

**DOCKET NO. 136-SE-0116**

<b>STUDENT,</b>	§	<b>BEFORE A SPECIAL EDUCATION</b>
<b>b/n/f PARENT,</b>	§	
<b>Petitioner</b>	§	
	§	
<b>v.</b>	§	<b>HEARING OFFICER FOR</b>
	§	
<b>KILLEEN INDEPENDENT SCHOOL</b>	§	
<b>DISTRICT,</b>	§	
<b>Respondent</b>	§	<b>THE STATE OF TEXAS</b>

**DECISION OF HEARING OFFICER**

\*\*\* (Student) by next friend Parent (collectively, Petitioner), requested a due process hearing pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 *et seq.*, alleging numerous violations including a failure to provide a free and appropriate public education (FAPE). Respondent is the Killeen Independent School District. The District denied that it failed to provide student a FAPE.<sup>1</sup> Student was represented by next friend, \*\*\* (Parent). Holly Wardell and Matthew M. Coleman, attorneys, represented Respondent.

**I. PROCEDURAL HISTORY**

In its answer to Petitioner’s complaint (Complaint), the District challenged \*\*\*. The District also urged that much of the Complaint was barred by the statute of limitations and failed to state an actionable claim under the IDEA. The District further challenged the sufficiency of the Complaint arguing that it lacked necessary facts to allow their preparation of a defense. After Parent \*\*\*, the Hearing Officer issued an order overruling the District’s challenge to \*\*\*.

Because Petitioner was self-represented, Parent was given an opportunity to perfect the Complaint with additional facts.<sup>2</sup> She did so and most of Petitioner’s issues were retained. The

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<sup>1</sup> Respondent’s Answer to Request for Special Education Due Process Hearing at 2.

<sup>2</sup> Order No. 4

hearing officer struck 12 issues that were not relevant, were beyond the statute of limitations, or that were not supported with facts sufficient to determine what the issue was about.

An unsuccessful resolution session was held on February 4, 2016. Mediation through the Texas Education Agency was requested on February 5, 2015, but it never occurred. One continuance was granted for good cause prior to the hearing which was convened on March 21, 2016, and concluded on March 23, 2016. In addition to the party representatives, also in attendance at the hearing were \*\*\*, Ph.D., Principal of \*\*\* (\*\*\*), where Student is enrolled, and Rhonda Faught, legal assistant to the hearing officer.

## II. ISSUES FOR HEARING AND REQUESTS FOR RELIEF

Petitioner alleged that the District:

1. failed to provide Student with a FAPE;
2. initially refused to allow Student to enroll at \*\*\* and failed to place Student into appropriate classes;
3. failed to evaluate Student in accordance with IDEA requirements from January 2014 to present;
4. failed to maintain Student's records at Student's current campus from January 2014 to present date;
5. failed to obtain Student's educational records from Student's prior school;
6. failed to conduct an Admission, Review, and Dismissal Committee (ARDC) meeting between August \*\*\*, 2015, and October \*\*\*, 2015;
7. failed to include people knowledgeable of Student's disability in the ARDC meetings;
8. failed to provide Student necessary and related services;
9. denied Parent meaningful participation in the ARDC process in October and November 2015;

10. determined Student's Individualized Education Program (IEP) prior to the ARDC meetings;
11. denied Parent participation in the decision-making process of determining how the ARDC arrived at amount and frequency of homebound services;
12. failed to reconvene an ARDC meeting when Student's IEP was failing;
13. failed to include factual Parent input in the ARDC minutes;
14. created a reckless IEP for Student by using a majority vote rather than the members reaching a consensus;
15. failed to provide IEP progress reports;
16. failed to develop an IEP that was individualized for Student's success;
17. attempted to coerce Parent to choose a specific specialist to conduct an Independent Educational Evaluation (IEE);
18. failed to include Parent, per Parent's request, on communications between the District and the evaluator who conducted the IEE;
19. failed to complete the necessary paperwork in order to receive full funding for homebound services, including remote instruction via web conferencing;
20. failed to contract with another school district that can provide remote instruction via web conferencing;
21. failed to create an effective IEP and then reconvene to revise the IEP with time specific, measurable, realistic and relevant goals based on Student's present level of ability;
22. denied Student education benefit by not allowing access to \*\*\*<sup>3</sup> instructional courses in progress;
23. failed to devise a child-centered IEP to help Student with \*\*\*.
24. failed to utilize Child Find methods to identify all of Student's disabilities.
25. created an IEP perceived to yield only progress, while failing to produce educational benefit that is specific to the child.

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<sup>3</sup> \*\*\* is a scientifically research-based instructional software program providing instruction for students around the clock when they are best able to learn. It is an integrated system that provides video lessons, closed caption text, a transcript of the teaching material, and allows the student to take quizzes and tests remotely (except for all but end of course and statewide testing that must be proctored). Tr. at 391-394; 607; 624.

26. harmed and overwhelmed Student by setting high standards that exceeded Student's abilities and resulted in Student rushing through courses without learning.

In accordance with the above issues, Petitioner requested the following relief:

1. An order directing the District to provide Student with homebound services via web conferences for 3 hours a day, 5 days a week.
2. An order directing the District to give Student modifications and an extension of time to complete assignments.
3. An order prohibiting the District from removing Student's courses and disregarding completed work.
4. An order prohibiting the District from allowing a course to expire without giving Student credit for work completed.
5. An order directing the District to continue to enroll student at \*\*\*.
6. An order directing the District to give Student year-round and full-time access to \*\*\*.
7. An order directing the District to put Student on \*\*\*.
8. An order directing the District to provide, at the cost of the District, a one-on-one aide for Student in class.

It is noted that the District is effectively providing requests numbers 2-7, except for the modifications requested in request number 2, which are not allowed by law.

### **III. JURISDICTION AND HEARING PROCEDURAL MATTERS**

Parent claimed several times, in the Complaint and in subsequent pleadings, [\*\*\*]. \*\*\*. This matter is outside the Hearing Officer's jurisdiction. However, a neutral facility was secured for the hearing in order to allow Parent to appear. Parent insisted on attending by video conference but her request was denied. It was ultimately agreed that Parent would participate by telephone. Because Parent participated by phone and not in person, the second day of the hearing was moved to the District's facilities, so that the hearing could continue later into the evenings.

