

SOAH Docket No. 701-24-10329.IDEA
TEA Docket No. 165-SE-0224

**Before the
State Office of Administrative
Hearings**

—
**STUDENT, by next friend PARENT,
Petitioner**

v.

**North East Independent School District,
Respondent**

DECISION (b.2 § T5v €2 {s} 2.4is) 2.es

relationship to Student's disability. It also was not the result of the District's failure to implement Student's Individualized Education Program (IEP). Therefore, the conduct is not considered a manifestation of Student's disability.

I. DUE PROCESS HEARING

The due process hearing was conducted on February 29, 2024, via the Zoom videoconferencing platform. Petitioner was represented throughout this litigation by Parent, ***, in Parent's capacity.

II. ISSUES AND REQUESTED RELIEF

A. Petitioner's Issue

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

Whether the District improperly placed Student in the DAEP.

B. Petitioner's Requested Relief

Petitioner confirmed the following item of requested relief:

Order the District to not place Student at the DAEP.

III. FINDINGS OF FACT

1. Student is *** years old and resides within the boundaries of the District. Student is eligible for special education services under the criteria of autism and speech impairment. At the time of the behavior in question, Student was a *** grader at *** in the District.¹
2. On December ***, 2021, the District conducted a review of existing evaluation data (REED). Student's language abilities were below the average range of functioning. In response to the Behavior Assessment System for Children, Third Edition (BASC-3), Parent noted concerns with Student's ***. At

¹ Joint Exhibit (JE) 1 at 3-4; JE 2 at 1-2; JE 4 at 1.

school, Student was often ***, and had trouble presenting new ideas to others or sharing personal experiences. Student's teacher did not report any behavioral concerns, and Student had no discipline or office referrals.²

3. The District conducted a full individual and initial evaluation (FIE) on February ***, 2022. Student's recephe4.3 (n)1.5.5 Tm-0.6 (e D (ev)2.80131 1013 T

IV. DISCUSSION

Petitioner alleges the District improperly placed Student in the DAEP and requests the District not assign Student to the DAEP for(en)5.7 (t)TJ-0.008 Tc Td(D)0.6(EPh)

- when planning to change the student's placement as part of the discipline, determine whether the behavior that violated the student code of conduct was a manifestation of the student's disability; and
- provide educational services during disciplinary removals that constitute a change in placement.

34 C.F.R. § 300.530

As discussed below, the District complied with the IDEA disciplinary requirements. The District followed its Student Code of Conduct, did not impose a discriminatory punishment, and conducted a proper MDR ARD committee meeting b(E)0.9 Mpt-4.6 (t6631 (p)Tw 3.)-3.8 (D)2.1 (R8 (cr)3 (ime, an)1.0.001g[me)-0.7 (e

CONFIDENTIAL

the past. Petitioner asks this Hearing Officer to determine that the DAEP placement is not appropriate for Student due to Student's autism and Parent's concern Student will regress emotionally and academically if placed there. While the Hearing Officer empathizes with Parent's concerns, Petitioner presented no evidence to support Petitioner's claims that the DAEP placement is inappropriate for Student or that it may cause Student harm in some way.

Given Student's behavior profile, discipline history, evaluation data, and IEP, the Hearing Officer concludes there is no causal or direct and substantial link between Student's autism and speech impairment and Student's conduct of ***.

2. Implementation of Student's IEP

During the MDR ARD committee meeting, the committee concluded Student's conduct was not directly related to any failure to implement Student's IEP. There was no evidence presented to show that the District failed to provide Student with Student's special education supports and accommodations. The District agreed to conduct an FBA after the incident, but this was not due to a failure to implement Student's IEP. In sum, the evidence does not support a link between the District's implementation of Student's IEP and

3. The District has the authority under the IDEA to place Student at the DAEP for the conduct at issue. 34 C.F.R. § 300.530.

ORDER

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

Signed March 21, 2024.

ALJ Signature:



Kasey White
Presiding Administrative Law Judge

VI. NOTICE TO THE PARTIES

The Decision of the Hearing Officer in this cause is a final and appealable order. Any party aggrieved by the findings and decisions made by the Hearing Officer may bring a civil action with respect to the issues presented at the due process hearing in any state court of competent jurisdiction or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. §§ 300.514(a), 300.516; 19 Tex. Admin. Code § 89.1185(n).