

7. Student needs a *** classroom with staff well educated about special education, behavior management of children with a variety of *** disorders, and *** issues in children. Student also needs *** to play a role in the classroom to provide services and coordinate classroom activities. Student needs a classroom with a focus on emotional reactivity rather than on simply containing behavior. (Tr. Vol. III, pp. 157-158, 652-654). Student needs a small class with students who have similar needs and *** services as a component of educational program. (P. Ex. 10, pp. 304-305) (Tr. Vol. III, pp. 652-658, 664-665).
8. An IEP developed at a series of ARD meetings in April-May 2008 was in place for the 2008-2009 school year with the duration of services beginning August 25, 2008 through May 29, 2009. (P. Ex. 1) (R. Ex. 5). The 2008-2009 IEP included a statement of present levels of academic achievement and functional performance. The IEP included a behavior intervention plan that targeted a number of behaviors identified by teachers, a set of positive intervention and reinforcement strategies, and a detailed set of procedures for use of a mechanism. Counseling services were also provided. A counseling IEP included an annual goal and set of objectives aimed at Student with peers and teachers and improving self esteem. (P. Ex. 1, pp. 1-21) (R. Ex. 5, p. 4).
9. Another aspect of Student -2009 school year was participation in ***. They planned some social activities and participated in some community service projects. Student was *** each year of *** school and enjoyed the positive interaction with ***. (Tr. Vol. II, pp. 401-402, 403,417, 421, 425,432-434)
10. In 2008- /writing. The IEP for language arts was based upon a curriculum known as *** with an annual goal focused on Student reading comprehension, reading fluency and writing skills and related objectives. Study Skills was an additional class period with a specific IEP aimed at improving Student keyboarding/word processing skills and effective use of technology (specifically the *** software program). The Reading/Writing IEP was aimed at increasing Student writing in order to access the general curriculum with an extensive set of related measureable objectives. (R. Ex. 5, pp. 7-8).
11. The 2008-2009 IEP also included an extensive set of modifications and accommodations. This aspect of program addressed a number of Student writing and organizational deficits by allowing ***, providing copies of class notes or board work as appropriate, test review sheets, ***, individual instructions and directions, modified test formats, repeating directions orally to check for understanding, and reducing assignments at teacher discretion for math and general ed classes. (P. Ex. 1, pp. 22-23) (R. Ex. 5, pp. 12-13).
12. Student mix of general education classes and special education classes including the ***. Student was also placed in a TAKS reading remediation *** specialist was also available to consult with teaching staff and to monitor Student

14. Student *** school administrators implemented the 2008-2009 BIP, including use of the cool-down mechanism, redirection, etc. Some teachers were more effective in implementing the BIP than others. Student seemed to respond and behave somewhat better with ***. Although initially effective, the BIP strategies were less successful as the fall semester progressed so that by the end of the *** six week grading period Student *** behavior became more problematic. (P. Ex. 12) (Tr. Vol. II, pp. 424, 461-463, 472-477) (Tr. Vol. III. pp. 524-527, 529, 560-562, 582-585, 592-593, 599).
15. A positive reinforcement mechanism known as *** was developed in *** 2008 by the counselor and Student. The *** system was implemented from *** 2008 through *** 2009. The *** consisted of a set of behavioral competencies for each class each day. It was virtually impossible for Student to meet the full range of behavioral competencies on a daily basis. Student rarely earned the reinforcements for the period of time the *** system was in place. (P. Ex. 3) (Tr. Vol. II, pp. 416, 420-421, 440-442).
16. On ***, 2008 Student ***. Earlier in the day Student became very upset when student was reprimanded for *** in violation of school rules. Student was eventually able to return to class but probably remained upset. ***. (R. Ex. 6) (Tr. Vol. I., pp. 79-82).
17. A manifestation determination ARD (MDR ARD) was conducted on ***, 2008. The MDR ARD concluded, with the exception of *** mother, that Student *** disabilities. A disciplinary placement for *** days was imposed. The disciplinary placement was fulfilled on campus in the ISS classroom rather than the off campus DAEP in Waco in order to implement Student *** specifically access to the *** class, ***class, and to *** Class. The ISS classroom was staffed by a certified paraprofessional. Student received assignments from *** teachers while in ISS. For the first two days student did not have access to the *** required by IEP but the principal remedied this issue as soon as he was made aware of the problem. (P. Ex. 4, pp. 97-102) (P. Ex. 14, pp. 348, 354) (R. Ex. 6) (Tr. Vol. I., pp. 154, 157-158) (Tr. Vol. II, p. 464-465).
18. The MDR ARD agreed on the need for a Functional Behavioral Assessment (FBA). (P. Ex. 4, pp. 103-104). The FBA was conducted as a component of the FIE completed in January 2010. The FBA included a proposed behavior plan that included recommendations for positive intervention and reinforcement strategies that addressed Student *** oppositionality, mood disorder, and ADHD. (P. Ex. 5, pp. 150-154)(R. Ex.8, pp. 28-37 (Tr. Vol. III., p. 632).
19. A series of ARD meetings were conducted on February 12, 23, and March 16, 2009 as an annual review and to develop and revise Student

