

22. In February, the Parent asked for *** and the District complied. R. Ex. 54; P. Ex. P, pg. 904
23. On February 27, 2009, the Parent wrote the District and requested that her child be placed in the adaptive behavior program, citing a need for a smaller group setting. R. Ex. 55
24. 7KH \$5' & PHW 0DUFK WR UHYLHZ WKH 16WYGHQW ¶ V % , 3
The Parent participated and agreed by telephone. An impulse control system was added to VWX BPHQW ¶ with a procedure for handling *** behavior. The ARDC added 25 more minutes of in-

Interventions were put in place to help the Student learn positive replacement behaviors specifically delineated in the BIP. R. Ex. 7

36. On *** WKH 6 WXGHQW ¶ W X G H Q W ¶ W X G H Q W ¶ W X G H Q W ¶ effect VWXGHQW ¶ V behavior. Tr. V

*** of impulse control to enable Student to see if student was at a warning or at a second warning, or time-out. A timer was used during time-outs. A behavioral contract was implemented with the Student as another form of positive reinforcement. Redirection, sticky-tack, stress balls, and demonstrations of what was expected were used as de-escalation techniques. R. Ex. 7; Tr. Vol. III, pgs. 812-813; 835-837

45. The *** team reviewed the data that was collected on a daily basis to discuss what triggered the 6 W X G H Q W ¶ V E H K D Y L R U V D Q G Z K D W V W U D W H J L H V - Z H U H V X F F 833
46. When a student tries to fulfill a function of V W X G H Q W ¶ V the school structure prevents him from exhibiting the negative behaviors that have worked for him in the past, student will L Q F U H D V H W K H Q H J D W L Y H E H K D Y L R U W ¶ X L G M O H A Q W L W \ I U H T X H This is called an extinction burst. Once a student learns that V W X G H Q W ¶ V behaviors are not going to succeed in getting what student wants, student then decreases those behaviors. Tr. Vol. III, pgs. 659-660
47. The Student was in *** for *** days. In V W X G H Q W ¶ V, through calculations from V W X G H Q W ¶ V sheets, it was determined that student displayed about 70% of positive behaviors. In the following two weeks, those behaviors decreased to mid 60%. Toward the last days at ***, student was displaying about 80% positive behaviors. R. Ex. 63; Tr. Vol. III, pgs. 912-913
48. While at *** W K H 6 W X G H Q W ¶ V J U D G H V L Q V S H O O L Q J P D W K V F L H were in the *** range. 6 W X G H Q W ¶ V was ***. Tr. Vol. III, pgs. 892-894
49. Student received counseling services while at ***. Tr. Vol. III, pg. 894
50. 2 Q - X Q H D W W K H 3 D U H Q W ¶ V U H T X H V W D Q \$ 5 ' & P H H W L disagreement with the *** program and provided a statement from the Stu G H Q W ¶ V S V \ F K L D W U L recommended residential placement. A 10 day recess was agreed upon and the committee reconvened on June 9. At that meeting, the Parent informed the District that she had placed Student in residential placement at ***, and submitted a request for reimbursement for the cost of that placement. The Parent asked for in residential placement for the summer, and requested an Independent Educational Evaluation, a FIE with emphasis on IQ and reading, and a neuro-psychological and FBA evaluation at District expense. The District agreed. The Parent stated that Student would be at *** until ***. The Parent stated that the Student was a liability. The District offered parent training and in home training and the Parent agreed. The Parent disagreed Z L W K W K H ' L V W U L F W ¶ V L Q F U H D V H G R I I H U I R U (6 < 3 U L R U Z U Ex. 4 and 5
51. 7 K H ' L V W U L F W ¶ V) X Q O D D Q X G W O R Q Y L G X D O R \$ H H S W H P E H U Z G H W H U P L Q H W K H 6 W X G H Q W ¶ V I R, V O M E N D S S V W R X S H L E D W ¶ H G L V D E of functioning, strengths, weaknesses, and needs within the educational environment, and to provide information to the ARDC to enable the development of an educational program for Student. The multidisciplinary team concluded that student continued to be eligible under ED and OHI. The team ruled out eligibility as a student with autism, mental retardation, and speech L P S D L U H G 3 H W L W L R Q H U ¶ ** n e d t h e s a m e h i g h l y d e c o u n s e l o r s a s t h e District. R. Ex. 15; P. Ex. CC; Tr. Vol. IV, pg. 1104
52. On September 30, 2009, an ARDC meeting was held. The Parent did not attend. The committee D J U H H G W K D W W K H 6 W X G H Q W ¶ V (A D D A O H D), h a n Q S L I G i n r e a d i n g L O L W L H V fluency. New goals and objectives were accepted. A BIP and an in-home training IEP were accepted, and the committee agreed that the *** Z D V W K H O H D V W U H V W U L F W L Y H H Q for the Student. R. Ex. 1
53. Assuming that the Parent disagreed with the September 30 decisions, prior written notice was provided. R. Ex. 3
54. During ESY, 2009 at ***, the Student worked on *** grade level TEKS. Beginning in the fall, 2009, student worked on *** grade level TEKS. When *** enrolls a student that is privately

Discussion

Did the District fail to provide an appropriate educational placement for the Student for the past year?

At the heart of this dispute is the question of whether Student

placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. 34 C.F.R. § 300.503.

program and to aid in preventing an increase in inappropriate behaviors, the committee recommended
ESY.

***. After *** days at the ***, V W X Goh Q W T E Y can to improve such that student was making up to 80% of V W X Goh Q W T E Y positive replacement behaviors.

Order

Based upon a preponderance of the evidence and the forgoing findings of fact and conclusions of law, it is **ORDERED** WKDW 3HWLWLRQH U ~~DENIED~~.TXHVWV IRU UHOLHI DUH

SIGNED on the 22nd day of February, 2010.

Brenda Rudd
Special Education Hearing Officer
For the State of Texas

NOTICE TO PARTIES

This decision is final, except that any party aggrieved by the findings and decision made by the hearing officer, or the performance thereof by any other party, may bring a civil act acted findin516(i

