

STUDENT § BEFORE A SPECIAL EDUCATION
b/n/f *** AND PARENT §
§
v. § HEARING OFFICER FOR THE
§
LAMAR CONSOLIDATED §
INDEPENDENT §
SCHOOL DISTRICT § STATE OF TEXAS

DECISION OF HEARING OFFICER

Petitioner, *** (“Student”), by next friends, ***, who is Student’s legal guardian (“***”), and *** (“Parent”), filed a complaint requesting an impartial due process hearing pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”). The complaint was received by the Texas Education Agency on October 20, 2014. The Respondent in the complaint is Lamar Consolidated Independent School District (“District” or “LCISD”). At all times, Petitioner was represented by James Holtz, attorney. Respondent was represented by Amy C. Tucker, attorney.

Procedural History

The parties participated in an unsuccessful resolution session November 4, 2014. On October 23, 2014, at Respondent’s request, the due process hearing was rescheduled to December 15 with a disclosure deadline of December 5, 2014. The decision due date was extended to January 17, 2015 for good cause.

A prehearing conference was held November 7, 2014. The parties timely disclosed witness lists and exhibits on December 5, 2014. On December 13, the parties were granted a continuance of the hearing and an extension of the decision due date to March 3, 2015 was granted for good cause.

The hearing was held January 29, 2015. The parties appeared for hearing and presented testimony and exhibits. Respondent moved for an extension of the decision due date to allow sufficient time for filing written closing arguments and entry of a decision. The parties agreed to a March 10, 2015 decision due date that was granted for good cause.

Claims of Petitioner

At the time of filing, Student was ***-year-old child who did not reside within the geographical boundaries of District and received special education services from the District under the IDEA as a child with autism and speech impairment.

Petitioner alleged that Student was denied a free, appropriate public education (“FAPE”) for the past year, and brought forth the following issues at hearing:

1. Whether District failed to provide transportation as a related service for the current school year;
2. Whether District failed to properly consider and discuss all elements of the Autism Supplement, including a need for extended day programming; and
3. Whether Student’s current individualized education program (“IEP”) fails to identify the nature, frequency and extent of in-class support and who is to provide such services in the areas of reading, math, and English.

Petitioner also alleged the wrongful removal of speech therapy services from Student's 2014-2015 education program; however, Petitioner withdrew this issue at the due process hearing.

In addition, Petitioner filed a complaint *** and cited that Respondent's notice of its position that Student no longer qualified for *** was defective. Petitioner also alleged that ***. At the November 7, 2014 prehearing conference, this hearing officer dismissed allegations *** for lack of jurisdiction.

Requested Relief

Petitioner requested the following relief:

1. An order directing Respondent to provide appropriate compensatory educational and related services to Student;
2. An order directing Respondent to provide Student with transportation services and speech services;
3. An order directing Respondent to reimburse Parent for any private educational and/or related services provided to Student, including tutorial and transportation costs;
4. An order directing Respondent to pay Petitioner's reasonable attorneys' fees; and
5. In the alternative, any and all relief deemed appropriate by the hearing officer or by a court of competent jurisdiction.

During the prehearing conference, Petitioner acknowledged that this hearing officer lacks of jurisdiction to award attorneys' fees.

Findings of Fact

Based on the evidence before this hearing officer, the following are the findings of fact in the instant action. Citations to Petitioner's Exhibits and Respondent's Exhibits are designated with a notation of "P" or "R" followed by the exhibit number. Citations to the transcript are designated with a notation of "T" followed by the page number.

