinated and collaborative manner by \*\*\* staff. \*\*\* provided the school district and the parent with regular IEP progress reports and \*\*\* reviews. The evidence showed \*\*\* staff cooperated with the school district in making arrangements for school district staff and its consultants to visit and observe Student in \*\*\*. The Life Skills teacher was allowed to observe and then directly interact with Student on a visit to \*\*\* without interference or objection. The evidence suggests teaching personnel from \*\*\* and the school district could work in a coordinated, collaborative manner in implementing a \*\*\*.

The record reflects there was fairly good cooperation and communication between \*\*\* and the school district. However, the \*\*\* was a little vague on how the staff at \*\*\* and the school district would work coll 03 Tw -39 a4 T(36 00(nc)\* 0 TwTsBt)-

Furthermore, the school district did not include any support services to help Student's mother cope with feeling overwhelmed by her circumstances. A school district may provide related services that address parental needs. Those services may include parent counseling and helping parents acquire the necessary skills that will allow them to support the implementation of their child's IEP. 34 C.F.R. § 300.34 (c)(8). Social work services may also be a related service. Social work services may include group and individual counseling with the family, addressing problems in the student's living situation that affect the student's adjustment in school, and, assisting in developing positive behavioral intervention strategies. 34 C.F.R. § 300.34 (c)(14).

The school district invited the participation of \*\*\* to ARD meetings but the \*\*\* resources appear to be fairly limited. The school district could have done more to work in a coordinated, collaborative manner with the parent and family at an earlier point in time to address parental and family needs to effectively support Student's generalization of skills. The failure to design and implement comprehensive parent training beginning in February 2017 was a critical piece missing from Student's IEP and the proposed \*\*\*.

## **5. Academic and Non-Academic Benefits**

Fourth, the evidence supports the conclusion Student received both academic and non-academic benefits from the program provided at \*\*\* from Student's initial placement there through the date of the due process hearing. Student improved in all areas. While Student may not have mastered Student's long-term behavioral goals, the evidence showed improvement in academic, behavioral, and \*\*\* skills.

The IDEA does not require the IEP to guarantee a certain level of accomplishment – only that the IEP is reasonably calculated to meet Student's needs given Student's unique circumstances. *Endrew F. v. Douglas Cnty. Sch. Dist.*, 137 S. Ct. (2017) Furthermore, th

whether Student received an educational benefit. *HoustonInd. Sch. Dist. v. V.P.*, 582 F. 2d 576, 590 (5<sup>th</sup> Cir. 2009). The evidence showed Student received more than a de minimus educational benefit from the program provided given Student’s unique circumstances. *Andrew F. v. Douglas Cnty. Sch. Dist.*, supra.

**6.     \*\*\***

\*\*\*

\*\*\*

\*\*\*

\*\*\*

\*\*\*

**7.     \*\*\***

\*\*\*

\*\*\*

\*\*\*

\*\*\*

\*\*\*

\*\*\*

## 8. Implementation of the IEP

Although the evidence showed the school district took a little over two months to effectuate Student's placement at \*\*\*, the evidence also showed Student received the full \*\*\* of \*\*\* placement \*\*\*. Furthermore, under the stay put rule as applied in this case, Student spent a little over two more months in the \*\*\* placement during the pendency of this litigation. 34 C.F.R. § 300.518. Therefore, to the extent the school district failed to timely implement the \*\*\* placement, any harm that might have occurred as a result was minimal.

The evidence showed IEP progress reports were provided to the parent in a timely manner throughout Student's placement. There was very little evidence, if any, that the school district failed to provide Student's IEP to \*\*\* in a timely manner. The evidence shows otherwise – the IEP drafted by the school district was discussed and approved at the February 2016 ARD attended by staff from \*\*\*.

There is no credible evidence the school district went outside the ARD process in developing Student's IEPs over the relevant time period. Although school district staff may have consulted and collaborated with \*\*\* staff and/or one with outside consultants all IEPs were presented, discussed, and approved by the ARD committees. All decisions about Student's program and placement were made by the ARD committees over the relevant time period.

## 9. Procedural Issues

Petitioner did not meet Petitioner's burden of proving the school district violated parental procedural rights under the IDEA. The school district provided Student's mother with the requisite i

asked questions, advocated for services, and stated her position with regard to all aspects of Student's education and placement. The school district considered and responded to parental concerns and objections, and attempted to address them. Although Student's mother may have \*\*\*.

There is very little evidence the school district "pre-determined" Student's placement. The \*\*\*\*\* placement for \*\*\*. It was reasonable for the school district to consider and begin to plan for \*\*\* at some point. Indeed, \*\*\*. Any discussions, staffings, or consultations with \*\*\* staff or outside consultants do not lead to the conclusion the school district "pre-determined" Student's placement. Instead, the evidence shows otherwise when the school district agreed in early February 2017 to delay a decision about Student's return in order to provide the parent with more training and to collect additional data on Student's progress at \*\*\*.

