

DOCKET NO. 145-SE-0115

STUDENT,	§	BEFORE A SPECIAL EDUCATION
B/N/F PARENT	§	
	§	
VS.	§	HEARING OFFICER
	§	
ARANSAS PASS INDEPENDENT	§	
SCHOOL DISTRICT	§	FOR THE STATE OF TEXAS

DECISION OF THE HEARING OFFICER

Statement of the Case

STUDENT, by next friend and parent ***

§1400, et seq., complaining of A

has not appealed that decision though an appeal may be filed in either state or federal court within ninety (90) days after the date of the decision. 34 CFR §300.516; 19 T.A.C. §89.1185.

The Hearing Officer takes judicial notice of the previous decision *STUDENT, b/n/f PARENT vs. Aransas Pass Independent School District; Docket No. 163-SE-0214*.

Petitioner sought a finding that the district timely failed to identify the student eligible for special district has improperly disciplined the student, assigned the student improperly to behavioral placements, and that the student is entitled to compensatory education services.

The Previous Decision

t included some periods of special education eligibility and placements, numerous evaluations by the district and independent evaluations, the Hearing Officer determined that the student was not eligible for special education placement. The student was su

3.

Transcript Page 24]

4. When the psychiatrist saw the student last, the appointment was for *** and included

Transcript Pages 25 & 31]

5. The student has also been seen by a representative of the ***. The student receives coordination,

6. The *** ast once a month. The

7. A licensed psychologist who has also seen the student for a number of years believes the student is depressed and may qualify for special education as emotionally disturbed. No new evaluation has been conducted or performed since December 1, 2014. The psychologist testified at the first hearing and the testimony was considered in *STUDENT, b/n/f PARENT vs. Aransas Pass Independent School District; Docket No. 163-SE-0214* -45]

8. The student has been placed in a disciplinary suspension after December 1, 2014, and placed in a

-61]

9. The district considered a DAEP placement on December 17, 2014. The student was placed in DAEP on December 18, 2014, for 45 school days. The holiday break began. The student attended school in admission, review and

10. aluation on January 7, 2015. The
-34 & 66]

11. The student has been making educational progress in the DAEP, is passing all courses, and has
Exhibit 1; Transcript Pages 74-75]

Discussion

The student in this matter has exhibited problems in school but has continued to demonstrate educational progress and conform behavior sufficiently to continue that progress. The previous decision concerning the student is very recent. The credible evidence deduced at this hearing again does not demonstrate that the student should have been found eligible since the previous date for hearing on December 1, 2014.

h. Petitioners did not meet the burden.

Conclusions of Law

1. Petitioners have the burden of proof to establish a violation of IDEA of the standard of Schaffer v. Weast, 126 S.Ct. 528 (2005).

2. Petitioners did not meet their burden of proof. Schaffer v. Weast, 126 S.Ct. 528 (2005).

3.

special education and related services. Alvin Indep. Sch. Dist. v. A.D., 503 F.3d 378 (5th Cir. 2007); 34 CFR 300.8(c)(9).

ORDER

Based on the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED that all relief requested by Petitioners is DENIED and all claims are DISMISSED with prejudice.

SIGNED this 2nd day of March, 2015.

/s/ Lucius D. Bunton
Lucius D. Bunton
Special Education Hearing Officer

