





5. Sometime during late February, 2008, the student that a psychological evaluation had previously been conducted for the student in December 2007. The evaluation was performed by David Falkstein, Ph.D. Dr. Falkstein reported that the student had a diagnosis of ADHD which was bipolar and that the student should be monitored for academic process and behavior. Dr.

6.

ly life is reported to be

7.

self-

that if

a more significant educational need, then it is suggested that [the student] can be considered for a 504 intervention plan or for placement in special education as a student with an other health impairment (due to ADHD) or emotional disturbance, so that [the student] can receive any

8.

meet

with school personnel to discuss the evaluation. [Transcript Pages 32 & 33]

9.

\*\*\* grade school year the student was successful

Exhibit 3]

10. Counsel for the student stipulated that there was no evidence of academic need for special education for the student during the school years of 2007-2008 and 2008-2009. The

dge and skills showed

11.

110-114]

15. The parents were not provided with procedural safeguards in the March 2008 PST

Instead, district personnel believed that the RTI process was initiated to see if the student could be successful without more intrusive interventions through 504 or IDEA. [Transcript Page 126]

16. in the 2007-2008 school year, and the handbook contained provisions related to Section 504 and IDEA. [Joint Exhibit 1 and Transcript Page 129]

17. the 2007-2008 school year that they could request an evaluation from the school. [Transcript Page 159]

18. At the beginning of the 2008-2009 school year, the parents informed school Transcript Pages 160 & 161]

19. District personnel scheduled another PST meeting for the student for September parents consented to an evaluation for IDEA eligibility and were provided a copy of the 172]

20. Another behavior incident involving the student and a confrontation with a substitute teacher caused the school resource officers to intervene and the student was taken home. The student was initially given three days of out of school suspension but then was to





Petitioner presented evidence on claims for a denial of FAPE and for reimbursement for private placement. No evidence or insufficient evidence was presented on the remainder of

### Conclusions of Law

1. Petitioner did not meet its burden of proof to show that the district failed in its identification, evaluation, development and proffer of an individual education plan with related services for the student failed to provide for a free appropriate education. Petitioner failed to rebut the presumption of Tatro v. Texas, 703 F.2d 823 (5th Cir. 1983).

2. Respondent timely developed an individualized education plan which offered the student the opportunity to make educational progress in the least restrictive environment appropriate under the standard of Board of Education of the Hendrick Hudson School District v. Rowley, 458 U.S. 176 (1982), 34 CFR 300.552, and 19 T.A.C. §89.1055, and Cypress-Fairbanks ISD v. Michael F., 118 F.3d 245 (5th Cir. 1997), 34 CFR 300.300, and 19 T.A.C. §89.1055.

3. Petitioner is not entitled to compensatory relief for the cost of private placement under School Committee of Town of Burlington v. Massachusetts Department of Education, 105



DOCKET NO. 283-SE-0809

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

SYNOPSIS

**ISSUE #1:** Whether the student was denied FAPE.

**CFR CITATIONS:** 34 CFR 300.552, 34 CFR 300.300

**TEXAS CITATION:** 19 T.A.C. §89.1055

**HELD:** For the District.

**ISSUE #2:** Whether petitioner is entitled to reimbursement for private placement.

**CFR CITATIONS:** 34 CFR 300.148(c)

**TEXAS CITATION:** 19 T.A.C. §89.61

**HELD:** For the District.