#### IV. FINDINGS OF FACT

Based upon the evidence and argument of the parties, the Hearing Officer makes the following findings of fact:

1. Student resides with Parent within the boundaries of the District.
2. Student is \*\*\* and Parent \*\*\*.
3. The District is a recipient of federal funds and must comply with the IDEA, including developing and implementing an appropriate IEP for Student, designed to ensure services and placement in the least restrictive environment (LRE), reasonably calculated to confer meaningful educational benefit.
4. Student was enrolled in Student's current school, \*\*\*, \*\*\*. Parent indicated on the enrollment packet that Student received special education services at Student's previous campus, \*\*\* (\*\*\*).<sup>4</sup>
5. Parent did not advise \*\*\* that \*\*\* had dismissed Student from special education services.
6. The normal process for enrollment at \*\*\* is through a student's home campus. Parent enrolled Student by going directly to the \*\*\* campus, while disregarding \*\*\*.<sup>5</sup>
7. A temporary ARDC meeting was held on October \*\*\* 2015, to determine continued need and eligibility for special education services and to obtain a 3-year re-evaluation. Parent produced her own IEP for Student, which was discussed and the majority of which was adopted by the other ARDC members. An agreement was reached but Parent requested time to review the agreement before signing.<sup>6</sup>
8. The ARDC meeting was re-convened on October \*\*\* 2015, at which Parent presented information she wanted corrected from the previous ARDC meeting. Parent presented a completed District homebound service form, requesting homebound services for Student. Parent also informed the ARDC members of the evaluator she had chosen to conduct an IEE.
9. Parent signed a statement of disagreement with the ARDC findings based on Student's placement; exclusion of Student's medical diagnosis for determining eligibility of special

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<sup>4</sup> Ex. R-1, \*\*\*.

<sup>5</sup> Tr. at 579 – 581.

<sup>6</sup> Ex. R-5 at 126.

education services; the end of course (EOC) assessment criteria developed for Student; and the lack of physical and occupational therapies for Student in Student's IEP.<sup>7</sup>

10. A third ARDC meeting was convened on November \*\*\* 2015, to address Parent's concerns from the last ARDC meeting and to review Student's records from Student's previous school, \*\*\*. It was determined that even though \*\*\* had dismissed Student from special education services, \*\*\* would continue to provide Student services until an IEE could be completed.
11. Homebound services were approved for Student with a homebound teacher spending up to 4 hours per week with Student in Student's home to supplement Student's shortened classroom participation.<sup>8</sup> Parent did not agree to the homebound teacher coming to her home and requested the teacher utilize web conferencing instead.<sup>9</sup>
12. A 10-day reconvened ARDC meeting was held on November \*\*\* 2015. Parent requested Student receive services of a homebound teacher for 2 hours per day, 4 days a week and by telephone. The ARDC did not feel it was in the best interest of Student's learning and would not meet state or IDEA requirements. The ARDC determined that Student would continue to receive the services of a homebound teacher as previously planned.
13. Parent left the November \*\*\* 2015 ARDC meeting before it concluded. The remaining ARDC members signed an agreement of changes to Student's IEP without Parent's participation.<sup>10</sup>
14. On December \*\*\* 2015, the District sent a Notice of Refusal to Provide Services to Parent, notifying Parent that her request for increased homebound services for Student was declined and that another ARDC meeting would not be held until after an IEE was completed.<sup>11</sup>
15. On February \*\*\* and \*\*\* 2016, the District sent Parent notices of an ARDC meeting scheduled for March \*\*\* 2016, to consider the new IEE.<sup>12</sup> However, Parent declined to participate in an ARDC until after a due process hearing.<sup>13</sup>
16. Parent provided the District with two notes from doctors to authorize Student to receive homebound services but would not allow the District to contact either doctor for more information on what homebound services were needed.

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<sup>7</sup> Ex. R-6, p. 181.

<sup>8</sup> Tr. at 287-289; 603-605.

<sup>9</sup> Ex. R-7, pp. 233-234.

<sup>10</sup> Ex. R-8, p. 279.

<sup>11</sup> Ex. R-9.

<sup>12</sup> Ex. R-10.

<sup>13</sup> Tr. at 564.

17. The doctors' notes provided by Parent state that Student suffers from post-traumatic headaches and recommend Student only attend classes on campus when Student's headaches are mild.<sup>14</sup>
18. As of February \*\*\* 2016, Student had missed \*\*\* full days and \*\*\* partial days of school since August 31, 2015.<sup>15</sup>
19. Student's current classes include: \*\*\*. The only course Student has passed is \*\*\*.<sup>16</sup>
20. Student's current IEP, in accordance with the ARDC meeting conducted on November \*\*\* 2015, identifies English, Math, Science, and Social Studies as areas of need for special instruction. Student is also provided the following accommodations: a) check often for understanding/review/comprehension; b) give positive/concrete reinforcement; c) small-group administration [for testing]; d) preferential seating [in the classroom]; e) oral/signed administration [on tests]; f) extra time; and g) three opportunities to take quizzes and tests. The IEP contained measurable annual goals for each course in which Student is enrolled.<sup>17</sup>
21. Student's current IEP was developed after the ARDC reviewed and considered Student's most recent full individual evaluation (FIE) (dated 2013), Parent information, medical/health records, classroom observation, school records, and \*\*\* information.<sup>18</sup>
22. Per Parent's request, Student is currently \*\*\*. \*\*\*.
23. A student \*\*\* can have \*\*\* but cannot have \*\*\*.<sup>19</sup>
24. \*\*\*' registrar first requested records from \*\*\* on August \*\*\* 2015. \*\*\* received Student's transcripts from \*\*\* on August \*\*\* 2015, with a note that the special education records would be sent separately.<sup>20</sup>
25. \*\*\* did not receive Student's special education records from \*\*\* until October \*\*\*, 2015.<sup>21</sup>
26. The records included the results of the last FIE for Student at \*\*\*, which indicated that Student was no longer eligible to receive special education services for a student with a disability. The cover letter advised Parent that Student may qualify for OHI if Parent would

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<sup>14</sup> Ex. R-11

<sup>15</sup> Ex. R-17.

<sup>16</sup> Ex. R-18.

<sup>17</sup> Ex. P-9.

<sup>18</sup> *Id.*, p. 193

<sup>19</sup> Tr. at 587-590.

<sup>20</sup> Ex. R-1, p. 36.

<sup>21</sup> Ex. R-12, p. 305.

