

DOCKET NO.219-SE-0721

STUDENT	§	BEFORE A SPECIAL EDUCATION
b/n/f PARENT	§	
	§	
v.	§	HEARING OFFICER FOR THE
	§	
PEARLAND INDEPENDENT	§	
SCHOOL DISTRICT	§	STATE OF TEXAS

DECISION OF HEARING OFFICER

Introduction

Petitioner,\*\*\* 3 6 W X G H Q W ' E \ Q B I P W H Q W H Q G L O H G D U H T X H V W I R U  
pursuant to the Individuals with Disabilities Education Improvement 2004 3, ' ( \$ ' - X O \







suggested in-person learning for Student in order to be able to work with Student. Student remained at home until January 2021. District resumed LLI at that time.<sup>10</sup>

9. In early to mid-October 2020, Parent gave District a copy of a June 2020 outside clinical evaluation of Student and requested a dyslexia evaluation. The outside evaluation diagnosed Student with **D W W H Q W L R Q G H I L F L W A D H S H U D P W L, Specific Learning R U G H U G L V D E S L O L W \** <sup>3</sup>

14. With respect to written expression, the FIIE concluded that Student performed adequately on a norm-referenced measure of sentence composition, and below average on a measure of spelling.<sup>16</sup>

15. The FIIE did not find that Student met the criteria as a student with dyslexia.<sup>17</sup>

16. Student presented with symptoms consistent with ADHD predominantly related to inattention and difficulty focusing. Neither the examiner nor teachers report any significant concerns regarding

6 W X G at City level at school. Student had an outside diagnosis of ADHD. Student met

HOLJLELOLW\ FULWHULD XQGHU RWKHU KHDOWK LPSDLUPHQV

17. At the FRPSOHWLRQ January 2021 IEP, District staff sent a copy of the report to

Parent. Prior to the ARDC meetings, District sent drafts of the proposed IEPs to Parent.<sup>18</sup>

18. 6W XGHQW TV LQLWLDO DGPLVVLRQ UHYLHZ DQG GLVPLVVDO

2021. Parent was present. Student met eligibility for special education under the classifications of

OHI due to ADHD and SLD in the areas of basic reading and reading fluency. At that time,

Student was reading BAS level\*\*\*, at a rate of\*\*\* % accuracy<sup>20</sup>

19.

6 W X G O H D W A P W T y . District provided Notice of Decision Prior Written Notice Parent  
waived the 5 day and Student began to receive support.<sup>23</sup>

22. At the end of April 2021, Student was reading % accuracy.<sup>24</sup>

23. In the fall 2021 after working with Student the special education teacher observed that Student  
would stop reading to make connections in the text or give input between sentences. This  
impacted 6 W X G H Q W T V . The ARDC met October \*\*, 2021 and added a behavioral/fluency  
J R D O W R 6 W X G H Q W T V , ( 3

24. Student made \*\*\* in \*\*\* in \*\*\* grade. 6 W X G H Q W T V I L Q D O J  
in \*\*\* grade ranged from \*\*\* .<sup>26</sup>

25. In \*\*\* J U D G H 6 W X G H Q W T V I L Q D O J U D G H V Z H U H

26. Student scored \*\* on the \*\*\* section of the State of Texas Assessments of Academic Readiness  
3 6 7 \$ \$ 5 \*\* grade assessment, considered S H U I R U P H G V S W L E N D I T W R U L O \ ' .  
perform satisfactorily in the \*\*\* grade \*\*\* section of the STAAR, making a score of \*\*. As a  
result, Respondent placed Student in an Accelerated Learning plan for \*\*\* .<sup>28</sup>

27. In \*\*\* , Student made adequate progress.<sup>29</sup>

28. On the fall assessment the spring assessment indicated a reading level of \*\*. When assessed on  
BAS, it was level \*\*\* . The spring assessment indicated a reading level of \*\* . W [ T m 0 g 0 G [ ( \*\* ) ] T J E T Q







When a child is suspected of having a specific learning disability, a school must determine that underachievement is not due to lack of appropriate instruction in reading or mathematics. Respondent argues WKDW 3HWLWLRQHUI DLOHG WR VKRZ WKDW 6WXGHQW¶V XQGHUACHIEVEMENT is a qualifying condition, rather than a lack of appropriate instruction.

In discussing student performance, the Office of Special Education and Rehabilitative Services addressed limited instruction during the COVID pandemic.

¶ Levels of student performance pr



Issue: FAPE

7KH , '(\$ JXDUDQWHHV D VWXGHQW ZLWK D GLVDELOLW\ PXVW  
RSSRUWXQLW\ FRQVLVWLQJ RI VSHFLDOLJHG LQVWUXFWLRQ DQG  
provide the student with an educational benefit. However, the educational benefit must be more than a  
³PHUH PRGLFXP´ DQG QRW ³GH PLQLPLV´ , QVWHDG WKH , (3 PXVW  
regression or trivial advancement. The educational benefit the IEP is designed to achieve must be  
³PHDQLQJ. In this jurisdiction the Fifth Circuit has established a four factors test to determine  
ZKHWKHU WKH VFKRRO GLVWULFW ¶V HGXFDWLRQDO SURJUDP PHHWW  
appropriate public education under the IDEA. Those four factors are:

- (1) :DV WKH SURJUDP LQGLYLGXDOLJHG RQ WKH EDVLV RI WKH VWXGHQW
- (2) :DV WKH SURJUDP DGPLQLVWHUHG LQ WKH OHDVW UHVLVWULFW
- (3) Were the services provided in a coordinated and collaborative manner by key stakeholders?
- (4)

The initial ARDC met in March 2021 and reviewed the FIE data and determined that Student has a disability and is in need of special education services. 6 W X G H Q W T V U O S R P Y Z D V discussed. Teachers reported no significant concerns regarding hyperactivity in Student

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Conclusions of Law

1. Student is eligible for special education services as a student with a disability under IDEA, 20 U.S.C. §1400 et. seq. and its implementing regulations. Pearl and Independent School District is responsible for providing the student with a FAPE.
2. The one-year statute of limitations rule applies in the instant action. The relevant time period is July 24, 2020. 34 C. F. R. 34 C.F.R. §300.507; 20 U.S.C. §1415(f)(3)(C).
3. Due to lack of appropriate instruction\*\*\* (limited instruction) during the 2019/2020 school year, Respondent did not have reason to suspect that Petitioner had a disability and was in need of special education services until October 2020. Within a reasonable time period after notice, Respondent referred Student for an evaluation. Respondent did not fail in its Child Find duty. 34 C.F.R. §300.309(b); 20 U.S.C. §1415(d)(1)(E). *Pearl Indep. Sch. Dist. v. Richard R.*, 567 F. Supp2d 918, 950 (W. D.2 79i 614.86 Tm 0 G [(T /Fblderv612 71.08.02 501.04 Tm

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