

SOAH Docket No. 701-23-23266.IDEA
TEA Docket No. 333-SE-0723

Before the State Office of Administrative Hearings

—
STUDENT, by next friends * and ***,
Petitioner**

v.

**Collinsville Independent School District,
Respondent**

DECISION OF THE HEARING OFFICER

I. STATEMENT OF THE CASE

*** (Student), by next friends *** and *** (***) and, collectively, Petitioner), brings this action against the Collinsville Independent School District (Respondent or the District) under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1482, and its implementing state and federal regulations. The main issue in this case is whether Student was denied a free and appropriate public education (FAPE). The Hearing Officer concludes the

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District provided Student a FAPE by developing and implementing a program for Student that was reasonably calculated to provide Student educational benefit based upon Stu3 prefir'0.01 T66 (S)-7.6 (t)-6.77 Td*6 (S)-0.9n

Respondent offered 28 exhibits, which were all admitted over any objection by Petitioner. Respondent offered the testimony of ***, a diagnostician with the Grayson County special education cooperative, who testified about Student's evaluation; ***, a District special education and dyslexia teacher, who testified about Student's dyslexia instruction and Student's reading ability; Ms. ***, , who testified about the special education services delivered to Student; and ***, the Executive Director of Special Populations for the *** Independent School District, who testified about her review of Student's education records.¹

Both parties timely filed written closing briefs January 22, 2024. The Decision in this case is due February 5, 2024.

III. ISSUES

Petitioner raised the following IDEA issues from the 2021-22 and 2022-23 school years for decision in this case:

1. FAPE: Whether Respondent denied Student a FAPE during the relevant time period;
2. FAPE: Whether Respondent denied Student a FAPE by failing to develop an appropriate individualized education program (IEP);
3. FAPE: Whether Respondent denied Student a FAPE by failing to implement Student's IEP;

¹ Respondent listed Ms

4. FAPE: Whether Respondent denied Student a FAPE by failing to ensure a safe and nonhostile educational environment; and
5. Parental Participation: Whether Respondent denied Student's *** the right to participate meaningfully in the decision making process.

Petitioner requested the following items of relief:

1. An independent education evaluation (IEE) in all areas of suspected disability and need;
2. Compensatory education and related services;
3. An order requiring Respondent to conduct staff training on reporting, preventing, and investigating bullying;
4. An order requiring Respondent to develop a bullying safety plan for Student;
5. An order requiring Respondent to conduct staff training on Student's bullying safety plan and IEP;
6. Reimbursement for education and diagnostic expenses incurred by ***; and
7. Any other appropriate relief.

IV. FINDINGS OF FACT

Student's Educational Background

1. Student is a *** year old, *** grader who attends ***. Student is eligible for special education services under the category of specific learning disability for written expression, basic reading, reading

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to display no emotional or behavioral concerns requiring assessment. The REED included teacher observations; review of the 2018 formalnal (E)0.9

- ***. Because Student was unable to attend summer school, the committee developed a plan for delivering 30 hours of instruction in *** and 30 hours of instruction in *** after school during the fall of 2022.¹⁵
15. Student made progress on Student's IEP goals during the 2021-22 school year.¹⁶

Communication Plan

16. On August ***, 2022, Superintendent *** sent *** a letter establishing a communication plan for *** in the District. The letter directed *** to direct all their communication with the District to Superintendent *** and to communicate with him only via email. Other communication attempts, including phone calls to District personnel, emails to District personnel other than the Superintendent, and handwritten notes to District personnel, would not receive a response from the District.¹⁷
17. The letter stated that the frequency of the phone calls, emails, and campus visits by Student's *** is monopolizing the time of District employees and is hindering employees from effectively completing assigned tasks, teaching students, and communicating with other students. Superintendent *** indicated the monopolization of time is well documented from prior school years. He instituted the communication plan after reportedly receiving complaints from District personnel about the frequency of ***'s communication.¹⁸
18. The letter further stated campus staff would contact *** directly to schedule ARD committee meetings, teacher conferences, or disciplinary actions. *** was allowed to visit campus for scheduled meetings and events open to all parents. If *** interrupted the instructional

¹⁵ JE 7 at 35-36;

class. Student's IEP included contingent, remote, direct special education services in the event of COVID-related school closures.²³

23. District special education teachers delivered the special education inclusion support outlined in Student's IEP with fidelity and ensured Student received the accommodations set forth in the IEP. A District special education and dyslexia teacher delivered dyslexia services as outlined in the IEP with fidelity.²⁴

24. On January **, 2023, the District

Bullying Allegations

29. On January ***, 2023, Stud (e8y4.002145 ()-758 0T0 Td[)-Td8y4.04)-1003

the District failed to provide Student with a FAPE and to offer a program that is reasonably calculated to provide Student with the requisite educational benefit. *Id.*; *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 403 (2017).