- either allow the school to contact the neurologist for more information or allow the school to pay for an exam for Student by a licensed physician.<sup>22</sup>
27. \*\*\* also requested and received Student's \*\*\*, which Student attended from \*\*\*. Student attempted to take \*\*\* while enrolled at \*\*\*, but failed both classes and did not earn any credits.<sup>23</sup>
  28. An FIE reevaluation was performed at \*\*\* at Parent's request on October \*\*\* 2014. The FIE found that Student was no longer eligible to receive special education services as student with a disability..<sup>24</sup>
  29. Parent refused to sign medical waivers and did not want the District to seek Child Find in order to qualify Student for services on the basis of OHI only; she wanted Student to receive academic accommodations.<sup>25</sup>
  30. \*\*\*' ARDC suggested an FIE when Student was enrolled but Parent requested an IEE instead.<sup>26</sup>
  31. At the ARDC meeting on October \*\*\*, 2015, Parent was provided a list of evaluators qualified to conduct an IEE. Parent chose \*\*\*.<sup>27</sup>
  32. On January \*\*\*, 2016, an IEE was completed by Ms. \*\*\*, MA, LSSP. The IEE found that Student does not meet the eligibility criteria as a student with a learning disability. The evaluator suggested that Student be considered eligible for special education services for OHI based on Student's chronic and significant pain once an OHI form is completed by Student's current medical doctor.<sup>28</sup>
  33. According to the Sign-In sheets from each of ARDC meetings during the 2015-2016 school year, the ARDC members present included a special education teacher, a general education teacher, a \*\*\*, a school administrator, and an educational diagnostician. The ARDC meetings on November \*\*\* and \*\*\* 2015, also had a District Special Education Coordinator in attendance.

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<sup>22</sup> Ex. R-12.

<sup>23</sup> Ex. R-1; Tr. at 584.

<sup>24</sup> Ex. R-12, pp. 305-333.

<sup>25</sup> Ex. R-1, p. 16; Ex. P-8, p. 162; Tr. at 291-299.

<sup>26</sup> Tr. at 644.

<sup>27</sup> Ex. R-6, p. 181.

<sup>28</sup> Ex. R-13, p. 355. Although the Exhibit Index in the transcript does not show that Ex. 13 was admitted, it was admitted; Tr. at 382.



34. An ARDC meeting was conducted at the \*\*\* (\*\*\*), on October \*\*\* 2015, with Parent in attendance. Parent was sent notification of the ARDC meeting on October \*\*\*, \*\*\*, and \*\*\* 2015.<sup>29</sup>
35. A 10-day reconvene of the ARDC meeting occurred on October \*\*\* 2015, at the \*\*\*. Parent was sent notification of the ARDC meeting on October \*\*\* and 22, 2015, and was in attendance at the ARDC meeting.<sup>30</sup>
36. Another ARDC meeting was conducted on November \*\*\* 2015, at the \*\*\* to reconsider the October \*\*\* 2015 ARDC determinations. Parent received notice in person, by mail and by email, and Parent attended the ARD.<sup>31</sup>
37. On November \*\*\* 2015, an ARDC meeting was conducted at the \*\*\*. Parent was first notified in person on November \*\*\*, 2015; then by mail on November \*\*\* 2015; and by email on November \*\*\*, 2015. Although Parent did not respond to the District's invitations, Parent was in attendance but left before the meeting concluded.<sup>32</sup>
38. Parent was allowed meaningful participation in the ARDC meetings and many of her suggested goals and accommodations from the IEP she prepared were adopted at the ARDC meetings.<sup>33</sup>
39. Parent cancelled the ARDC meeting scheduled for March \*\*\* 2016, and refused to reschedule until after the due process hearing.<sup>34</sup>
40. All ARDC meetings had the appropriate personnel in attendance.<sup>35</sup>
41. The \*\*\* Teacher sent Parent weekly progress reports, which illustrated a combination of grades and progress toward completion of Student's courses.<sup>36</sup>
42. When Student failed to complete a course within a semester, the ARDC added the accommodation to Student's IEP that quizzes and tests for Student would be unlocked, in order to give Student more time to complete Student's work.<sup>37</sup>

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<sup>29</sup> Ex. R-5.

<sup>30</sup> Ex. R-6, p. 155.

<sup>31</sup> Ex. R-7, p. 208.

<sup>32</sup> Ex. R-8, p. 254; 279.

<sup>33</sup> Ex. R-5, pp 132-139.

<sup>34</sup> Ex. R-10; Tr. at 382.

<sup>35</sup> Tr. at 424.

<sup>36</sup> Tr. at 208 and 277.

<sup>37</sup> Tr. at 204.

43. A student's IEP is revised by agreement of the ARDC, which requires an ARDC meeting. Four ARDC meetings have been held since Student was enrolled at \*\*\*. One ARDC meeting, scheduled for September \*\*\* 2015, was cancelled by Parent due to a family emergency, and another ARDC meeting, scheduled for March \*\*\* 2016, was cancelled by Parent, pending results from this hearing.
44. ARDC meetings were held October \*\*\* 2015, October \*\*\* 2015, November \*\*\* 2015, and November \*\*\* 2015.
45. Student's \*\*\* was changed from \*\*\* at Parent's request.
46. Student's \*\*\* requires \*\*\*. Progress toward \*\*\* must be the focus if Student is to \*\*\*.
47. The ARDC determined that Student's LRE was one-on-one tutoring at home by a teacher when Student could not attend school.<sup>38</sup>
48. When the determination was made for one-on-one tutoring at home, the ARDC anticipated that Student would continue to attend class and usually in the afternoons.<sup>39</sup>
49. After the November \*\*\* 2015 ARDC meeting, Student stopped attending class.
50. The \*\*\* the District obtained against Parent in no way affects the home tutoring provided by the teacher to Student.<sup>40</sup>
51. Face-to-face tutoring is a more effective way of teaching than video conferencing and was the most appropriate way to provide FAPE to Student.<sup>41</sup>
52. The input or information from a physician is expected at ARDC Meetings to determine eligibility for OHI.<sup>42</sup>
53. The ARDC documents what information is provided by physicians but no physician is ordinarily in attendance at ARDC meetings.<sup>43</sup>
54. IDEA does not require a physician to attend the ARDC meetings.<sup>44</sup>

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<sup>38</sup> Tr. at 32.

<sup>39</sup> Tr. at 519.

<sup>40</sup> Tr. at 35-37.

<sup>41</sup> Tr. at 37, 41, and 42.

<sup>42</sup> Tr. at 61.

<sup>43</sup> Tr. at 66.

<sup>44</sup> Tr. at 70.