1. Since age ***, Student has been and remains eligible as a child with a disability in need of special education under the IDEA as a child with autism. During Student's *** and *** grade, Student was also eligible as a child with speech impairment. In ***, 2014, Student was dismissed from speech therapy. P-1, 2; R-1, 2; T-19
2. Parent describes Student as initially having no speech, no eye contact, and no social interaction skills. Student screamed and ran around. Through time, with ***, Student grew to a functioning level. Presently, Parent describes Student as having regression and retention difficulties that require review of previously covered subject matter. T-22-23, 31
3. Student has attended LCISD since ***. Currently, Student is in *** grade. T-18
4. Since *** grade, Student has been in a general education setting with in-class support. P-1, 2, 3; R-1, 2, 4, 5; T-22
5. In December, 2013, Student became *** and ***. Pursuant to *** campus of LCISD and District ***. R-11; T-45
6. Petitioner requested *** for Student's *** grade year. At that time, Student had *** to LCISD's *** School ("***"). District denied ***. R-11
7. In *** grade, Student was on a *** grade level in spelling, writing, reading and math. R-5
8. In *** grade, Student passed the state-mandated STAAR test for the first time. T-23-24
9. At Student's annual admission, review and dismissal committee ("ARDC") meeting of October ***, 2013, extended school year ("ESY") services were discussed. The committee did not recommend ESY at that time, but

indicated that the service might be discussed at a later ARDC if regression was documented. The ARDC meeting included coverage of the Autism Supplement. Parent did not recall the supplement being addressed at the meeting. P-3; R-4; T-27

10. In *** grade, Student received 15 minutes of speech therapy, 4 times per 9 weeks at a rate of every other week during the 9-week grading period. Student received counseling and school health services. P-3; R-4
11. During *** grade, Student *** attention deficit disorder (“ADD”). Through the year, ***. At the end of the year, the committee believed that Student was *** “***...” Student was better able to stay focused throughout the school day. P-2; R-2; T-61, 62
12. In *** grade, Student was in a smaller group for reading. The group included high functioning, high-level students. T-144, 145
13. In *** grade, Student passed the *** grade science bridge test and performed on an early *** grade level in science. In writing, Student wrote a well-planned paper with correct sequence of events, although Student continued to have difficulty writing in complete sentences. Student was more focused on academics in school. At the end of Student’s *** grade year, Student’s math scores indicated strong performance, and reading comprehension skills appeared to be growing. Student encountered some difficulty understanding words that Student read. At the June, 2014 ARDC meeting, the committee reported that Student had come a long way since *** grade. Student was more sociable and willing to try new things. Student had Student’s own set of friends. Student took pride in Student’s work, and worried about Student’s fellow students. Student tended to focus on people that were breaking the rules. Student had a tendency to rush through Student’s schoolwork. Student knew Student’s basic skills in addition, subtraction, multiplication, and division. Student scored *** grade reading level on the ***. Student scored *** grade in all areas of fiction and non-fiction comprehension. Student scored on a *** grade level when doing the AR test. Student made A’s and B’s on Student’s report card. No Autism Supplement was included in the June, 2014 ARDC documents. P-2, 3; R-2, 9; T-140, 141
14. In the Spring, 2014, District conducted a full and individual evaluation of Student. Student’s overall intellectual ability is in the average range of others Student’s age. The evaluation results indicated that Student’s strengths included basic social skills and ability to engage in reciprocal conversation, a desire to actively participate in classroom group assignments and academic discussions, and academically capable. R-6
15. Parent requested an ARDC meeting that was held June ***, 2014. The parties discussed the campus that Student preferred to attend the next year, and agreed to ***, the campus that ***. Parent understood that Student would continue to receive transportation to ***. After Student began Student’s *** grade year on August ***, District advised Parent of transportation difficulties and requested patience while it resolved the problems. In mid-September, District notified Parent that Student would not receive transportation. Throughout the 2014-2015 school year, *** has driven Student to and from ***. Two round-trips daily total *** miles per day. P-9; R-2; T-32, 36-39; 48
16. This year, Student is in *** grade general education class with in-class support for reading, math, English, science and social studies. In October, 2014, Student’s inclusion support was reduced from 45 to 15 minutes per core

class. The ARDC agreed to reduce inclusion support from 45 to 15 minutes per core class to occur at the end of the class period to help Student's organization skills. No Autism Supplement was attached to the October ARDC documents. P-1; R-1; T-185