There is some evidence the ARD paperwork from the February 2017 ARD took more time than it should have to get to the parent and the school district did not share the consultant reports. Even so the evidence showed these factors did not significantly impede the parent's opportunity to participate meaningfully in making decisions about Student's educational program. Instead the evidence showed otherwise. ~~Sharon's~~ mother was able to articulate her position and requested the



- Cnty. Sch. Dist., 137 S. Ct. 988 (2017); Schaffer ex. rel. v. Weast, 546 U.S. 49, 52 (2005); C.G. v. Waller Ind. Sch. Dist., 2017 U.S. App. LEXIS 11139 (5/15/2017); CypressFairbanks Ind. Sch. Dist. v. Michael F., 118 F. 3d 245 (5/15/1997); 34 C.F.R. §§ 300.22, 300.323 (a); 19 Tex. Admin. Code § 89.1055 (e).
2. Respondent's proposed change in placement for Petitioner from a \*\*\* to a Life Skills classroom on Petitioner's \*\*\* for the 2017-2018 school year was reasonably calculated to provide Petitioner with a free, appropriate public education in the least restrictive environment. 34 C.F.R. §300.114. However, Respondent's proposed \*\*\*\*\* \*\*\* placement to the placement on the \*\*\* lacked critical components including sufficient parent and in-home training and lack of collaboration between \*\*\* \*\*\* staff and school district staff in setting the transition criteria, a target date, schedule, and providing support to Petitioner in the Life Skills classroom. Therefore, the \*\*\*, as a component of the proposed change in placement, was not reasonably calculated to provide Petitioner with the requisite educational benefit. CypressFairbanks Ind. Sch. Dist. v. Michael F., supra.
  3. \*\*\*. \*\*\*.
  4. Respondent implemented Petitioner's IEPs as written during the relevant time period and therefore Petitioner failed to meet Petitioner's burden of proof that a failure to properly implement the IEP resulted in the denial of a free, appropriate public education. Schaffer ex. rel. v. Weast, supra.
  5. Respondent complied with parental and student procedural rights under the IDEA. Any procedural violations did not impede Petitioner's right to a free, appropriate public education, significantly impede the parent's opportunity to participate in decision-making regarding the provision of a free, appropriate public education, or cause a deprivation of educational benefit. 34 C.F.R. §§ 300.503 (a)(c); 300.504(a)(d); 300.513 (a)(2).
  6. All of Petitioner's claims arising under any laws other than the Individuals with Disabilities Education Act are outside the jurisdiction of a special education hearing officer in Texas. 34 C.F.R. §§ 300.503 (a); 300.507; 19 Tex. Admin. Code § 89.1151 (a).
  7. Petitioner's request for an award of attorneys' fees and litigation costs are outside the jurisdiction of a special education hearing officer in Texas. 34 C.F.R. §§ 300.516, 300.517; 19 Tex. Admin. Code § 89.1151 (b).
  8. Petitioner's claims that accrued beginning on February \*\*\*, 2016 through April \*\*\*, 2016 are dismissed as outside the one year statute of limitations. 34 C.F.R. § 300.51(e); 19 Tex. Admin. Code § 89.1151 (c).

## X. ORDERS

Based upon the foregoing findings of fact and conclusions of law Petitioner's requests for relief is **GRANTED IN PART AND DENIED IN PART AS FOLLOWS:**

1. Respondent provide parent training to parent, Petitioner's \*\*\* as recommended by the Consultant Reports dated February \*\*\*, 2017 (Joint Exhibit 2) and May \*\*\*, 2017 (Respondent's Exhibit 17, paragraphs 2-5) including crisis prevention intervention techniques;
2. Respondent implement the parent training no later than the third week of the upcoming 2017-2018 school year, or beginning on a date agreed to by the parties, in collaboration with staff at \*\*\* \*\*\* as recommended in the Consultant Reports dated February \*\*\*, 2017 (Joint Exhibit 2) and May \*\*\*, 2017 (Respondent's Exhibit 17, paragraphs 2-5);
3. Respondent implement the \*\*\* \*\*\* as recommended in the Consultant Report dated February \*\*\*, 2017 (Joint Exhibit 2, beginning at the bottom of page 2 up through the middle of page 3) beginning on a date recommended by staff at \*\*\*;
4. Respondent conduct an in-home training assessment and provide in-home training to Petitioner in the presence of Petitioner's parent, \*\*\* as recommended in the Consultant Report dated February \*\*\*, 2017 (Joint Exhibit 2, page 3);
5. The parties convene an ARD no later than 10 calendar days from the date of this Decision, or on a date agreed to by the parties, for the purpose of designing parent training goals, a schedule for parent training, scheduling the in-home training assessment and designing a schedule for in-home training services, consideration of parent counseling and/or social work services, and a schedule for implementing the \*\*\* schedule as described in paragraph 3, supra;
6. Petitioner's mother shall cooperate and collaborate with Respondent in scheduling and participating in the parent training, the in-home training assessment, and in-home training service( t)-2(r2Bw T\* [(ptic)6Pac)4.1(he)3v0.97 06(r)3(a)o

also invite the staff at \*\*\* to the ARD to participate in the design and implementation of the \*\*\* \*\*\* schedule including setting criteria for Petitioner to begin the \*\*\*, setting a target date for \*\*\* \*\*\* to be completed, use of the \*\*\* paraprofessional as a support service, and parent training at \*\*\*;