55. Parent will not allow teachers to tutor Student at Student's home.<sup>45</sup>
56. Parent refuses in-person tutoring for Student, because she is upset that the \*\*\*.<sup>46</sup>
57. Parent called witnesses from the District and became upset when she was unable to obtain the answers she wanted from those witnesses, claiming they were untruthful.<sup>47</sup>
58. Each of the District's witnesses, whether called by Petitioner or the District, provided credible and knowledgeable testimony.
59. No credible evidence was presented establishing that Student must be absent from school on a daily basis due to health concerns.
60. \*\*\* is a licensed special education teacher at \*\*\*.<sup>48</sup>
61. If Student actually attended \*\*\*, Student is capable of completing the work, passing Student's classes, and \*\*\*.
62. The District and Mr. \*\*\* in particular, attempted to assess Student through the Brigance assessment tool but Student's poor attendance made this unsuccessful.<sup>49</sup>
63. When Student was at class and performing work, Student was successful.<sup>50</sup>
64. The October 2015 ARDC reasonably anticipated Student would attend some classes at school.
65. The homebound teacher's job is not to teach all subjects but to support Student's learning in four subjects.<sup>51</sup>
66. The homebound teacher is available to explain a particular lesson or topic after Student has attempted the subject matters on Student's own, with the teaching provided by \*\*\*.<sup>52</sup>
67. At the October 2015 ARD, the expectation was that Student would be coming to school in the afternoons, working at other times at home on Student's assignments, and then supported by the homebound teacher.

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<sup>45</sup> Tr. at 145.

<sup>46</sup> Tr. at 149-157.

<sup>47</sup> Tr. at 165-168.

<sup>48</sup> Tr. at 171.

<sup>49</sup> Tr. at 183.

<sup>50</sup> Tr. at 185.

<sup>51</sup> Tr. at 197-198.

<sup>52</sup> Tr. at 348.

68. Student's lack of success results from Student's absenteeism from school, from Student's failure to put in the necessary time to perform work while at home, and from Parent's refusal to allow homebound teachers into her home.<sup>53</sup>
69. The ARDC continued to treat Student as a student with a disability despite receiving the dismissal information from \*\*\*, and until an independent evaluation of Student's needs could be performed.<sup>54</sup>
70. The documentation from physicians concerned only the homebound matter, not whether Student qualified for special education pursuant to OHI.
71. Student's educational records from \*\*\* indicated that Parent was given an opportunity to provide documentation for OHI eligibility but she never presented any.<sup>55</sup>
72. An IEE was performed at Parent's request and at public expense (instead of an FIE) to determine whether Student qualified as a student with disabilities under the IDEA.<sup>56</sup>
73. Student is capable of completing the coursework and of obtaining credit.<sup>57</sup>
74. The amount of time Student was given to complete the coursework was sufficient for Student to complete it.
75. The District cannot guarantee successful completion of coursework, but Student's individual IEP had the necessary accommodations to allow Student to be successful.<sup>58</sup>
76. Student was successful and making good grades on the coursework Student performed through \*\*\*.
77. The District added additional accommodations and made changes in Student's IEP to provide the necessary accommodations that allowed Student the opportunity to be successful.
78. Parent's request that Student be allowed to simply take a test for course credit is not reasonable. Student needs to be taught the coursework in order to be successful.<sup>59</sup>

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<sup>53</sup> Tr. at 327.

<sup>54</sup> Tr. at 227.

<sup>55</sup> Tr. at 379.

<sup>56</sup> Tr. at 232.

<sup>57</sup> Tr. at 236.

<sup>58</sup> Tr. at 238.

<sup>59</sup> Tr. at 241.

79. Student did not complete Student's coursework when homebound as Student spent insufficient time on \*\*\*.<sup>60</sup>
80. Providing services to Student by telephone or video conferencing would not provide Student what Student needs to be successful and is not in Student's LRE.<sup>61</sup>
81. The primary factor for Student's lack of success under the prior and present IEP is Student's lack of time spent working through the academic material.<sup>62</sup>
82. Parent claimed Student suffers from a variety of illnesses but she did not provide authorization for the District to obtain Student's medical information, nor did Parent provide sufficient documentation of the alleged medical conditions.
83. A consent form from Parent was necessary to have a licensed physician communicate with the ARDC concerning Student.<sup>63</sup> Parent refused to provide consent.
84. Mr. \*\*\* has a good understanding of Student's abilities and Student's needed accommodations.
85. Insufficient medical documentation or other evidence was presented to establish that Student could not attend classes, at least half of a school day on an intermittent basis.
86. A licensed physician would not determine learning disability eligibility; rather, a physician would make a recommendation to the ARDC.
87. Parent never requested that the ARDC evaluate Student for an OHI disability and one was not considered at the ARDC meetings.<sup>64</sup>
88. The documents from two physicians provided to the ARDC for consideration were presented for homebound services only and were not a request for an evaluation of possible OHI disabilities. Student was already provided accommodations as a student with a disability so the change to an OHI eligibility would not necessarily change the services provided or the accommodations needed.<sup>65</sup>
89. In October 2015, Mr. \*\*\* began sending Parent weekly progress reports at her request.<sup>66</sup>

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<sup>60</sup> Tr. at 246.

<sup>61</sup> Tr. at 246.

<sup>62</sup> Tr. at 249.

<sup>63</sup> Tr. at 546.

<sup>64</sup> Tr. at 262.

<sup>65</sup> Tr. at 269.

<sup>66</sup> Tr. at 275.

90. The weekly progress reports showed what grade Student was making, how much of the course Student has completed, and how much Student needs to complete to earn credit.
91. \*\*\* provides a very detailed and updated status of Student's work progress.
92. Parent had access to Student's grades electronically.
93. Based on Parent's request that Student participate in \*\*\*, the ARDC could not modify the quantity of work Student needed to perform.<sup>67</sup>
94. All teachers for a student do not attend that student's ARDC meetings; rather, all teachers for that student provide input to one teacher who presents the information at the ARDC meeting.
95. Student's physician indicated by note that Student could attend school when Student's headaches are mild.<sup>68</sup>
96. The expectation of the ARDC was that when Student medically could attend school Student would attend; Student has not attended school.<sup>69</sup>
97. If the ARDC determined there were other accommodations to assist Student, the ARDC would pursue and include them, regardless of the disability establishing Student's eligibility.
98. With Student, the services and accommodations offered were successful for the limited time they were accepted by Parent and performed by Student.
99. The District was awaiting results from an IEE to consider further changes to Student's IEP; Parent objected to another ARDC meeting until after the due process hearing.
100. Mr. \*\*\* was a very credible and knowledgeable witness; his testimony was afforded great weight.
101. Student has been unsuccessful in working in \*\*\* because of Student's lack of work time and effort.
102. There is no reason to believe that Student would be any more successful working on Student's web-based and self-paced educational classes with a home-based teacher by video-conference than a home-based teacher in person.
103. The in-person, home-based teacher is preferable to the video-conferencing, home-based teacher as the in-person communication provides for a better exchange of information.

