

DOCKET NO. 292-SE-0607

Student bnf § **BEFORE A SPECIAL EDUCATION**
Parent §
§
VS. § **HEARING OFFICER**
§
HOUSTON INDEPENDENT §
SCHOOL DISTRICT § **FOR THE STATE OF TEXAS**

DECISION OF THE HEARING OFFICER

Student (hereinafter “the student”) through his next friend, Parent (Petitioner), requested a due process hearing pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA), 20 U.S.C. § 1400 *et. seq.*. The Respondent is the Houston Independent School District.

The sole issue before the hearing officer was whether or not the District convened an ARD Committee meeting on March 26, 2007, without notice to the parent, thereby depriving the parent of an opportunity for meaningful participation.

Held for Respondent.

PROCEDURAL HISTORY

Petitioner filed this request for hearing on June 22, 2007. The matter was originally assigned to Special Education Hearing Officer James Holtz and reassigned to the undersigned Hearing Officer on August 15, 2007. Petitioner was represented by his parent, Pro Se. Jeffrey Rogers represented the Houston Independent School District. Following a continuance for good cause, the hearing was held on September 26, 2007. The Decision was timely rendered and forwarded to the parties.

Based upon the evidence and argument of the parties, I make the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The student resides within the geographical boundaries of the Houston ISD. Houston ISD is responsible for providing the student with a FAPE.

2. On March 2, 2007, **, an employee of the Houston Independent School District, mailed the parent a notice of an ARD Committee meeting which was to be held on March 26, 2007. ** testified that she mailed the notice and made an entry into a contact log reflecting that notice had been mailed to the parent. (See Exhibit 1, 2) I find ** testimony and supporting documentation to be credible.

3. The District offered into evidence a copy of the contact log reflecting that timely notice was mailed to the parent of the March 26, 2007 ARD Committee meeting. (See Exhibit 2)

CONCLUSIONS OF LAW

1. The student is eligible for special education services as a student with disability under IDEIA, 20 U.S.C. §1400 *et. seq.* and its implementing regulations.

2. The student's parent resides within Houston ISD, a legally constituted independent school district within the state of Texas that is responsible for providing the student with a Free Appropriate Public Education.

3. The District complied with 34 C.F.R. §300.322(a)(1) by notifying the parent of the March 26, 2007 ARD Committee meeting early enough to ensure she would have an opportunity to attend.

4. The District complied with 34 C.F.R. §300.322(d) by maintaining a record of its attempts to notify the parent of the March 27, 2007 ARD Committee meeting.

5. The district's educational program is entitled to a legal presumption of appropriateness. *Tatro v. Texas*, 703 F.2d 823 (5th Cir. 1983). Petitioner bears the burden of proving that it is not appropriate or that the District has not complied with the procedural requirements under the IDEIA. *Schaffer v. Weast*, 126 S.Ct. 528 (2005). Petitioner has wholly failed to meet his burden.

ORDER

Based upon a preponderance of the evidence and the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** that the relief requested by Petitioner is **DENIED**.

Finding that the public welfare requires the immediate effect of this Final Decision and Order, the Hearing Officer makes it effectively immediately.

SIGNED this 5th day of November, 2007.

Sharon M. Ramage
Special Education Hearing Officer

SYNOPSIS

Issue: Whether the District failed to provide notice to the parent of a March 27, 2007 ARD Committee meeting.

Held: For the District. The District provided timely notice of the March 27, 2007 ARD Committee meeting by mailing notice of the ARD Committee meeting to the parent. The District maintained a log of its attempts to contact the parent and ensure parental participation.

Citation: 34 C.F.R. 300.322(a)(1); 34 C.F.R. 300.322(c); 34 C.F.R. 300.322(d)