

DOCKET NO. 247-SE-0305

Student	§	BEFORE A SPECIAL EDUCATION
BNF Parent	§	
	§	HEARING OFFICER
	§	
VS	§	
	§	
Alief Independent	§	FOR THE STATE OF TEXAS
School District	§	

DECISION OF THE HEARING OFFICER

Statement of the Case

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

Petitioner Parent appeared pro se. Respondent was represented by J. Erik Nichols an attorney with the Houston office of Henslee, Fowler, Hepworth & Schwartz. Petitioner's request for hearing was filed on March 28, 2005, and came on for hearing by agreement of the parties and an order of the Hearing Officer on June 30, 2005. The parties were afforded an opportunity to file written-closing arguments and agreed at the close of the hearing that the decision in this matter would be issued on or before July 25, 2005, in compliance with the provisions of the forty-five day rule.

At the prehearing conference in this matter, Petitioner alleged that Student was a speech impaired student who should receive speech therapy services and that she disagreed with the decision by an admission, review and dismissal ("ARD") committee dismissing him from his IDEA eligibility criterion of speech impairment. At the hearing, Petitioner also alleged that Student should receive occupational therapy services.

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. Student is a student born in *** who will enter the *** grade in the fall 2005 and resides with his mother in the Alief Independent School District. [Respondent's Exhibits 2, 11, & 17]
2. Student has received special education services based upon eligibility criteria of other health impaired ("OHI") and speech impairment. [Respondent's Exhibits 3, 6, 11, & 17]
3. Student has been diagnosed with attention deficit hyper-activity disorder ("ADHD") and has been classified because of the disorder as OHI. [Respondent's Exhibits 11 & 17]
4. At an ARD committee meeting in February 2005, the ARD committee reviewed testing concerning Student's speech abilities and determined that he no longer met the eligibility requirements as speech impaired. Student's mother disagreed with this conclusion of the ARD committee. Student's mother requested a full and individual evaluation ("FIE"). [Respondent's Exhibit 6]
5. Another ARD committee for Student was held in May 2005 and the committee determined at this meeting that Student should be classified as speech impaired and that his OHI classification be continued. The ARD committee developed measurable goals and objectives for Student as a part of his individual education plan ("IEP"). An FIE was completed in June 2005. The FIE determined that Student should continue with speech therapy services. [Respondent's Exhibit 17]
6. Student's mother's testimony at the hearing objectives was that Student's goals and objectives for speech are appropriate. She believes that the amount, duration, and planning for Student for speech therapy are sufficient. [Transcript Page 15]
7. Student's mother also believes that Student needs occupational therapy to address his handwriting skills. Student's mother had no substantiation for this claim. [Transcript Pages 16 & 20]

Conclusions of Law

1. Student is a student who is eligible for special education and related services under the provisions of IDEA, 20 U.S.C. §1400, et seq., and related statutes and regulations.
2. The Alief Independent School District is responsible for the delivery for the special education and related services for Student
3. The May, 2005 ARD committee meeting's IEP was properly developed by a duly constituted ARD committee and provides Student with an educational placement and related services reasonably calculated to enable him to receive educational benefit under the standard of 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 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.
4. Petitioner failed to meet the burden to prove that the educational program provided by Respondent for Student was inappropriate. Tatro v. Texas, 703 F.2d 823 (5th Cir. 1983).

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 25th day of July, 2005.

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

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Student, B/N/F Parent	§	BEFORE A SPECIAL EDUCATION
	§	
VS.	§	HEARING OFFICER
	§	
ALIEF INDEPENDENT SCHOOL DISTRICT	§	FOR THE STATE OF TEXAS
	§	

SYNOPSIS

ISSUE: Whether the district provided an appropriate educational plan for Student

CFR CITATIONS: 34 CFR 300.552

TEXAS CITATION: 19 T.A.C. §89.1055

HELD: For Respondent.