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<sup>67</sup> Tr. at 281.

<sup>68</sup> Tr. at 287.

<sup>69</sup> Tr. at 289.

104. Parent is preventing Student from receiving an education by not allowing a home based teacher to work with Student.
105. \*\*\* is science-based and proven educational technology.
106. There is no reason other than Student's lack of participation and Parent's interference with the home-based teaching that Student cannot be successful with the IEP developed by the ARDC.
107. \*\*\* is not too rigorous or demanding for Student to perform the work required for obtaining credit hours.
108. The ARDC made numerous and flexible accommodation in an effort to create a FAPE for Student and to encourage Student and Student's Parent to participate in Student's education.
109. The District provided opportunities for Student to work at home, to attend school, to attend \*\*\*, to have homebound instruction, and to attend \*\*\*.<sup>70</sup>
110. Student did not participate in the many opportunities that the District provided for Student's success.
111. Student's teachers communicated with Parent and checked on Student's participation in \*\*\* to unlock tests and to see if Student had any questions.<sup>71</sup>
112. The District has twice extended Student's due dates for completion of \*\*\* classes. The fall 2015 class deadline was extended into January 2016. When Student still did not complete Student's classwork, Student's fall classes were deactivated.
113. Parent complained that the deadline and extended deadline were insufficient time for completion of the courses. Moreover, Parent was upset that the little work that was performed in the classes was lost when the courses were archived. In an effort to appease Parent, Student's fall classes were reactivated to allow Student credit for the little work Student did in the fall 2015 classes to be counted as if Student had time to complete the fall semester over the entire year.
114. When the ARDC did not submit to Parent's demands for video conferencing, Student did not return to school, Student did not put in the time necessary to succeed through \*\*\*, and Parent did not allow the homebound teacher to assist Student's education.
115. \*\*\*, Ph.D., is a credible witness and her testimony was given great weight.

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<sup>70</sup> Tr. at 347, 619.

<sup>71</sup> Tr. at 330.

116. At the time of enrollment at \*\*\*, Dr. \*\*\* did not know Parent or Student.
117. From this first ARDC meeting, Parent was hostile to the other members of the ARDC.<sup>72</sup>
118. On March \*\*\*, 2016, Student had attended school for \*\*\* days, including \*\*\* part days.<sup>73</sup>
119. Student has not attended school since the November \*\*\* 2015 ARDC meeting.<sup>74</sup>
120. \*\*\*.
121. Student can access Student's online curriculum at any time from home. Student's quizzes are all unlocked as discussed at Student's ARDC meeting. Student is also given three attempts for tests and quizzes, as accommodations.<sup>75</sup>
122. Students at \*\*\* are ordinarily held to timelines and requirements because that is what they will face \*\*\*. Holding the students accountable is a part of the teaching process.<sup>76</sup>
123. Parent does not want Student held accountable but instead wants modifications made to Student's coursework that cannot be made under \*\*\*.
124. Student is capable of doing the \*\*\* coursework.
125. Parent has stopped coordinating and participating with the District for Student's education. She is not regularly logging into the home access center or communicating with teachers or administrators.
126. The ARDC determinations were always made by consensus, not by a vote.<sup>77</sup>
127. Student is capable of performing unmodified course work.
128. The ARDC has considered Parent's input and adopted many items suggested by Parent into Student's IEP.<sup>78</sup>
129. Parent requested that Student be allowed to work independently which the ARDC agreed to but the result has been that Student rarely works at all.

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<sup>72</sup> Tr. at 586.

<sup>73</sup> Tr. at 596.

<sup>74</sup> Tr. at 596.

<sup>75</sup> Tr. at 596.

<sup>76</sup> Tr. at 601, 614.

<sup>77</sup> Tr. at 611.

<sup>78</sup> Tr. at 614.



130. The November \*\*\* 2016 ARDC meeting was strained as Parent was unhappy with the discussions. Parent became angry or upset and left the meeting.
131. The ARDC has not been presented with documentation that Student has a traumatic brain injury.
132. Most of the accommodations recommended in the IEE are included in Student's last IEP.
133. The greatest impairment to Student's success that is not presently addressed in Student's IEP is close monitoring of Student's work to see how much Student has accomplished and to remind Student how much time Student has left.<sup>79</sup>
134. Student should be in school as much as physically possible.<sup>80</sup>
135. Homebound teachers should be allowed to visit student when Student is at home and should do so frequently to monitor Student's progress.
136. The District is without ability to accomplish the above without Parent's cooperation.
137. The District provided Student with a FAPE during the entire time period in question.

## V. DISCUSSION

### A. Petitioner

Petitioner failed to call any expert witnesses supporting the Complaint. Instead, Petitioner called many District experts who all disagreed with Petitioner's allegations in the Complaint. Parent testified on behalf of Petitioner as a fact witness but her testimony revealed she has personal disagreements with the District that have created a bias in her beliefs. Moreover, her actions demonstrate she is oftentimes working against the District's efforts to provide Student a FAPE. The results are evident over the past year: Student has \*\*\*.

None of the issues raised by Petitioner in the Complaint were proven by a preponderance of the evidence, despite 3 days of hearing. Petitioner's questions and testimony primarily consisted

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<sup>79</sup> Ex. R-13 at 30.

<sup>80</sup> Ex. R-13 at 30.

of accusations about wrongdoings by the District, its employees, and the ARDC in particular. Parent is passionate about education for her \*\*\* but her efforts are misplaced. Student can succeed if the District is allowed to obtain the information it needs and allowed to teach Student.

Given the nature of Petitioner's presentation and with no closing brief filed, the Hearing Officer is unsure how to organize Petitioner's presentation of evidence, consisting primarily of Parent's testimony. The most relevant parts of Parent's testimony are provided in the following bullet points:

- So what the District thinks my \*\*\* is able to do, [Student] is not able to do.<sup>81</sup>
- Student is not in need of modifications. [Student]'s shown that [Student] can do the work.<sup>82</sup>
- The ARDC does not need a doctor to tell them what my \*\*\* is experiencing every day because the doctor is not there. I am.
- The District does not maintain all the records it is legally required to, including all records pertaining to Student that assist in [Student's] education. They are required to maintain the records for 7 years—no exceptions.<sup>83</sup>
- The District is telling the hearing officer that they are doing everything possible to help my \*\*\* while ignoring [Student's] needs.<sup>84</sup>
- Ms. \*\*\* testified that she knew nothing about me. But the evidence and her statement were contrary to the facts in the record.<sup>85</sup>
- The District is asserting something outside of the law as a way to cause Student to not receive academic credit.<sup>86</sup>
- The ARDC is refusing to do what will help Student, saying they need a doctor's note.<sup>87</sup>

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<sup>81</sup> Tr. at 654.