17. Student receives more than 15 minutes of inclusion support in math class. Student receives 15 minutes of inclusion in social studies throughout the class period rather than at the end of the class period. T-190, 208, 209
18. Student's current accommodations include check for understanding, one day of extra time with assignments and tests, oral administration of tests, preferential seating, reminders to stay on task, small group testing, spelling assistance and use of electronic device. Student also uses a calculator in math and science. Student's related services include 20 minutes of counseling during the first, third, fourth, sixth, and eighth week of a nine-week period. Student also receives school health services ***. P-1; R-1
19. In October of the current school year, Student's grades ranged from *** in Math to *** in social studies. P-1; R-1
20. Student has a positive attitude in *** grade, and "gets to work right away." Student is diligent in keeping Student's agenda. On occasion, Student is unorganized and has difficulty with vocabulary. T-159, 202
21. Student is an A/B student in *** class. Student has no deficits in the areas of group projects or performances. Socially, Student shows no deficits. Parent testified that Student exhibits a deficit in retention and such is reflected in written tests. T-162, 163
22. Student asks questions of Student's teachers if Student doesn't understand. Student is focused and on task. Student keeps Student's agenda organized. Student recognizes when Student needs to go onto Edmodo to take notes. Edmodo is an online program whereby Student's teachers put notes for the students. Student is capable of completing Student's work independently and timely. T-100-101, 183-186, 197
23. Student independently navigates safely through the school environment. T-95, 129, 146
24. District provides support for students to help them keep up with what is coming due and provides them with information that they need through two avenues: Remind 101 and Edmodo. Remind 101 is a text message that District uses to send reminders of assignments that are due the next day, or tests that will be given. Student knows how to utilize both. T-100-101
25. *** has programs in place that help target weaknesses in students. Based on data that is accumulated from tests, each teacher focuses on a concept of weakness during what is called "switch" classes that occur during *** period class. The students switch every 5-7 days from math and reading. Tutorials are offered on, at least, Tuesdays and Thursdays. T-186-187, 200
26. Student's math teacher offers individual tutorials every Thursday. At the time of hearing, Student had not demonstrated a need to attend. Student is capable of completing Student's work independently and timely. T-183-187
27. During Student's *** grade year, Mrs. ***, a District special education teacher, privately tutored Student. In the beginning, she tutored four days per week for two hours each day. During the year, the tutor recommended a decreased schedule; thus, the sessions were decreased to three days per week. Student was an honor roll student

- that year. Student and Ms. *** spent one-half of the time doing homework, then supplemented classroom activities during the other half, and helped with Student's socialization. P-7; T-31-32, 41, 42, 124-134, 143
28. Student currently receives private tutoring three days per week. Student's current private tutor's responsibility is to help bring Student above level, help maximize Student's potential, and to be more spiritually connected. She tutors Student in reading, writing, math, science, social studies ***, and spirituality. T-42, 103-105
29. Transportation for Student would require LCISD to devise a stand-alone route. Student couldn't be added to a routed system. Transporting Student would require a driver and an aide. In the current school year, District needs 30 more drivers. Buses are over-crowded. R-12; T-114-122

Discussion

A petitioner who challenges the school district's eligibility determination or offer of services under the IDEA bears the burden to prove that the child has been denied a FAPE. *Tatro v. State of Texas*, 703 F.2d 832 (5th Cir. 1983), *aff'd*, 468 U.S. 883 (1984); *Schaffer v. Weast*, 126 U. S. 528 (2005).

