

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

DECISION OF THE HEARING OFFICER

Statement of the Case

Student, by the student's next friend and parent (hereinafter "Petitioner" or "the student"), brought a complaint pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. §1400, et seq, complaining of the Cedar Hill Independent School District (hereinafter "Respondent" or "the district").

Petitioner was represented by Carolyn Morris, a lay advocate with ~~Parent~~ Parent Connection in Lancaster, Texas. Respondent was represented by Gwendolyn Driscoll and Jennifer M. Carroll, attorneys with the firm of Walsh, Gallegos, Treviño, Russo & Kyle, P.C., in educational plan ("IEP"), failed to follow procedural safeguards, failed to identify the student's educational disabilities, failed to provide an independent educational evaluation ("IEE") requested by the student's parent, and failed to provide special education counseling as a related service.

The district denies the allegations of the Petitioner and alleges that ~~it is not~~ an independent evaluation of the student is appropriate.

As relief, Petitioner sought a finding that the student has been denied FAPE, that the district has failed to follow procedural guidelines, an award of compensatory educational services, and an independent evaluation at public expense.

The hearing was conducted on March 8 and 9, 2017, in the offices of the district. At the conclusion of the hearing, Respondent moved for an extension of the decision deadline so that the parties could file written closing arguments. With the agreement of the Petitioner, the parties were permitted the opportunity to file written arguments and the decision deadline was set for April 24, 2017. The Respondent filed a written argument; the Petitioner did not.

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

4. A counseling evaluation for the student was conducted on ***, 2014, but the student's parent did not provide information to the district's evaluator (despite several attempts by the evaluator) until early in ***2014. The evaluation concluded that the student did not require counseling as a related service. [Respondent's Exhibit 5; Transcript Page 335]

5. An admission, review and dismissal ("ARD") committee for the student met on ***, 2015. The committee determined that the student continued to qualify for special education based upon the eligibility criterion of OHI because of the student's ADHD. The committee developed an IEP for the student with support for ***, and *** and included goals for ***, ***, ***, and *** , ***, ***, and ***. [Respondent's Exhibit 8; Transcript Pages-136]

6. At the ARD committee meeting on ***, 2015, the student's parent requested an evaluation for special education counseling, a functional behavioral assessment ("FBA") and a BIP. The district agreed to conduct the evaluations. The student's parent also requested that the ARD reconvene when all of the student's teachers could attend the meeting (being available for at least part of the meeting) to answer any questions the committee may have. The committee agreed. The meeting reconvened on ***, 2015, and the meeting ended in consensus. [Respondent's Exhibits 8 & 10; Transcript Pages 283]

7. The district completed a psychological evaluation of the student on ***, 2015. The evaluation included a counseling evaluation and an FBA. The evidence from the district showed that the evaluation was thorough and comprehensive. The licensed specialist in school psychology ("LSSP") utilized numerous sources of data including a variety of assessment tools and strategies to gather relevant information about the student's functional, developmental, and academic performance. The evaluation included a review of educational records, information from the student's parent, information from classroom teachers, information from

the student, a vision and hearing screening, classroom observation, and various assessment tools. [Respondent's Exhibit 10; Transcript Pages ~~273~~]

8. The LSSP and counselor in the evaluation did not use any single measure or assessment as the sole criterion for determining whether the student continued eligibility under OHI, whether the student displayed characteristics consistent with eligibility as a student with ***, and whether the student demonstrated a need for counseling as a related service. [Respondent's Exhibit 10; Transcript Pages ~~280~~ & 337]

9. In the evaluation, the LSSP and counselor used technical instruments to assess the student. The assessments and evaluation materials used to do the evaluation were selected and administered ***. The student was evaluated by **trained and knowledgeable personnel according to instructions provided by the producers of the assessment instruments which were valid and reliable for the purposes for which they were used. [Respondent's Exhibit 10; Transcript Pages 274, 284 & 337]

10. The student's parents and teachers did not report any significant emotional or behavioral concerns warranting further examination, and evaluation data did not show eligibility criteria for *** or show a need for counseling services. Rather, the evaluation showed behaviors consistent with the diagnosis of ADHD. [Respondent's Exhibit 10; Transcript Pages ~~274~~-283-284 & 323]

11. An ARD committee for the student met on **, 2015, to review the new evaluations of the student. The committee determined that the student continued eligibility for

student's placement and IEP. The parent had not yet determined, however, whether the parent agreed with the new evaluations. The committee did not determine any necessity to reconvene the committee about the question of the evaluations because of the agreement on placement and the student's IEP. [Respondent's Exhibit 11; Transcript Pages 78 & 140-144]

12. *** to assist with organization in completing the student's assignments. The student and *** taught how to ***, ***, ***. [Respondent's Exhibit 13; Transcript Pages 201 & 389-392]

13. An annual ARD committee for the student met on ***, 2016, to review the

level instruction. The student's scores on standard ~~and~~ ^{and} ~~***~~ ^{***} grade standardized tests known as the State of Texas Assessment of Academic Readiness ("STAAR") show academic progress even though the student did not pass every test. The student's behaviors have also demonstrated no problems in performance or in accessing instruction. [Respondent's Exhibits 13-19; Transcript Pages 839]

16. The student's work and attendance in school have not shown any behavioral problems indicating a need for counseling evaluation or counseling services. The student's

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CEDAR HILL INDEPENDENT
SCHOOL DISTRICT

FOR THE STATE OF TEXAS

SYNOPSIS

ISSUE #1: Whether the district is required to provide an independent educational evaluation at public expense for the student.

CFR CITATIONS: 34 CFR 330.502 (bv31T2 22 543.6 Tm0 1 TfATInse e(F)-FA4-5(l)-Moense e(F)-FA