

Due Process Hearing

The due process hearing was conducted on August 20, 2015, in Edinburgh, Texas. Petitioner was

1. At all times relevant to this proceeding, Student lived within the geographical boundaries of ECISD, a political subdivision of the state of Texas and a duly incorporated school district. (Transcript p. 95).
2. Student was born ***. (Respondent Exhibit 8).
3. During the 2014-2015 school year, Student attended the *** grade in the ECISD. (Respondent Exhibit 8).
4. At the time of the due process hearing, Student was *** years old and entering *** grade at *** in the ECISD. (Transcript p. 94).
5. Student's 2013-2014 school year was academically successful. (Respondent Exhibit 11).
6. Student's 2014-2015 school year was academically successful. (Respondent Exhibit 11).
7. Student achieved passing marks and advanced from grade to grade throughout Student's academic career at ECISD. (Respondent Exhibit 11).
8. Student has performed well in Student's classes without modifications to the curriculum, or accommodations which are not available to all students.
9. Student spends approximately two hours a night on homework. (Transcript pp. 158, 162-163).
10. When Student has reading material to do for homework, it is easier when the material is read to Student or Student reads it out loud to ***self. (Transcript p. 158).
11. Student believes math is Student's strongest subject area at school. (Transcript p. 162). Student enjoys math and ***. (Transcript p. 162). Student is *** in *** grade. (Transcript p. 162).
12. Student is involved in extracurricular activities including *** and ***. (Transcript p. 163). Student understands that being involved in extracurricular activities possibly has an effect on Student's course work because it takes up a lot of time that Student could be studying, but it is what Student enjoys doing. (Transcript p. 163).
13. Student's extracurricular activities are self-motivating. (Transcript pp. 163-164).
14. On school nights Student spends about two hours on extracurricular activities. During the weekends Student can spend three or four hours on extracurricular activities. (Transcript p. 117).
15. Student has been able to balance academics, ***, ***, *** and ***. (Transcript pp. 117-119).
16. Both parents of Student ***. (Transcript pp. 95-96, 129).
17. The father of Student believes Student has problems in the area of reading retention. (Transcript p. 98).
18. The father of Student notes that there was no decline in Student's grades until *** grade, but that in performance and behavior there was a decline. (Transcript p. 113).
19. At the beginning of Student's *** grade school year, the father of Student requested that Student be placed in ***. Student was placed in ***. (Transcript p. 114).
20. As an *** grader, Student passed tests that normal *** graders cannot pass. (Transcript pp. 115-116).

21. The father of Student instructed Student to fail the state exam. (Transcript pp. 106-107, 120-122).
22. In *** grade, Student attempted to fail the state exam. (Transcript pp. 172-173).
23. From *** grade through *** grade, Student was allowed to use *** in the classroom and allowed *** in class. (Transcript p. 101).
24. In *** school Student chose not to use the accommodation *** in the classroom. (Transcript pp. 122-124).
25. Student's *** grade English teacher offered Student the accommodation *** when taking a quiz or test. However, Student did not take advantage of the accommodation. (Transcript pp. 170-171).
26. Student's *** grade English teacher never witnessed Student having difficulty reading. (Transcript p. 169).
27. During the 2014-2015 school year, Student was afforded the opportunity for accommodations in the classroom. However, Student chose not to use them.
28. Student's *** grade math teacher was never asked by the parents of Student to accommodate Student in regards to any difficulty Student may have in regards to word problems or reading word problems. The math teacher never had any communications with Student's parents. (Transcript pp.186-187, 193-194).
29. In *** grade Student ***. *** is the same *** that *** graders take ***. (Transcript pp. 186-187).
30. Student has a history of absences during the 2014-

38. Dr. *** was Student's principal in *** grade. (Transcript p. 230).
39. When Student was in the *** grade, the parents referred Student for a Dyslexia evaluation by ECISD. (Respondent's Exhibit 9). The *Edinburgh CISD Parental Consent For the Initial §504 Evaluation And Placement* was executed on ***. (Respondent Exhibit 9).
40. Respondent ECISD screened Petitioner for Dyslexia in *** of 2013, and concluded that Student was not eligible according to Section 504 and/or State/Local Board Rules, to receive services as a student with characteristics of Dyslexia. (Petitioner Exhibits 3, 4 & 6; Respondent Exhibit 9; Transcript p. 122).
41. The ***, 2013 *ECISD Dyslexia Student Profile on Testing Results*, states that Student's testing results do not fit the profile of an individual with characteristics of dyslexia. The report also notes that Student is ***, and that Student's report card indicates that Student is passing all subject areas, and that Student has passed Student's state reading exam. (Respondent Exhibit 9; Petitioner Exhibit 3).
42. On ***, 2013, the Edinburgh Consolidated Independent School District's recommendation to the §504 Committee was that the data does not indicate Student exhibits characteristics of dyslexia, and that Student met the characteristics expected for the individual's age, educational level and apparent cognitive abilities. (Respondent Exhibit 9).
43. The 2013 Dyslexia Evaluation Decision was that the data does not indicate that Student exhibited characteristics of dyslexia. (Respondent Exhibit 9).
44. Student's scores from the 2013 evaluation were average in the areas of Written Expression, Word Reading, and Spelling. Student achieved scores in the low average range in the areas of Reading, Fluency, Word Attack and Reading Comprehension when compared to others in the student's age range. Student's phonological processing skills, as evidenced by Student's scores in Phonological Memory, Rapid Naming, and Phonological Awareness, all fell in the average range when compared to others in Student's age range. (Respondent Exhibit 9).
45. The results of the 2013 testing indicate that Student is of average intellectual ability and average listening comprehension skills when compared to other0 1 233.09 296.45 Tm{n3 0 0 1 419.71 2

disability due to Student's deficits in reading comprehension, and that the District failed and refused to accede to the request of Student's parents to have Student evaluated for IDEA disability. Petitioner further alleges that as a result of Respondent ECISD omissions, Student has suffered education deficits impeding Student's progress, deficits that were the responsibility of the Respondent ECISD to evaluate and address under the IDEA.

The Petitioner has the burden of proof in this matter. *Schaffer v. Weast, 126 S. Ct. 528 (2005)*. Petitioner did not meet Petitioner's burden of proof. Respondent's evaluation procedure and implementation were done in accordance with IDEA. Although Petitioner is not qualified as a student in need of special education services, the record shows that Petitioner obtained meaningful educational benefits from the school's regular education program.

Conclusions of Law

1. Respondent Edinburch Consolidated Independent School District is an independent district duly constituted in and by the state of Texas, and subject to the requirements of the IDEA and its impleme0 r j R ul i

8. Student is not eligible as a special education student under the provisions of IDEA, 20 U.S.C. § 1400, et seq.; 34 C.F.R. 300.301; and 19 T.A.C. § 89.1011.

Order

DOCKET NO. 231-SE-0415

STUDENT	§	BEFORE A SPECIAL EDUCATION
b/n/f PARENT	§	
	§	
v.	§	HEARING OFFICER FOR THE
	§	
EDINBURGH CONSOLIDATED	§	
INDEPENDENT SCHOOL DISTRICT	§	STATE OF TEXAS

SYNOPSIS

Issue No. 1: Whether the Respondent failed to evaluate and identify the student for special education services under the provisions of IDEA.

Citations:

34 CFR 300.301

19 T.A.C. §89.1011

Held: For Respondent

Issue No. 2: Whether the student is eligible as a special education student under the provisions of IDEA.

Citations:

34 CFR 300.301

19 T.A.C. §89.1011

Held: For Respondent