<sup>82</sup> Tr. at 657.

<sup>83</sup> Tr. at 655.

<sup>84</sup> Tr. at 656.

<sup>85</sup> Tr. at 657.

<sup>86</sup> Tr. at 657. Referring to the IEP not requiring the homebound teacher to use \*\*\* rather than teaching Student in person.

<sup>87</sup> Tr. at 658.

- I knew that the school (\*\*\*) was where my \*\*\* could quickly get \*\*\*, so [Student] \*\*\*.<sup>88</sup>
- My \*\*\* deserves to be educated and that was my goal, despite the \*\*\*. My efforts to get my \*\*\* educated should be seen as a sacrifice by me to make sure my \*\*\* gets [Student's] education, regardless of [Student's] health.<sup>89</sup>
- Student failed previous courses for the same reason [Student] is failing now, because the ARDC would not provide [Student] the accommodation of taking [Student's] final assessment online, at home where [Student] took the courses.<sup>90</sup>
- Student needs more time than what they (ARDC) want to allow.<sup>91</sup>
- The ARDC has resources online to learn about post-traumatic headaches and chronic pain of myalgia and arthralgia, and they see the impact these illnesses are having on Student.<sup>92</sup>
- In the end they are still not going to implement anything that is contrary to what they predetermine prior to the ARDC meetings. Nor will they implement anything that causes their staff to work harder to help Student.<sup>93</sup>
- So it is better that my child is with me where I can take [Student] where [Student] needs to go when [Student] needs to go there without the headache of dealing with the school, who wants to give me a hard time to take care of my child.<sup>94</sup>
- I do not see why it is necessary for someone to come into my home. [Student] is able to understand the \*\*\* and to get whatever help [Student] needs by video conferencing. So why do they keep insisting on face-to-face homebound services? I think it is because it allows them to not provide the service. They know I am not going to allow them in my home, because the District \*\*\*. They think I am \*\*\*, when I know that the opposite is true. I am the one that \*\*\*, so why would I want to allow them to come into my home?<sup>95</sup>
- Special needs students or just \*\*\* students in general \*\*\* alternative educational placement.<sup>96</sup>

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<sup>88</sup> Tr. at 660.

<sup>89</sup> Tr. at 660.

<sup>90</sup> Tr. at 660.

<sup>91</sup> Tr. at 661.

<sup>92</sup> Tr. at 663.

<sup>93</sup> Tr. at 663.

<sup>94</sup> Tr. at 664.

<sup>95</sup> Tr. at 665.

<sup>96</sup> Tr. at 666.

- [Student]'s going to spend another year getting nothing, even though [Student] is trying. How did [Student] earn credit in physical education? The teacher had to have modified or accommodated [Student] to do so.<sup>97</sup>
- The District's position is that Student needs to learn that there are time deadlines. But, what [Student] is learning is that no one cares enough to do what is necessary to help [Student].<sup>98</sup>
- Student does know that there are time deadlines. The ARDC knows what [Student] needs but they will not accommodate [Student] effectively.<sup>99</sup>
- Talking to my \*\*\*'s doctor is not within the law for educators.<sup>100</sup>
- Wanting to talk to my \*\*\*'s doctor does not impede them from evaluating [Student] in all areas of suspected disability. In fact, it actually supports the fact that they have knowledge of [Student's] suspected disability but won't evaluate [Student] in it.<sup>101</sup>
- Looking at OHI doesn't explain how they're going to go about remediating Student's learning disability.<sup>102</sup>
- The District does not want my child in special education for learning disabilities. They instead want to continue to say we need to talk to a doctor for OHI. The ARDC is saying we need to talk to a doctor as a means to hold up [Student's] eligibility for OHI, TBI (traumatic brain injury), and orthopedic impairment.<sup>103</sup>
- So at the end of the day I hope you'll see through the smoke screen, through the contempt that the ARDC and District have for me, and that they are perpetuating on my child through [Student's] IEP. Ms. \*\*\* even initially told me she couldn't serve my \*\*\*.<sup>104</sup>
- My \*\*\* still deserves to get credit for [Student's] courses.<sup>105</sup>

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<sup>97</sup> Tr. at 667.

<sup>98</sup> Tr. at 668.

<sup>99</sup> Tr. at 669.

<sup>100</sup> Tr. at 671.

<sup>101</sup> Tr. at 671.

<sup>102</sup> Tr. at 673.

<sup>103</sup> Tr. at 674.

<sup>104</sup> Tr. at 676.

<sup>105</sup> Tr. at 676.

**B. District**

The District responded that IDEA does not allow parents to be rewarded in due process hearings for their failure to access appropriately offered programs and services for students.<sup>106</sup> The ARDC implemented many of Parent's suggestions and implemented in-person homebound services when Student was unable to attend class. The ARDC also agreed that Student may have shortened days, as needed, and it provided Student with the \*\*\* on-line coursework. The District further urges that Student was provided additional time to complete this coursework and the ARDC made accommodation for Student to have extra attempts at quizzes and tests.

According to the District, Student has had access to \*\*\* at all times since the start of the fall semester, with permission to take quizzes and tests from home. Due to state law, explains the District, Student may not take statewide assessments \*\*\* at home as they must be administered by a physically present instructor. Despite adopting and implementing much of the IEP drafted by Parent, Petitioner complains that homebound services must be provided by video and that all tests must be allowed to be taken from home. Parent demands modifications to Student's coursework all the while insisting that Student be \*\*\*, where Student's \*\*\*. Primarily because of these two issues, it is the District's position that Parent has effectively stopped implementation of the IEP and Student has not completed sufficient work to gain credit in Student's classes other than \*\*\* in physical education.

Noting that school districts are not required to guarantee success, the District urges that Student's IEP meets the four-factor test as promulgated by the Fifth Circuit. Student's IEP is calculated to provide meaningful educational benefit, according to the District, because it is individualized, administered in the LRE, provided in a coordinated and collaborative manner, and positive academic benefits are demonstrated.

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<sup>106</sup> *Corpus Christi Indep. Sch. Dist.*, DKT No. 012-SE-0909 (Mar. 1, 2010) (citing *Loren F. v. Atlanta Indep. Sch. Sys.*, 349 F.3d 1309 (11th Cir. 2003) and *Doe v. Defendant I*, 898 F.2d 1186 (6th Cir. 1990).

