

STUDENT	§	BEFORE A SPECIAL EDUCATION
	§	
	§	
V.	§	HEARING OFFICER FOR THE
	§	
CORPUS CHRISTI INDEPENDENT	§	
SCHOOL DISTRICT	§	STATE OF TEXAS

DECISION OF THE HEARING OFFICER

I. Statement of the Case

Petitioner brings this appeal, pursuant to the Individuals with Disabilities Education Improvement Act 42" W0U0E0" È" 3622" gv" ugs0." *jgtgkpchvgt" tghgttgf" vq" cu" òKFGKC\$. " c i ckpuv" Tgurqpfpgp" *jgtgkpchvgt" tghgttgf" vq" cu" "Respondent" or "School Diuvtkv\$+0" " Rgvkvkqpgt" *jgtgkpchvgt" tghgttgf" vq" cu" òRgvkvkqpgtö" qt" òUvwfpgpvö+" hkngf" c" written request for a due process hearing which was received by the Texas Education Agency on October 30, 2009. Petitioner was represented by Attorney Christopher Jonas of Corpus Christi, Texas. Respondent was represented by Attorney John J, Janssen, J.D., Ph.D. of Corpus Christi, Texas. A due process hearing was held on Friday, January 8, 2009, in Corpus Christ, Texas. The parties agreed to file post-hearing briefs on or before February 8, 2010.

Petitioner alleges that Student is a seven-year old attending Elementary School in School District. Petitioner is classified as Auvkuvke"òCWö+"cpf"ku"Urggej"Ko rcktgf0

1. Petitioner claims that Respondent has failed to provide Petitioner with appropriate Speech Therapy services.
2. Petitioner claims that Respondent has failed to provide an in-home training assessment and has not provided in-home training services.
3. Petitioner claims that Respondent has failed to provide appropriately trained staff regarding Autism and to meet the needs of Petitioner as a student with Autism.
4. Petitioner states that Student is being physically harmed by another special needs student.
- 5.

38. The September 6, 2006 ARD adjourned with all participants in agreement with the determinations.
39. An annual ARD of the ARD
40. The February 8, 2007 ARDC determined that in-home training was no longer needed.
41. The February 8, 2007 ARDC observed that Student continues to require visual aids and an object schedule to help minimize confusion. Also, the ARDC observed that these aids are designed to clarify expectations and to reduce frustration and anxiety.

include: a gradual transition of [Student] into general education, and/or scheduled visits for [Student] to the general education classroom.

63. The January 7, 2009 ARDC meeting minutes were reviewed including Speech and OT and accepted by the committee. Progress was mentioned in all areas. OT says she very much enjoys working with [Student]. She says that [Student] is a hard

Rctgpvøu"rqukvkqp"qp"vjku"cnngicvkqp"ku"pqv"etgfdng"qt"rgtuwcukxg0""Vjg"tgeqtf"ujqyu"vjcv Uvwfgpvøu"rtgkxkwu"CTFEøu"jcxg"gvjgt"rtqkfgf"kp-home training ; offered it and been declined; or determined it to be wppgeguuct{"qxgt"xctkquw"rgtkqfu"qxgt"vjg"ncuv"hkxg" {gctu0""K"fq"pqv"hkpf"Rgvkvkqpgtøu"encko"vq"vjcv" Fkuvtkv"pgxgt"õcrrtqcejgfö"jgt"ykth in-home training as convincing evidence of a failure to provide a needed educational service.

(3) *Petitioner claims that Respondent has failed to provide appropriately trained staff regarding Autism and to meet the needs of Petitioner as a student with Autism.*

The record demonstrates that Student is being taught by trained, qualified, and experienced instructors who have provided a FAPE to Student.