Transportation

Under the IDEA, transportation is a related service that must be provided if it is required to assist a child with a disability to benefit from special education. 34 C.F.R. § 300.34. A school district must transport a student with a disability to and from school when the student's disability prevents the student from using conventional bus transportation. *Norton Sch. Dist.*, 21 IDELR 974 (SEA VT 1994). Two interpretations have developed in regard to special transportation as a related service: the "unique needs" view and the "access" view. If a court uses the unique needs view, a school district must provide transportation as a related service only if the student's disability directly causes a "unique need" for some form of specialized transport. *McNair v. Oak Hills Local Sch. Dist.*, 441 IDELR 381 (6th Cir. 1987). Using the more liberal access approach, if a child would not be able to access his special education program without specialized transportation, then it must be provided. *Irving Ind. Sch. Dist. v. Tatro*, 468 U.S. 883, 891 (1984) (concluding that services like clean intermittent catheterization that permit a child to remain at school during the day are no less related to the effort to educate than are services that enable the child to reach, enter, or exit the school).

A district cannot base its decision regarding a need for special education transportation upon geographic boundaries of the school district so long as it is required for the special circumstances of the handicapped child and is reasonable when all of the facts are considered. Unless the transportation request is shown to be unreasonable, the IDEA requires that such transportation be provided as a related service. *Alamo Heights Independent School District v. State Board of Education*, 790 F.2d 1153, 1160 (5th Cir. 1986) (concluding that special transportation one mile outside the school district's boundaries was reasonable under the circumstances). The Court considered whether such transportation would create substantial additional expense, disrupt efficient planning of school bus routes, entail additional time to transport other children, and in any other way inconvenience other children on the bus route.

Student has been eligible for special education since Student began school. The evidence shows that Student

received counseling as a related service from *** through *** grades. In addition, Student received school health services in *** and *** grades.

Throughout Student's school career, there was no evidence of a need for special transportation. There is no evidence that Student becomes over-stimulated in environments with considerable movement and noise. *In re: Student with a Disability*, 110 LRP 7492 (SEA VA 11/16/09). Student has no behavioral problems or serious health conditions that might require specialized transportation. Neither does Student have mobility impairment. Student has average cognitive abilities, interacts with Student's peers, and has no physical disabilities that interfere with Student's ability to ride a regular school bus. Student's teachers testified that Student navigates the school building without difficulties or the need for assistance. Petitioner presented no evidence of a need for specialized transportation, but argued that Student needs transportation because Student lives *** miles from the school district ***.

Even if Student were eligible for special transportation, the evidence shows that provision of transportation between Student's place of residence and *** is unreasonable. The evidence shows that it would create substantial expense on the part of District in that a bus, bus driver, and aide would be required to pick up and return Student to Student's place of residence *** miles from District. This would disrupt the planning of LCISD's bus routes. Transporting the Student alone would take a bus out of service for other children when the buses are crowded already. District staff would be required to stay late until Student's bus returned to District in the evening. Although difficult, Parent has been able to provide transportation during the current year. The credible evidence supports a finding that it is unreasonable to expect LCISD to transport Student from Student's place of residence to ***.

When a student with a disability elects to attend a school other than the assigned campus closest to the child's home, generally, the district is not required to provide special transportation as long as the assigned campus is able to provide the student with a free appropriate public education. *Fick ex rel. Fick v. Sioux Falls School District*, 39 IDELR 151 (8th Cir. 2003); *Timothy H. v. Cedar Rapids Community School District*, 30 IDELR 535 (8th Cir. 1999). Petitioner failed to carry the burden of proving that ***, the district in which Student resides, could not provide Student with a FAPE.

Autism Supplement/Extended Day Programming

A free appropriate public education means special education and related services that are provided at public expense and meet the standards of the State Education Agency, including the requirements in the IDEA. 34 C. F. R. §300.17. In Texas, for students eligible under the autism classification, 11 items are required to be considered, and, when needed, addressed in the IEP. 19 Tex. Admin. Code §89.1055(e). These items include extended educational programming such as extended day and/or extended school year services, in-home training, positive behavior support strategies, parent/family training and support, suitable staff-to-student ratio, among others. Districts commonly use a form that is called an Autism Supplement and attached to a child's IEP. Respondent correctly argues that failure to use the Autism Supplement form is not a requirement of the IDEA. It is the consideration of those eleven items that is required. District attached the Autism Supplement form to Student's *** grade annual ARDC, but did not use the supplement at Student's June, 2014 and October, 2104 ARDC meetings.