The ARDC individualized Student's program based on a variety of assessment information and input from Parent (including a Parent-drafted IEP), teachers, and specialists who reviewed the available data about Student.

The program is administered in the LRE with homebound services intermittently provided when Student could not attend class, as suggested by physician notes. The ARDC is prevented by Parent from discussing the situation with Student's physician. The District asserts that this prevents the ARDC from further understanding and refining the program. Additionally, Student has not attended school at all since November \*\*\* 2015, something not anticipated by the ARDC when the IEP was implemented. No documentation of health reasons for Student's absences was provided but the District contends it was informed by Parent that the absences were due to Parent's unfounded assertions about \*\*\*. Moreover, the ARDC found the provision of homebound services by video would be a less effective way to educate student and placing Student as always homebound would violate the District's requirement to provide services in the LRE.

The District provided numerous examples of how the ARDC has attempted to work with Parent, including: weekly emailed status reports, four ARDC meetings, implementing much of the Parent prepared IEP, attempts at parent-teacher conferences, the provision for an outside evaluator, District evaluators, and multiple requests for consent to confer with Student's health care providers (never provided by Parent) in an effort to develop the most individualized and highly collaborated IEP for Student.

The District notes that some positive academic benefits have been shown, even while Student has failed to obtain credit, \*\*\*. Student has passed the \*\*\* and received good grades on the work performed. According to the District, the most significant impact on Student's positive academic benefits are greatly out of the District's control as Student does not spend enough time attempting to work and completing assignments, despite always having access to the coursework on \*\*\*. The District concludes that much to Student's detriment, Student has not learned to be responsible for Student's failure to complete work because Parent attributes all Student's failings to District staff. Parent is now actively prohibiting the District from providing services to Student in accordance with the IDEA as the District must provide services in the LRE, and Parent is

demanding the most restrictive environment while denying the ARDC access to medical information necessary to implement such restrictions.

The District maintains that it has provided Student with the appropriate services but it cannot force Student to perform the work nor require Parent to reasonably participate in Student's education or at least stop preventing the District from providing Student with an education.

### **C. Decision**

A hearing officer goes into a hearing without a clear understanding of what either party will present. After 3 days of hearing and much pre-hearing discussion, it is clear to this Hearing Officer that the District has provided FAPE. The District is capable of providing and has gone to great efforts to provide Student with a good education. Moreover, it is obvious that Student is capable of passing the classes and of achieving much. However, the preponderant evidence demonstrates that Parent has prevented the District from educating Student and has not sufficiently supervised her \*\*\*'s time and effort on \*\*\*, should Student stay at home.

This is not a case where the evidence is unclear or where any legitimate complaint was alleged by Petitioner. The Hearing Officer will not repeat the District's Closing Arguments but for all the reasons stated therein, Petitioner's complaints are all denied.

In Order No. 6, the hearing officer attempted to narrow Petitioner's issues into six general issues. These issues and the Hearing Officers findings are:

1. Whether the District failed to place Student into the appropriate classes when it refused to allow Student's enrollment into \*\*\*. In addition, if proven, whether this failure negatively impacted Student.

Student was allowed to enroll in \*\*\* even though Parent failed to follow established policy to enroll students through their home campus. Moreover, Parent misrepresented Student's placement at \*\*\*.

2. The maintenance of Student's records with an initial offer of how this procedural violation, if proven, resulted in a denial of FAPE.

No violation of the maintenance of Student's records was proven.

3. Whether ARDCs were appropriately noticed, timely held, and provided for parental participation.

ARDC meetings were appropriately noticed, timely held, and Parent participated. Many of Parent's suggestions were incorporated into the IEP, but not all. There was no evidence that the ARDC decisions were predetermined, with many changes made after Parent's participation. The ARDC meetings were held as follows:

- a. An ARDC meeting was conducted on October \*\*\* 2015, to determine continued need and eligibility for special education services and to obtain a 3-year re-evaluation. Parent produced her own IEP for Student, which was discussed and mostly adopted by the ARDC. An agreement was reached but Parent requested time to review the agreement before signing.<sup>107</sup>
- b. The ARDC re-convened on October \*\*\* 2015, at which Parent presented information she wanted from the previous ARDC IEP that had been agreed upon. Parent presented a completed District Homebound Service form, requesting homebound services for Student. Parent also informed the ARDC of the evaluator she had chosen to conduct an IEE on Student. Parent signed a statement of disagreement with the ARDC findings based on Student's placement; exclusion of Student's medical diagnosis for determining eligibility of special education services; end of course assessment criteria for Student; and lack of physical or occupations therapies for Student in Student's IEP.<sup>108</sup>
- c. A third ARDC meeting was convened on November \*\*\* 2015, to address Parent's concerns from the last ARDC meeting and to review Student's records from Student's previous school, \*\*\*. It was determined that even though \*\*\* had determined that Student no longer qualified for special education services, \*\*\* would continue to provide Student services until an IEE could be completed. Homebound services were approved for Student for four classes, with a homebound teacher spending 1 hour, 4 days a week, with Student in the home. Parent did not

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<sup>107</sup> Ex. R-5, p.126.

<sup>108</sup> Ex. R-6, p. 181.



agree to the homebound teacher coming to her home and requested the teacher utilize web conferencing instead.<sup>109</sup>

- d. A 10-day reconvene ARDC meeting of the November \*\*\* 2015 ARDC meeting was held on November \*\*\* 2015. The Parent requested Student receive services of a homebound teacher 2 hours a day, 4 days a week by telephone, which the school did not feel was in the best interest of Student's learning and would not meet state requirements. The committee determined that Student would continue to receive the services of a homebound teacher 1 hour a day, 4 days a week in person so Parent left the ARD. The remaining ARDC members signed agreement of changes to Student's IEP without parent.<sup>110</sup>
  - e. The District sent Parent notices of an ARD scheduled for March \*\*\* 2016, to consider the new IEE on February \*\*\* and \*\*\* 2016.<sup>111</sup> However, Parent declined to participate in an ARD until after a due process hearing.<sup>112</sup>
4. Were homebound services appropriately and sufficiently provided and was information sufficiently provided to Parent with parental input appropriately considered.

Homebound services were offered but not allowed by Parent. They were established based on the belief that Student would attend school in the afternoons when Student could. This was as allowed by the note from a physician. Student stopped attending school altogether. Homebound services were appropriately set for 4 hours per week. Homebound services were not to teach the materials to Student, but rather to help Student with any areas of difficulty after Student studied through \*\*\*. Parent participated in the ARDC establishing homebound services and requested they be provided through Skype. Her request was considered but the ARDC concluded that face-to-face services would provide for better communication with Student and were in Student's best interest.

