

residential placement, and compensatory educational services which were denied the student for a year.

Based upon the evidence and argument of counsel, the Hearing Officer makes the following findings of fact and conclusions of law:

Findings of Fact

1. The student is ***¹. [Petitioner's Exhibits 1, 3, 4, 7, 9, 10, 15, 16 & 17; Respondent's Exhibits 1, 16, 19, 23 & 35; and Transcript Pages 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100]
2. The student ***by Student's parents when Student was***. [Petitioner's Exhibits 1, 3, 4, 7, 9 & 10; Respondent's Exhibits 5, 9, 10, 20 & 23; and Transcript Pages 8, 11 & 14]
3. The student's parents learned that *** which could lead to developmental risks. [Petitioner's Exhibits 3, 4 & 10; Respondent's Exhibits 3, 21, 28 & 35; and Transcript Pages 8, 11 & 14]
4. When the child ***, Student had significant developmental delays in communication, socialization, motor skills, and emotional maturity. [Petitioner's Exhibits 3, 4, 5, 7, 9, 10 & 13; Respondent's Exhibits 3, 5, 7, 9, 18, 20 & 35; and Transcript Pages 15, 18, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100]
5. The student received services through the program in ***, then entered a *** in the ***. [Respondent's Exhibit 1 and Transcript Pages 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100]
6. When the child was ***old, Student's parents***. The student's relationship with *** because of Student's behaviors. [Petitioner's Exhibits 9 & 12 and Transcript Pages 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100]

¹ The student's *** is considered in this matter because of its relationship to Student's conduct and Student's emotional, psychological and psychiatric conditions.

7. Student's behavior was described as "****" by psychologists. Student Student
***. Student has attempted to ***. [Petitioner's Exhibit 9 and Transcript Pages 332-186-187]

8. Many mental health professionals have described in the student symptoms of ***
which is diagnosed when found in children who have been ***. [Petitioner's Exhibit 12 and
Transcript Pages 27, 104 & 399]

9. The student began attending school in in the *** ("****") in *** and continued
there into Student's *** year. The student was eligible for special education and related services
for emotional disturbance, specific learning disabilities, and speech impairment. Assessment data
also considered the diagnosis of autism and other health impairment. [Petitioner's Exhibit 7;
Respondent's Exhibit 6; and Transcript Page 22, 181 84, 151 155 & 188]

10. At ***, the student made educational 1(c)]T.i12()10-1(070(y)20a-10(ide)4(0.34002 Tw 3(

20. *** requires residential programs to make education available to their residents and

the student's current educational disability criterion of autism and made recommendations for an educational program for the student. [Respondent's Exhibit 2 and Transcript Pages 343-345]

31. After the ARD committee meeting, the district obtained consent from the student's parents to send a licensed specialist in school psychology ("LSSP"), a speech language pathologist, and the special education director to visit the *** and for a number of days in *** to observe the student and assess Student's current educational and residential programs. The special education director provided a memorandum of their findings to the district. [Respondent's Exhibit 16; Transcript pp. 343-345]

32. The district completed a full individual evaluation ("FIE") for the student in *** based on a review of record, parent interviews, and timely evaluations of the student. [Respondent's Exhibit 2 and Transcript Pages 382]

33. An ARD committee meeting was held on ***, and the committee proposed eligibility for the student based on eligibility criteria of autism and speech impairment. The student's parents attended the meeting but disagreed with the educational programming offered them and declined an opportunity to reconvene the ARD. [Respondent's Exhibit 2 & 34 and Transcript Pages 382-387]

34. The student's ARD committee proposed an IEP for the student with goals and objectives based upon current evaluation, a continued placement on a regular campus, use of resource for instruction, and related services of speech and assistive technology. The program was individualized on the basis of the student's assessment and performance; the services were to be provided in the least restrictive environment; the services were to be coordinated in a collaborative manner by key stakeholders; academic and non-academic progress could be realized under the program. [Respondent's Exhibit 2 and Transcript Pages 390]

35. Petitioner's request for hearing was filed on September 21, 2015 after the ARD meeting in *** and prior to the district's visit to the student's school and residential facility ***.

36. ***, the student's mother sent an email message to a staff member at the *** where the student was evaluated prior to Student enrollment at ***. The message said in part: "Today I met with the school district in hopes to begin the conversation of what [the student's] program would look like if Student were to attend [name redacted] school starting ***. I had no intention other than beginning the conversation with the staff. They were very warm and welcomed any information I could share about [the student's] complexities. [Husband's name redacted] and I do not intend to enroll [the student] nor do we intend to bring Student to PFISD (Pflugerville ISD) does not know this. We will be pursuing financial assistance through our school district eventually. Right now we are gathering information and beginning the communication with them.....Our family has developed healthy relationships and our home is calm ***. We cannot afford jeopardizing any of this." [Petitioner's Exhibit 3]

Discussion

The student presents with a myriad of complications. Student's history is sad and troubling and gives little reason to believe Student's psychological, psychiatric, and neurological situation will improve. Student has benefited with the attention and concerns of Student's parents and the resources available to Student in private residential facilities. But Student's inability to control Student's *** and inhibit Student's behavior is a danger to ***self and a danger to others.

The Pflugerville ISD has been asked by residents of the district to provide a free appropriate public education for the student. The district has properly evaluated the student and offered a special education program with related services for Student

The student's parents believe that residential placement is required for the student to access a Student's educational program and seeks reimbursement for the private placement where the student resides.

The district has not had an opportunity to serve the student directly. But the district properly evaluated the student and has designed a placement for the student. Student should be enrolled by the parents.

Petitioner failed to provide evidence justifying reimbursement for private evaluations.

Petitioner has failed to meet its burden of proof and does not prevail.

Conclusions of Law

1. The student is eligible for a free appropriate special education program under IDEA, 20 U.S.C. §1400, et seq, and related statutes and regulations.

ORDER

Based on the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED that all relief requested by Petitioner is DENIED.

SIGNED this 19 day of February, 2016.

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

DOCKET NO. 017SE-0915

STUDENT, B/N/F PARENT & PARENT	§ § § § § § §	BEFORE A SPECIAL EDUCATION HEARING OFFICER FOR THE STATE OF TEXAS
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SYNOPSIS

ISSUE NO. 1: Whether Petitioners are entitled to reimbursement for private placement for the student.

ISSUE NO. 2: Whether the district's proposed