Petitioner carried Petitioner's burden of proving that the ARDC failed to consider extended day services in October and June, 2014. Although Respondent contended that the discussion regarding Parent's provision of private tutoring somehow rose to the level of discussing extended day programming for Student, the argument is not convincing. The failure to consider extended-day programming is a procedural violation. 34 C. F. R. §300.324; 19 Tex. Admin. Code §89.1055(e).

Petitioner argued that without Parent's provision of private tutoring, Student would not be able to pass Student's classes or remain in a general education setting. For this reason, Petitioner requests extended-day services and reimbursement for Parent's costs of private tutoring. District's witnesses disagreed with the argument. Student's teachers testified that Student does not need extended day services in order to pass Student's classes or make meaningful educational progress.

Student's inclusion teacher provides support to Student in Student's general education classroom. The teacher testified that most of the time, Student is focused on "exactly what Student needs to be doing. Student's math teacher testified that Student adjusted very well in ***, is very good at following instruction and keeping Student's agenda organized. Student recognizes when Student needs to go onto Edmodo to take notes, and asks questions when needed.

Student's current math teacher believes that the supports available to Student at school are sufficient to ensure that Student pass math. The teacher monitors all student progress and provides individualized instruction when needed. Student's math teacher testified that the areas of weakness that Student's private teacher discussed are areas that all of his students encounter.

Student's social studies teacher provided similar testimony regarding areas of weakness. She testified that *** are difficult for all *** grade students, not just Student. The teacher also monitors her students' progress and addresses the needs as they arise.

Student's *** grade inclusion teacher believed that Student's successful results on the state mandated test called STAAR resulted from several factors. Student matured. Student's *** and Student was better able to focus. Student was in a smaller group of higher-level children in reading. Student is on the A-B honor roll. The credible testimony reflects that Student made progress from *** to *** grade, and is making progress in *** grade. Certainly, the private tutoring was beneficial, and District witnesses acknowledged the family's commitment to Student's education. However, there is insufficient evidence to support Petitioner's contention that the progress is entirely a result of privately provided tutoring.

Petitioner argued that the failure to consider extended-day programming significantly impeded Parent's opportunity to participate in the decision-making process. During the relevant time period, Parent and/or *** attended all three ARDC meetings. The evidence supports that Parent knew and exercised the right to call ARDC meetings. At all times, Parent and/or *** were present at the ARDC meetings including the October 2013 meeting at which the elements of the Autism Supplement were discussed. Parent and/or *** took active part in all discussions about Student's progress and educational programming.

Parent's requests at the ARDC meetings were heard and considered, and Parent agreed to the decisions made in all meetings during the relevant time period. During the June, 2014 meeting, the parties discussed Student's preference of a ***. Parent expressed the considerations that she believed were important for Student and agreed to the selection of

***. Despite District’s procedural violation, the evidence is not sufficient to find that the failure to consider extended-day programming impeded Student’s right to a free, appropriate public education, caused a deprivation of educational benefit or significantly impeded student’s Parent’s opportunity to participate in the decision-making process. significantly impeded Parent’s opportunity to participate in the decision-making process regarding the provision of a FAPE to Student. 34 C. F. R. §300.513(a)(2)(ii).

The IDEA requires a school to provide a child with a “basic floor of opportunity.” *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, 189 (1982). The educational program must be meaningful, and reasonably calculated to produce progress as opposed to *de minimis* advancement. *Adam J. v. Keller Indep. Sch. Dist.*, 328 F.3d 804, 808 (5th Cir. 2003). The IEP is not required to be the best possible one. Neither must it maximize a child’s educational potential. It must be specifically designed to meet the child’s unique needs and supported by services that will permit him to benefit from the instruction. *Cypress Fairbanks Independent School District v. Michael F.*, 118 F.3d 245 (5th Cir. 1997).