B. DUTY TO PROVIDE A FAPE

The purpose of the IDEA is to ensure that all children with disabilities have

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supports and services, the instructional arrangement, program modifications, supports for school personnel, designated staff to provide the services, the duration and frequency of the services, and the location where the services will be provided. 34 C.F.R. §§ 300.22, 300.320, 300.323(a). While the IEP need not be the best possible one nor must it be designed to maximize Student’s potential, the District must nevertheless provide Student with a meaningful educational benefit—one that is likely to produce progress, not regression or trivial advancement. *Houston Indep. Sch. Dist. v. V.P. ex rel. Juan P.*, 582 F.3d 576, 583 (5th Cir. 2009).

The District’s obligation when developing Student’s IEP is to consider Student’s strengths, Student’s parent’s concerns for enhancing Student’s education, results of the most recent evaluation data, and Student’s academic, developmental, and functional needs. 34 C.F.R. § 300.324(a)(1).

The evidence showed that the District developed a program for Student that addressed Student’s identified needs for specialized instruction in ***. Petitioner argues Student’s program was not individualized to meet Student’s identified needs because the program never resulted in Student passing the *** STAAR. However, with a full scale IQ of ***, Student is unlikely to ever meet that standard on the STAAR. Instead, Student’s program, as the District did here, was required to focus on addressing Student’s deficits and providing Student supports and accommodations in Student’s areas of need. The District completed timely FIEs and conducted an additional dyslexia evaluation when Student’s performance indicated unidentified needs may exist. The District’s evaluations identified

- general education settings with the use of supplemental aids and services;
and
2. If not, whether the school district mainstreamed the student to the maximum extent appropriate.

Daniel R.R. v. State Bd. of Educ., 874 F. 2d 1036, 1048 (5th Cir. 1989).

Here, Student is being educated in the least restrictive environment.

Student is educated in general education (g) 1.5 (en) 1.1 tr903 Tw

allegations. Moreover, ***, ***, potentially giving them legitimate reasons to be in frequent communication with District personnel.

The question to be resolved relative to the communication plan is whether the District, by implementing the plan, restricted parental participation to such a degree that ***' ability to obtain pertinent information for effective participation in ARD committee meetings was unnecessarily limited. *Lynwood (CA) Unified School District*, 57 IDELR 82, 111 LRP 49278 (OCR, Western Division 2011). The evidence shows that *** participated in all of Student's ARD committee meetings during the relevant time period. In addition, a request from *** during an ARD committee meeting resulted in the District conducting cognitive and achievement testing. Petitioner did not show how the communication plan specifically limited ***' ability to participate in the decision-making for Student's program.

*** struggle with efficiently retrieving electronic information..5 (r)8 (tiv)-1.4(l)1g12

343 F.3d 373, 380 (5th Cir. 2003). While the communication plan instituted by the District appears to be restrictive, the District, acting in good faith, based upon valid and current evaluations, developed Student's program.

4. Academic and Non-Academic Benefits

Whether a Student received academic and non-academic benefit is one of the most critical factors in any analysis as to whether a Student has received a FAPE. *R.P. ex rel. R.P. v. Alamo Heights Indep. Sch. Dist.*, 703 F.3d 801, 813-14 (5th Cir. 2012). The evidence showed Student made progress on Student's IEP goals in both the 2021-22 and 2022-23 school years. In addition, Student made passing grades both school years and participated in multiple non-academic activities with nondisabled peers.

Petitioner alleges Student did not receive academic benefit under the program developed and provided by the District. To support this allegation, Petitioner points out Student has struggled on the STAAR in *** and continues to require the same types of specialized instruction for ***. However, disability remediation, as Petitioner requests, is not the goal of the IDEA. Rather, overall educational benefit is the IDEA's statutory goal. *Klein Indep. Sch. Dist. v. Hovem*, 690 F.3d 390, 398 (5th Cir. 2012) (rejecting the argument that a student's IEP was insufficient because it failed to enable Student to write and spell better where Student earned passing marks and advanced from grade to grade). In this case, Student is receiving passing grades and making improvements in reading, math, and spelling. Under the program provided and implemented

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investigation. In fact, Petitioner failed to mention the District's bullying investigation in their closing brief. The District also demonstrated it took steps to address Student's safety at school in January 2023. The District promptly

E. FAILURE TO IMPLEMENT STUDENT'S IEP

When determining whether a school district failed to adequately implement a student's IEP, a hearing officer must determine whether a FAPE was denied by considering, under the third *Michael F.* factor, whether there was a significant or substantial failure to implement the IEP and whether, under the fourth *Michael F.* factor, there have been demonstrable academic and non-academic benefits from the IEP. *Spring Branch Indep. Sch. Dist. v. O.W. by next friend Hannah W.*, 961 F.3d 781, 796 (5th Cir. 2020), *cert. d-1.4*

intended to be delivered simultaneously with the in-person services in the IEP.

However, the evidence is that 365 (am e)9.7 0.0Tc e8.898 0 Td3