(4) *Petitioner states that Student is being physically harmed by another special needs student.*

Student was physically harmed by ***. The incidents were the result of either an unpredictable outburst from another student *** qt" c"uk o rng" ceekfgpv0"" Gcej" vk o g"Uvwfgpvøu" encuutqq o" vgcejgtu" tgurqpfgf" appropriately to prevent further jeopardy to Student qt"Uvwfgpvøu" encuu o cvgu0""K"hkpf"vjcv"pqvjki"kp"vjku"tgeqtf" supports a determination that Student is being taught in an unsafe environment or one that otherwise interferes ykvj"Uvwfgpvøu"gfweckqpcn"rtqitc o0

(5) *Petitioner states that as a result of Respondent's failure to implement appropriate behavior interventions and intervention techniques, Student is suffering emotionally, socially, physically, and academically.*

The record indicates that the District has consistently developed and implemented appropriate dgjcxkqt"kpvgtxgpvkqpu"cpf"vgejpkswgu"vq"okpkok|g"qt"co gnkqtcvg"Uvwfgpvøu"go qvkqpcn"fkhhkewnvkgu0""Vjg" Fkuvtkv" jcu" crrtqrkcvgn{" tgurqpfgf" vq" ejcpigu" kp" Uvwfgpvø" u" dgjcxkqt" ykvj" cflwuvogpvu" vq" Uvwfgpvøu" KGR" qt" instructional settings. Vjg" Fkuvtkvøu" cflwuvogpvu" jcxg" dggp" vk o gn{" cpf" ejctcevgtk|gf" d{" cp" crrtqrkcvg" cpf" collaborative procedure.

(6) *Petitioner claims that due to the inappropriate educational program implemented for Student at School District, Student is unable to express all of Student's anxiety and fear.*

This allegation is not entirely clear, since the express of anxiety and fear is not an appropriate educational goal *per se*. Jqygxgt."vq"vjg"gzvgpv"vjcv"Rgvkvkqpgt"cuugtvu"Uvwfgpvøu"gfweckqpcn"rtqitc o"ku" inappropriate or inappropriately implemented, the record supports neither assertion.

(7) *Petitioner states that Respondent has failed to provide a *** to Student to cope with Student's sensory problems.*

This allegation implies that the provision of a *** is always appropriate and that the District has repeatedly or significantly failed to implement an appropriate methodology to help the Student cope with sensory problems. Neither implication is supported by the record. Responded ither implic96(imz8 0 0 1mpeme)4o4(

This allegation is a combination of allegations (3) and (5). The record does not support the allegation.

- (9) *Petitioner contends that there is no appropriate transitioning from the school picture system to the home setting and that Respondent has not offered thorough in-home training.*

V. Order

AR42RT-189 After due consideration of the record, the foregoing Findings-189[uhg]10(s-189[uhg)100 1 29ETM,1C on731

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SYNOPSIS

Issue: Whether the School District failed to provide autistic student with appropriate behavioral interventions

Federal Citation: 20 U.S.C.A. § 1414; *Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176 (1982); *Daniel R.R. v. State Board of Education*, 874 F.2d 1036 (5th Cir. 1989); *Cypress-Fairbanks Indep. School Dist. v. Michael F.*, 118 F.3d 245, 258 (5th Cir.-1997); 34 CFR §§ 300.324; 300.305.

Texas Citation: 19 TAC §§ 89.1050, 89.1055; *Tatro v. State of Texas*, 625 F.2d 557 (5th Cir. 61980).

Held: Placement of the Student in an adaptive educational classroom were used, appropriately.

Issue: Whether the School District failed to use a special *** in the classroom to assist in controlling the

Federal Citation: *M.M. and B.M. ex. rel. C.M. v. School Bd. Of Miami-Dade County, Fla.* 437 F.3d. 1085 (11th Cir. 2006); *Lachman v. Illinois Bd. Of Educ.*, 832.F.2d 290 (7th Cir. 1988).

Held: For the Respondent. Petitioner is not entitled to the use of a specific methodology as long as the Student is provided a FAPE.