Parent provided private tutoring in order to help Student reach Student’s potential. The current private tutor explained that her goal was to bring Student above level, help Student to excel and ensure that Student doesn’t get left behind. Student’s family is to be commended for the devotion to these goals. However, District is charged with providing a basic floor of opportunity for Student so that Student may make meaningful educational progress. The credible evidence supports a finding that Student’s IEP was meaningful and reasonably calculated to produce progress without extended day services. Student made meaningful progress in *** grade, and continue to make progress in *** grade. District satisfied its duty to provide a basic floor of opportunity for Student under the IDEA.

IEP

Although Petitioner alleged that Student’s IEP failed to identify the nature, frequency and extent of in-class support and who is to provide such services in the areas of reading, math, and English, Petitioner presented no witness testimony to support the allegation. A review of the IEP reflects the frequency and duration of the service. The IEPs also indicate the amount of special education time that is devoted to Student. While the IEPs do not specifically show that the service providers were to be both general education and special education teachers, the testimony supported that both teachers provided services to Student. 34 C. F. R. §300.324.

In addition, the “Determination of Services to be Provided” page indicates special education time of 75 minutes, duration and frequency of “1/week” for each class, and continues to state that it should occur the last 15 minutes of each period. However, the deliberations of the ARDC clarify that the intent is for Student to receive 15 minutes per day of in-class support, which totals 75 minutes per week. It would be advisable for District to describe in-class support more specifically, and more understandable for a lay reader.

Conclusions of Law

1. *** is a student in the Lamar Consolidated Independent School District eligible for special education and related services under the IDEA. The Lamar Consolidated Independent School District is the education agency

responsible for providing those services to Student, ***. 20 U.S.C. § 1400 *et seq.* and its implementing regulations.

2. Lamar Consolidated Independent School District's educational program is entitled to a legal presumption of appropriateness. *Tatro v. State of Texas*, 703 F.2d 832 (5th Cir. 1983), *aff'd*, 468 U.S. 883 (1984).
3. Lamar Consolidated Independent School District did not deny Student a FAPE. 34 C.F.R. §300.101; *Bd. Of Educ. of Hendrick Hudson Sch. Dist. v. Rowley*, 458 U.S. 175, 206-7 (1982) *Tatro v. State of Texas*, 703 F.2d 832 (5th Cir. 1983), *aff'd*, 468 U.S. 883 (1984); *Schaffer v. Weast*, 126 U. S. 528 (2005).
4. Student does not have a need for extended day programming. 34 C. F. R. §300.324; 19 Tex. Admin. Code §89.1055(e); *Cypress Fairbanks Independent School District v. Michael F.*, 118 F.3d 245 (5th Cir. 1997); *Tatro v. State of Texas*, 703 F.2d 832 (5th Cir. 1983), *aff'd*, 468 U.S. 883 (1984); *Schaffer v. Weast*, 126 U. S. 528 (2005).
5. Lamar Consolidated Independent School District failed to consider the elements required when a child is eligible for special education and related services as a child with a disability of autism. The failure was a procedural violation. 34 C. F. R. §300.324; 19 Tex. Admin. Code §89.1055(e).
6. Lamar Consolidated Independent School District's procedural violation did not significantly impede Parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child. 34 C. F. R. §300.513(a)(2)(ii); *Tatro v. State of Texas*, 703 F.2d 832 (5th Cir. 1983), *aff'd*, 468 U.S. 883 (1984).
7. Petitioner, ***, is not eligible for special transportation as a related service. Lamar Consolidated Independent School District did not err when it did not provide special transportation as a related service for the current school year. 34 C.F.R. § 300.34; *McNair v. Oak Hills Local Sch. Dist.*, 441 IDELR 381 (6th Cir. 1987); *Tatro v. State of Texas*, 703 F.2d 832 (5th Cir. 1983), *aff'd*, 468 U.S. 883 (1984); *Schaffer v. Weast*, 126 S.Ct. 528 (2005).
8. Petitioner's current IEP sufficiently identifies the nature, frequency and extent of in-class support. 34 C. F. R. §300.324; *Tatro v. State of Texas*, 703 F.2d 832 (5th Cir. 1983), *aff'd*, 468 U.S. 883 (1984); *Schaffer v. Weast*, 126 S.Ct. 528 (2005).

