

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

ORDER GRANTING
RESPONDENT’S MOTION FOR SUMMARY JUDGMENT

Statement of the Case

STUDENT, by next friends and parents *** and *** (hereinafter “Petitioner” or “the student”) filed a request for hearing on June 7, 2017, pursuant to the Individuals with Disabilities Education Improvement Act (“IDEA”), 20 U.S.C. §1400, et seq., complaining of the Houston Independent School District (hereinafter “Respondent”, “HISD”, or “the district”).

Petitioner alleged that the district failed to comply with the statute’s Child Find obligations pursuant to 20 U.S.C. §1412(3) and §1412 (10), 34 CFR §300.140 (b) and §300.131.

As relief, Petitioner sought an order finding that Petitioner is entitled to an exception to the one-year statute of limitations, 19 T.A.C. §89.1151(c), that Respondent failed to identify and evaluate the student consistent with its Child Find obligations since the student’s placement into private schools located in the respondent district beginning in the 2010-2011 school year and following years, and that Petitioner is entitled to reimbursement for costs of the private school placements.

The matter was assigned to Cathy Egan, a hearing officer with the State Office of Administrative Hearings and originally set for hearing on July 18-19, 2017. The hearing date has been reset on a number of occasions by order of the hearing officer for good cause shown and agreements of the parties.

Respondent filed a motion for summary judgment on July 7, 2017. Petitioner filed a response to the motion for summary judgment on July 21, 2017.

The case was reassigned to an independent hearing officer with the Texas Education Agency, Sherry Wetsch, on July 27, 2017. After the resignation of Hearing Officer Wetsch, the case was reassigned to the undersigned independent hearing officer on August 29, 2017.

Hearing Officer Wetsch ordered an evidentiary hearing on Respondent's motion for summary judgment. The evidentiary hearing began on August 21, 2017, but was not completed. The hearing continued and was completed by the undersigned hearing officer on October 5, 2017. The parties filed written closing arguments on the motion. Based upon the evidence and argument, the hearing officer finds that Respondent's motion is meritorious.

Findings

The parties agree that the student was ***, ***, suffered from serious medical problems and complications, and was considered legally blind. In ***, the student qualified for an Individual Family Service Plan under the Early Childhood Intervention ("ECI") program and was qualified for vision services.

In January ***, the district developed an individual education program ("IEP") for the student, after a functional vision evaluation determined the student met eligibility criteria for a visually impaired student. The student began a program in *** ("****") at a school within the district. During the spring of ***, the student's parents removed the student from the school and placed the student in a private school within the boundaries of HISD.

The student attended the private school for the *** and *** school years. The student attended another private school within the geographical boundaries of HISD for the school years of ***, ***, and ***. In June ***, the student and the parents moved into the *** Independent School District, and the student has attended private schools located within the Houston school

district boundaries since that time.

In February 2016, the student's parents notified the district that the student was attending

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§300.511(f). Texas law imposes a one-year statute of limitations under 19 T.A.C. §89.1151(c). Petitioner argues that the law requires tolling in this case when the district has made misrepresentations about the circumstances forming the basis of the complaint or the district has

1. No material fact is at issue. Respondent has proven that Petitioner's claims for relief for reimbursement are barred by the statute of limitations.

2. All other claims brought by Petitioner are moot.

ORDER

Respondent's motion for summary judgment is GRANTED. All claims brought by Petitioner are DISMISSED with prejudice.

SIGNED this 24th day of October, 2017.

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