5. Did the ARDC appropriately prepare and update Student's IEP, did the IEP sufficiently and appropriately address Student's individual needs for Student's success, and was Parent sufficiently allowed to participate in its preparation? More specifically, did the Student's IEP include time specific, measureable, realistic, and relevant goals based on Student's

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<sup>109</sup> Ex. R-7, pp. 233-234.

<sup>110</sup> Ex. R-8, p. 279.

<sup>111</sup> Ex. R-10.

<sup>112</sup> Tr. at 564.

present abilities that were developed to help prepare Student for success, including independent living?

The IEP was prepared to provide Student for success. Parent participated and her request for homebound services was agreed to. However, the IEP was prepared with the expectation that Student would continue to attend school in the afternoons when Student's physical health allowed Student to. Student stopped attending school, and the IEP accommodation of homebound teaching was not allowed by Parent, who insisted that the teaching be by video conferencing.

Moreover, Student has not put in the time necessary on the homebound services program \*\*\* to allow Student to succeed. Rather, the logs show Student's participation in \*\*\* has been sporadic and inadequate for success. The District requested another ARDC meeting to address these shortcomings but Parent refused, insisting it occur after the due process hearing.

6. Given the above allegations of procedural and substantive violations by the District, was FAPE provided to Student?

The District has provided FAPE to Student and continues to be ready to provide FAPE when not prevented from doing so by Parent. The District has offered accommodations and made changes to those accommodations and to the IEP in general in an effort to provide FAPE. Parent is working against the District, wanting to dictate every action of the ARDC. However, while the ARDC has modified and accommodated many of Parent's requests, it must act in the best interest of the Student. Face-to-face homebound services are better than video conferencing tutoring. The ARDC determination on this issue was correct. Given the changes in Student's attendance at school and Parent's refusal to allow face-to-face homebound services, the District has appropriately called for another ARDC meeting to address these changes.

#### **D. Conclusion**

Petitioner had the burden of proof and failed to prove any of the allegations in the Complaint. For this reason, all of Petitioner's requests for relief are denied.

## VI. CONCLUSIONS OF LAW

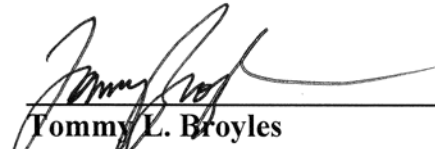
1. The Killeen Independent School District (the District) is a local educational agency responsible for complying with the Individuals with Disabilities Education Improvement Act (IDEA) as a condition of the State of Texas's receipt of federal education funding pursuant to IDEA, 20 U.S.C. § 1400 *et seq.*
2. \*\*\* (Student), by next friend Parent (collectively, Petitioner) bears the burden of proof on all issues raised in the proceeding. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62, 126 S.Ct. 528, 537, 163 L.Ed.2d 387 (2005).
3. Parents of students with disabilities are entitled to file a due process complaint and have a hearing on any matter relating to the identification, evaluation, or educational placement of the student, or the provision of a FAPE to the student. 20 U.S.C. § 1415(f); 34 C.F.R. §§ 300.507-300.513.
4. The District proved that the 1-year statute of limitations should apply to this proceeding. 19 Tex. Admin. Code § 89.1151(c).
5. The District determined, pending the outcome of an IEE, that Student is a child with one or more of the IDEA enumerated disabilities who, by reason thereof, is eligible for special education and related services. 34 C.F.R. § 300.8(a)(1); 19 Tex. Admin. Code § 89.1040(a), (c)(8)(10).
6. The District provided Student with a FAPE. 20 U.S.C. § 1401(9); 34 C.F.R. § 300.17; *Board of Edu. of the Hendrick Hudson Cent. Sch. Dist., Westchester County v. Rowley*, 458 U.S. 176, 181; 102 S.Ct. 3034, 3038 (1982); *Houston Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 347-348 (5th Cir. 2000).
7. Student's current placement meets the LRE requirements of the IDEA. 20 U.S.C. § 1412(5); 34 C.F.R. §§ 300.114, 300.116; *Daniel R.R. v. State Board of Education*, 874 F.2d 1036, 1039, 1046-1047 (5th Cir. 1989).
8. Student's current IEP is tailored to Student's unique educational needs. 20 U.S.C. § 1401(9); 34 C.F.R. § 300.17; *Rowley*, 458 U.S. at 181; *Bobby R.*, 200 F.3d at 347-348.
9. Petitioner did not prove that the District or ARDC decisions resulted in a lack of meaningful educational progress for Student. *Bobby R.*, 200 F.3d at 348-349; 34 C.F.R. § 300.323.
10. Student's IEP complies with all requirements of the IDEA and applicable Texas law. 34 C.F.R. §§ 300.320, 300.324; 19 Tex. Admin. Code §§ 89.1050(g), 89.1055(a).
11. The District evaluated, or attempted to evaluate to the extent allowed by Parent, Student in all areas of suspected disability. 20 U.S.C. § 1414(b)(3)(B); 34 C.F.R. § 300.304(c)(4).

12. The District timely held ARDC meetings. 20 U.S.C. 1414(d)(4); 34 C.F.R. § 300.324(b)(1)(i).
13. The District conducted all of the assessments that were agreed upon by the ARDC. 34 C.F.R. §§ 300.303, 300.305.
14. The District agreed to pay for an IEE at public expense and the IEE has been performed. 34 C.F.R. § 300.502(b).
15. Petitioner presented no evidence on other issues and did not meet Petitioner's burden of proof on any issues. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62, 126 S.Ct. 528, 537, 163 L.Ed.2d 387 (2005).
16. In Texas, the ARDC is the IEP team defined in federal law and regulations. 19 Tex. Admin. Code § 89.1050(a); 34 C.F.R. § 300.321.
17. All required ARDC members attended ARDC meetings; a physician is not required to attend. 19 Tex. Admin. Code § 89.1050(c)(1).

## VII. ORDER

Having considered the evidentiary record and the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer hereby orders that Petitioner's requested relief is denied.

**SIGNED April 25, 2016.**

  
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**Tommy L. Broyles**  
**Special Education Hearing Officer**  
**For the State of Texas**

**NOTICE TO THE PARTIES**

This Decision of the Hearing Officer is a final and appealable order. Any party aggrieved by the findings and decision made by the Hearing Officer 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.<sup>113</sup>

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<sup>113</sup> 20 U.S.C. § 1451(i)(2); 34 C.F.R. § 300.516; 19 Tex. Admin. Code § 89.1185(n).