21. The proposed BIP included an annual goal addressing with a set of behavioral objectives. The proposed counseling IEP included an annual goal targeting Student communication skills, problem solving skills, and appropriate attention. A minimum of 120 minutes of direct counseling per every six weeks and 180 minutes of consultative counseling services were also proposed. The revised BIP took into account a number of recommendations from the experts two psychologists who conducted separate evaluations and Student ***. (P. Ex. 6, pp. 164-167)(P. Ex. 10, pp. 288-294, p. 300) (R. Ex. 5, pp. 13

28. Social skills training provided twice a week is another aspect of the *** class. A *** provides *** every two weeks and individual counseling with students as needed during ***. The *** provides ongoing involvement in the program by dropping in to check on students and consulting with the teaching staff. (Tr. Vol. IV, pp. 698-699, 714-715).
29. Transition services were also discussed at the March 16, 2009 ARD. An ARD Supplement regarding transition services was prepared. A transition plan was developed based upon information provided by Student ***. Student continues to maintain an interest in ***. The transition plan noted that Student

2008-2009 BIP

The evidence demonstrated that the BIP implemented during the 2008-2009 school year was not entirely effective in meeting Student positive reinforcement under the *** system were too difficult and contained too many targeted behaviors Student was rarely successful in earning the reinforcements. The system could and should have been revised to target a more limited set of behaviors and provide reinforcement at more frequent intervals.

Student consistent with the emotional lability of mood disorder. Due to the interaction and combination of Student disorder, impulsivity, attentional deficits, and learning disabilities, it was often difficult for Student to self-regulate, overcome anxiety or frustration with assignments, or adjust misperceptions of interactions with educational staff and peers. The 2008-2009 BIP asked quite a bit of the teachers. Responding to Student complex, interconnected academic, behavioral, and emotional needs was challenging.

I do not conclude, however, that any shortcomings in the BIP denied student an educational benefit. Instead, the evidence showed that student continued to be provided with counseling support and consistent efforts by teaching and admini09(a)42332((e)4(dmi)-3(ni5(omi)-3*9ue)4(d)-109(t500052005200470003}FJ0(rtotea)5(i5(omd)3(e

**BEFORE A SPECIAL EDUCATION HEARING OFFICER
STATE OF TEXAS**

STUDENT

or that other disciplinary decisions during the relevant school year were not appropriate under the disciplinary provisions of IDEA.

34 C.F.R. § 300.530 (a)(b)(c)(d); Shaffer v. Weast, supra.

Issue:

2008-2009 school year.

Held:

FOR THE SCHOOL DISTRICT.

Petitioner did not meet burden of proving school staff were not qualified or properly trained. Evidence showed teachers were trained on language arts curriculum, use of ***

34 C.F.R. § 300.156; 19 Tex. Admin. Code § 89.1131; Shaffer v. Weast, supra.

Issue:

placement in a *** classroom provided student with FAPE.

Held:

FOR THE SCHOOL DISTRICT.

Petitioner did not meet burden of proving proposed program or placement was not appropriate emotional and behavioral needs with sufficient support and related services.

34 C.F.R. §§ 300.17, 300.114 (a)(2), 300.116; 19 Tex. Admin. Code § 89.63 (a)(c)(6).

Issue:

transition plan.

Held:

FOR THE SCHOOL DISTRICT.

Petitioner did not meet burden of proving transition plan developed at last ARD was not appropriate under IDEA. *** did not attend ARD or participate in transition planning.

34 C.F.R. § 300.320 (b)(1)(2).

Issue:

Whether school district failed to revise st
was appropriate and, if not, whether that violates IDEA.

-2009 school year

Held:

FOR THE SCHOOL DISTRICT.

Petitioner did not meet burden of proving BIP implemented during 2008-2009 school year was not appropriate or that school district failed to revise it.

34 C.F.R. § 300.324 (a)(1)(2)(i)(b)

Issue:

BIP goals and objectives or other

Held:

FOR THE SCHOOL DISTRICT.

Petitioner did not meet burden of proving school district failed to provide parent with information al progress. Even if school district did not provide such information
Petitioner did not meet burden of proving a loss of educational opportunity, deprivation of parental participation or parental rights, or deprivation of an educational benefit.

34 C.F.R. § 300.513 (a)(2)(i)-(iii)

Issue:

Whether student entitled to reimbursement for unilateral private placements and to continued private placement as prospective relief.

Held:

FOR THE SCHOOL DISTRICT.

Student did not meet burden of proving educational program implemented during the 2008-2009 school or the proposed program and educational placement were not reasonably calculated to provide student te student
was not entitled to reimbursement or private placement at public expense.

34 C.F.R. §§ 300.17, 300.148, 300.320