

DOCKET NO. 289-SE-0620

██████████ B/N/F ██████████
Petitioner

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BEFORE A SPECIAL EDUCATION

v.

**INSPIRE ACADEMIES AND THE HAYS
COUNTY JUVENILE DETENTION
CENTER,**
Respondents

HEARING OFFICER FOR

THE STATE OF TEXAS

ORDER NO. 8
ORDER GRANTING RESPONDENT’S MOTION TO DISMISS

I. PROCEDURAL HISTORY

██████████ by next friend ██████████ (Student or collectively, Petitioner), filed a request for a due process hearing under the Individuals with Disabilities Education Act (IDEA) on June 26, 2020 against Inspire Academies (John H. Wood Charter School) and Hays County Juvenile Center (Respondent or HCJC).

Petitioner resolved ██████████ claims against Inspire Academies and filed a Motion to Dismiss on July 8, 2020, leaving only Petitioner’s claims under the IDEA against HCJC pending.¹

Order No 7 set the deadline to file responsive motions for February 24, 2021. HCJC filed a Motion for Leave to File Motion to Dismiss and a Motion to Dismiss on February 26, 2021. Petitioner filed a Response to the Motion for Leave on March 1, 2021. The Hearing Officer granted HCJC’s Motion for Leave because its ability to file on time was hindered by an unprecedented winter storm. Petitioner filed a Response to the Motion to Dismiss on March 8, 2021.

¹ Petitioner’s claims under statutes other than the IDEA were dismissed for lack of jurisdiction in Order No. 5.

The MOU required by Tex. Educ. Code § 29.012 is memorialized in 19 Tex. Admin. Code § 89.1115 (Memorandum of Understanding Concerning Interagency Coordination of Special Education Services to Students with Disabilities in Residential Facilities).⁶ Specifically, “LEAs must provide or ensure the provision of a FAPE to students with disabilities residing in residential facilities in accordance with the IDEA, applicable federal regulations, and state laws and rules. Tex. Admin. Code § 89.1115(d)(1)(A) (emphasis added).

Here, the MOU and state regulations implementing its terms place the responsibility for providing or ensuring the provision of FAPE to students with disabilities residing in residential facilities, including HCJC, squarely on LEAs. Petitioner raised and previously settled claims against Inspire Academies, the LEA responsible for providing Student a FAPE while a resident at HCJC. As a result, Student has been evaluated by the LEA identified as eligible for special – Aptude6 (

In this case, however, Inspire Academies, not HCJC, is responsible for developing Student's IEP. Inspire Academies thus determines what related services are necessary to ensure Student receives FAPE, with HCJC delivering any necessary psychological or counseling services at the direction of Student's IARD Committee. As such, HCJC is a service provider, not the party responsible for ensuring Student receives FAPE and developing