

SOAH Docket No. 701-23-25689.IDEA
TEA Docket No. 354-SE-0823

Before the State Office of Administrative Hearings

STUDENT , by next friends PARENT and PARENT ,
Petitioner

v.

Houston Independent School District,
Respondent

DECISION OF THE HEARING OFFICER

*** (Student), by next friends *** and *** (Parents, and collectively, Petitioner), brings this action against the Houston Independent School District (Respondent or the District) under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 ~~et~~ seq., and its implementing state and federal regulations.

The main issues in this case are whether the District denied Student a free, appropriate public education (FAPE) by failing to develop and implement an appropriate program and failing to ensure meaningful parental participation in the process. The Hearing Officer concludes the District procedurally and substantively complied with the IDEA and that Student's education program was reasonably calculated to provide education to Student.

***, *** teacher; ***, *** teacher; ***, Special Education tea 0 8 Tr

with continued weaknesses in the area of social skills and generalization of those skills at home and outside of school. Because educators had not seen this, Ms. *** noted “a disconnect between ‘home [Student] and ‘school [Student].” The ARD committee discussed goals and other elements of Student’s IEP and agreed on services and supports.¹¹

12. The April ***, 2022 IEP became the stay-put IEP after litigation began. The IEP included 26 accommodations, five new goals, a ***; an Autism Supplement, and a Behavior Support and Intervention Plan (BSIP).¹²
13. The ARD committee reconvened on April ***, 2022. The parties disagreed as to where “parent input” belonged in the draft document. When District staff continued to disagree with Parents, Parents expressed they did not feel “the team was working together” and that they were “feeling ignored.” The ARD committee agreed to note parent input in the present levels of academic achievement and functional performance.¹³
14. The case manager reported that, “[Student] has been observed to be making friends.” Parents wanted the statement removed from the deliberations because “a friend can be subjective” and the inability to “quantify a friend.” Parents also indicated they had received parent training only, not IH-CBT training. The District agreed to insert certain deliberations from other meetings into the IEP at Parents’ request.¹⁴
15. Student performed well in *** grade. Student achieved straight As, with high marks for conduct. The case manager reported Student mastered Student’s social skills. The LSSP reported Student made progress in understanding and applying social skills. At the time, Student did not have much left to learn apart from

¹¹ J.Ex. 4 at 42-46.

¹² J.Ex. 4 at 10-11, 13-15-33.

¹³ J.Ex. 4 at 46-47, 50.

¹⁴ J.Ex. 4 at 46-50.

“social nuance.” Educators observed Student acted appropriately with peers and friends in *** grade.¹⁵

2022-23 School Year – *** Grade

16. Parents had a positive experience working with Student’s case manager, even calling themselves fans. On September***, 2022, Parents emailed the case manager and insinuated she was not providing Student’s social skills instruction. The case manager asked to be removed from Student’s case because she no longer wanted to work with Parents. The principal assigned the case manager’s supervisor to work with Student and Parents going forward. Parents were not aware the case manager felt so overwhelmed working with them until she testified at the hearing.¹⁶
 17. Parents report concerns with the new case manager’s communications, including not communicating each week about social skills
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provide Studentwith a FAPEand to offer a program that was reasonablycalculated
to provide Studentwith the requisite educational benef (L)]TJt6 [/Top]mj -0.013 Tt 06[dent

1. Educational Program

Petitioner alleges the District failed to develop an appropriately individualized IEP and challenges its failure to provide appropriate and sufficient related services.

In Texas, a hearing officer applies a four-factor test to determine whether a school district's program meets IDEA requirements. Those factors are:

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C. INDIVIDUALIZED ON THE BASIS OF ASSESSMENT AND PERFORMANCE

In meeting the obligation to provide a FAPE, the school district must have in effect an IEP at the beginning of each school year. An IEP is more than simply a written statement of annual goals and objectives and how they will be measured. Instead, the IEP must include a description of the related services, supplementary 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, 300.323(a) The District's obligation when developing Student's IEP is to consider Student's strengths, Parents' 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).

While the IEP need not be the best possible one nor must it be designed to maximize Student's potential, the school 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 inquiry in this case is whether the IEPs proposed and implemented by the school district were reasonably calculated to enable Student to make progress appropriate in light of Student's circumstances. *Endrew F.*, 580 U.S. at 399.

Petitioner argues the District's proposed program is inappropriate in numerous areas. On the other hand, Respondent argues the April 2022 ~~stay~~ IEP is no longer appropriate to meet Student's needs.

1. Social Skills

The evidenceshowedthat

student's IEP, Petitioner failed to present an evaluation or other evidence the District's program was not appropriate. While Parents point to lack of generalization of social skills in the community, *** staff consistently observed otherwise of Student's ability to navigate social demands at school. Importantly, when Student provided Student's input into the draft IEP at the April 2022 annual meeting, Student articulated a desire for less social skills, not more, so Student could focus more on Student's studies and keep up with the demands of Student's academic schedule.

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. Hovey*, 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). While Student has achieved scores of 6.5 (s)-0.6 (m)5 (an)3.2 ed 42.8 (em24.9 erw)2.5 ganal71.5

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The record showed concerted efforts by the District to reach agreement with Parents on the contents of Student's IEP. ARD committee meetings were timely convened, Parents were allowed to be active participants, and rigorous discussions occurred over sometimes a series of meetings without consensus. Parents showed a strong command of the timeline and had knowledge about the services offered and provided. It was clear from their testimony Parents felt disrespected by ARD committee members and school personnel.

The record further showed that the parties spent hours developing the elements of Student's program and attempting to find common ground to no avail. In closing, Petitioner points to the fact that "[T]he latest IEP has taken some 6 ARD meetings to finish in disagreement." This statement, while accurate, summarizes why the District prevails on this factor. While it is appropriate for a school district to continue efforts to reach agreement with parents, at some point the school district must cease negotiating and make a final offer of FAPE. The District did so, and Parents have resisted both evaluations and changes to Student's IEP, even ones that appear to be supported by the ample data gathered by the District concerning Student's mastery of the skills needed to benefit from Student's IEP. Importantly, the District honored stay-put through *** almost two years ago.

progress, hearing officers consider the student's class grades, state assessments, grade advancement, and other standardized tests. Bobby R., 200 F.3d at 349; Leigh Ann H. v. Riesel Indep. Sch. Dist., 18 F.4th 788, 798 n.12 (5th Cir. 2021). "[P]assing marks and advancement from grade to grade" are "sufficient indicia" of academic progress to satisfy the IDEA. Bobby R., 200 F.3d at 349.

The evidence showed Student made academic progress during pr73.4 ())0.5 (. 3]TJ -0.0

Petitioner asserts that Parents were not apprised of Student's performance in social skills instruction. Periodic reports to parents of students with disabilities on the progress he or she is making on his or her goals are required under IDEA, such as through the use of quarterly reports, other periodic reports, or concurrently with report cards. 34 C.F.R. § 300.320(a)(3)(ii). In addition to providing updates to Parents as appropriate, the

4. Petitioner did not meet Petitioner's burden of proving that Respondent failed to implement Student's IEP. Houston