Order

The IDEA authorizes a hearing officer to order a local education agency to comply with procedural requirements. Therefore, pursuant to 34 C. F. R. §300.513(a)(3), Respondent, Lamar Consolidated Independent School District, is ORDERED to comply with the following:

1. No later than 10 school days from receipt of this Decision of Hearing Officer, Respondent shall convene an ARDC meeting to discuss and consider all eleven (11) elements that are required under 19 Tex. Admin. Code §1055(e), and determine what, if any, elements are necessary to meet Petitioner's unique needs; and
2. No later than the final school day of the present school year (2014-2015), Respondent shall schedule and conduct intensive and detailed training for all District staff responsible for Student's ARDC process that includes the duty to discuss and consider all eleven (11) elements required under 19 Tex. Admin. Code §1055(e).

All other relief requested by Petitioner is DENIED.

SIGNED and ENTERED on March 9, 2015.

/s/
BRENDA RUDD
Special Education Hearing Officer
For the State of Texas

NOTICE TO THE PARTIES

The decision issued by the hearing officer is final, except that any party aggrieved by the findings and decision made by the hearing officer, or the performance thereof by any other party, may bring a civil action with respect to the issues presented at the due process hearing in any state court of competent jurisdiction or in a district court of the United States. A civil action brought in state or federal court must be initiated not more than 90 days after the date the hearing officer issued his or her written decision in the due process hearing. 20 U.S.C. §1415.

DOCKET NO. 050-SE-1014

STUDENT § BEFORE A SPECIAL EDUCATION
b/n/f *** AND PARENT §
§
v. § HEARING OFFICER FOR THE
§
LAMAR CONSOLIDATED §
INDEPENDENT §
SCHOOL DISTRICT § STATE OF TEXAS

SYNOPSIS TO DECISION OF HEARING OFFICER

- ISSUE 1:** Whether District denied Student a free, appropriate, public education (“FAPE”)
HELD: For Respondent
CITATION: 34 C. F. R. §300.101; *Bd. of Educ. of Hendrick Hudson Sch. Dist. v. Rowley*, 458 U.S. 176 (1982); *Tatro v. State of Texas*, 703 F. 2d 832 (5th Cir. 1983), *aff’d*, 468 U.S. 883 (1984); *Schaffer v. Weast*, 126 S.Ct. 528 (2005).
- ISSUE 2:** Whether District failed to provide transportation as a related service for the current school year
HELD: For Respondent; Student is not eligible for special transportation as a related service
CITATION: 34 C. F. R. §300.34; *Tatro v. State of Texas*, 703 F. 2d 832 (5th Cir. 1983), *aff’d*, 468 U.S. 883 (1984); *Schaffer v. Weast*, 126 S.Ct. 528 (2005);
- ISSUE 3:** Whether District failed to properly consider and discuss all elements of the Autism Supplement, including a need for extended day programming
HELD: For Petitioner; Respondent’s failure was a procedural error, but not a denial of FAPE
CITATION: 34 C. F. R. §300.324; 34 C. F. R. §300.513(a)(2)(ii); 19 Tex. Admin. Code §89.1055(e).
- ISSUE 4:** Whether Student’s current IEP fails to identify the nature, frequency and extent of in-class support and who is to provide such services in the areas of reading, math, and English
HELD: For Respondent
CITATION: 34 C. F. R. §300.324; *Tatro v. State of Texas*, 703 F.2d 832 (5th Cir. 1983), *aff’d*, 468 U.S. 883 (1984); *Schaffer v. Weast*, 126 S.Ct. 528 (2005).