

DOCKET NO. 185-SE-0418

STUDENT, B/N/F PARENT	§ § §	BEFORE A SPECIAL EDUCATION
VS.	§	HEARING OFFICER
CONROE 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 “the student” or “Petitioner”), brought a complaint pursuant to the Individuals with Disabilities Education Improvement Act (“IDEA”), 20 U.S.C. §1400, et seq., complaining of the Conroe Independent School District (hereinafter “the district” or “Respondent”).

requested by Petitioner was denied and Petitioner's claims were dismissed with prejudice.

("DAEP") after the conclusion of the MDR. The ARD committee then began extensive discussion concerning the student's educational programming. The committee determined that no new evaluation of the student was needed and the student's parent did not ask for any additional evaluation. The student's parent was asked to provide any information or concerns about the student's education and stated: "I have nothing to add right now." [Petitioner's Exhibits 1 & 28; and Respondent's Exhibit 1]

9. The ARD committee went on to discuss the student's Present Levels of Academic Achievement and Functional Performance ("PLAAFPs") considering the student's eligibility as OHI. The committee reviewed data and discussed the student's behavior, performance, grades, and STAAR results. The committee's information included teacher input noting 28;

the five-day notice to implement the new IEP with its goals and revised accommodations. Later the same day the parent requested the expedited hearing challenging the MDR and disciplinary removal. [Petitioner's Exhibits 1, 23 & 28; Respondent's Exhibit 1; and Transcript Pages 61-105]

12. The ARD committee developing the IEP for the student was composed of key stakeholders working in collaboration with the student's parent. The committee reviewed current levels of the student's educational performance and achievement and developed an educational plan for the student to be delivered in the least restrictive environment. [Petitioner's Exhibits 1, 16 & 28; Respondent's Exhibit 1; and Transcript Pages 9-167, 215-227 & 250-338]

13. An expert witness was called by Petitioner who is ***. The *** teaches in special education and testified that the district failed to analyze properly the student's academic and behavioral data. According to the expert, a proper analysis of the data could have been done which may have shown a need to develop a new plan for behavior interventions and academic strategies which could have resulted in better academic achievement. The witness testified that the information included in the district's PLAAFPs may not be accurate because the input from the student's teachers was inaccurate. Essentially, the expert said that the PLAAFPs may have been faulty and that they were inadequate in measuring the student's abilities and performance. The testimony of the expert was speculative and conjectural. And in light of the credible testimony of the district's personnel, her conclusions were not credible or probative. [Petitioner's Exhibits 31 & 32; and Transcript 168-214]

14. During the pendency of the expedited hearing, the student attended the DAEP assigned placement. The assignment was to be completed on October ***, 2017, but the student did not return to school. The student was enrolled in private school by the student's parent on October ***, 2017. [Petitioner's Exhibit 27; Respondent's Exhibit 9; and Transcript Pages 220-222]

15. The student's parent testified that the parent chose *** in *** because the school would accept the student, the summer schedule permitted the student's enrollment, and the school offered a *** program. The student attended the private school for the remainder of the 2017-2018 school year. The cost of the program and expenses was \$***. No other evidence supporting the propriety of the ***

- performance;
2. The program must be administered in the least restrictive environment;
 3. The services must be provided in a coordinated, collaborative manner by the key stakeholders; and
 4. Positive academic and non-academic benefits must be demonstrated.

In assessing the evidence adduced at the hearing, Petitioner failed to meet its burden of proof. The evidence shows that the program offered by the district for the student complies in every respect with the standards articulated in Michael F., supra. Petitioner failed in its claims on the propriety of the student's IEP.

Petitioner is also seeking reimbursement for the student's placement by the student's parent in a private school in ***. Reimbursement for such a placement is permitted only 1) when a parent proves the district failed to make FAPE available to the student, and 2) the private school placement is appropriate. Petitioner failed to prove either factor.

Petitioner is not entitled to relief.

Conclusions of Law

1. The student is eligible for a free appropriate special education program under the provisions of IDEA, 20 U.S.C. §1400, et seq., and related statutes and regulations, and is to be provided by the Conroe Independent School District.
2. The district's processes and efforts in designing an educational program for the student met the factors in 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; Andrew F. v. Douglas County School District, 137 S.Ct. 988 (2017); 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 failed to prove either that the district's program was inappropriate or that

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SYNOPSIS

ISSUE #1: Whether the education program offered by the district in October 2017 was FAPE.

CFR CITATIONS: 34 CFR 300.552;20 Td [(;)-2d0418