

DOCKET NO. 268-SE-0520

**STUDENT,
Petitioner**

v.

**SPRING INDEPENDENT SCHOOL
DISTRICT,
Respondent**

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BEFORE A SPECIAL EDUCATION

HEARING OFFICER FOR

THE STATE OF TEXAS

DECISION OF THE HEARING OFFICER

I. STATEMENT OF THE CASE

Petitioner, *** (“Petitioner” or “Student”), brings this action against the Spring Independent School District (“Respondent” or “the School District”) under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400-1482, and its implementing state and federal regulations. The issues presented in this case are whether the School District denied Student a Free, Appropriate Public Education (FAPE) by failing to implement Student’s Individualized Education Program (IEP), failing to provide services in a coordinated and collaborative manner, and impeding Petitioner’s right to meaningful participation.

The Hearing Officer concludes Petitioner did not meet Petitioner’s burden of proof on any issue. All requested relief is therefore denied.

II. PROCEDURAL HISTORY

A. Legal Representation

Student was represented throughout this litigation by Student’s authorized non-attorney representative, Dr. Ruth Watson. The School District was represented throughout this litigation by its legal counsel Janet Horton, Rebecca Bailey, and Ashley Addo with Thompson & Horton.

III. DUE PROCESS HEARING

The due process hearing was conducted via the Zoom videoconference platform on September 28-30, 2020. The hearing was recorded and transcribed by a certified court reporter. Petitioner continued to be represented by Petitioner's authorized non-attorney representative, Dr. Ruth Watson. In addition, ***, Student's parent (Parent), attended the hearing.

Respondent continued to be represented by its legal counsel Janet Horton, who was assisted by co-counsel, Rebecca Bailey and Ashley Addo. In addition, ***, the Executive Director of Special Education for the School District, attended the hearing as the party representative. Both parties timely filed written closing briefs. The Hearing Officer's Decision is due on November 23, 2020.

IV. ISSUES

A. Petitioner's Issues

After conferring with the parties at the beginning of the hearing, the Hearing Officer confirmed the following are the only remaining IDEA issues for decision in this case:

1. FAPE: Whether the School District denied Student a FAPE during the 2019-20 school year by failing to implement the test/re-test and the log/syllabus signed sheet accommodations in Student's IEP.¹
2. FAPE: Whether the School District denied Student a FAPE by failing to provide services in a coordinated, collaborative manner by key stakeholders.²
3. PROCEDURAL: Whether the School District violated procedural rights and significantly impeded Student's right to participate in the educational decision-making process by not allowing participation of Student and/or Parent in Admission, Review, and Dismissal (ARD) Committee meetings.³

¹ Amended Complaint issue 1.

² Amended Complaint issue 3 (not numbered) and clarified during the prehearing conference.

³ Amended Complaint issue 3 (not numbered).

B. Respondent's Legal Position and Additional Issues

The School District generally denies the allegations in Petitioner's Complaint with respect to Petitioner's IDEA claims, contends that it provided Student with FAPE during the relevant time period, and asserts that Petitioner is not entitled to any of its requested relief.

The School District raises the following additional legal issue:

1. STATUTE OF LIMITATIONS: Whether any of Student's IDEA claims that accrued prior to May 20, 2019, should be dismissed as outside the one-year statute of limitations rule as applied in Texas.

V. REQUESTED RELIEF**A. Petitioner's Requested Relief**

Petitioner confirmed the following items of requested relief:

1. The School District provide Student tutorials during for the 2020-2021 school year while Student is *** for 3.5 hours per week for each subject (Fall, Spring, Summer).

B. Respondent's Requested Relief

1. An order denying Petitioner any of Petitioner's requested relief.

VI. FINDINGS OF FACT

1. Student qualified for special education services under the Other Health Impairment (OHI) classification for Attention Deficit Hyper Activity Disorder (ADHD). Student was in *** grade during the 2019-2020 school year. ***. ***. Student has proven Student is able to complete all levels of materials introduced to Student and has shown the intelligence necessary to perform on grade level.⁴

⁴ Joint Exhibit (JE) 1; JE 8 at 6; Petitioner's Exhibit (PE) 1 at 3.

2. Parent was informed that *** at the February 22, 2019 annual ARD Committee meeting. She informed the School District Student would not***. Student participated in the ARD meeting and discussed Student's***. The ARD Committee did not reach consensus regarding Student's program of services, and Parent requested to table the ARD meeting. The ARD Committee continued with the ARD meeting while Parent repeated "this ARD has been tabled" throughout the remainder of the ARD meeting.⁵
3. Student's February 2019 annual IEP included goals in math, English, and behavior. Accommodations included allowing Student to retest for tests and major assignments in accordance with School District policy. District policy allowed students an opportunity to retest if they scored under a 75 on a test or major assignment. Student was educated in general education classes with co-teach/in-class support.⁶
4. The February 22, 2019 ARD Committee reconvened on Mach 4, 2019. The ARD Committee added an accommodation of "reteach sheet" for major grades and finals. The reteach sheet was a log to be signed by teacher and Student when Student scheduled a time to reteach and retest. The ARD Committee did not achieve consensus.⁷
5. The February 22, 2019 ARD Committee meeting reconvened a second time on May 17, 2019. Parent sought to discuss Student's 2017-18 school year grades during the ARD Committee meeting. The School District notified Parent the ARD Committee has no authority to change grades because decisions regarding grades are up to the Board of Trustees of the School District. Parent and Student had previously received a letter with a plan to address Student's grades from the 2017-18 and 2018-19 school years. The letter laid out the plan for Student to submit projects to attempt to increase Student's 2017-18 final six weeks grades in World History, Geometry, Spanish, and Theater Arts. Parent was concerned Student's IEP was not properly implemented in the 2017-18 and 2018-19 school years, causing incorrect grades on Student's transcript.⁸
6. Parent informed the ARD Committee Student's accommodation of a syllabus in all core subjects was never added to Student's IEP. The ARD Committee agreed to add the accommodation. The syllabus would include potential assignment due dates, and Student would be responsible for changing due dates as needed during the semester. Parent wanted a *** syllabus for Student's syllabus accommodation, with details about the class and assignment due dates. Parent wanted Student to get *** which is why she wanted the syllabus accommodation.⁹

⁵ PE 1 at 26.

⁶ PE 1 at 17; Transcript (TR) at 341-42; PE 1 at 23.

⁷ PE 2 at 15; TR at 343; JE 4 at 2; PE 2 at 26.

⁸ JE 1 at 26; PE 3; JE 5 at 1.

⁹ JE 1 at 15, 26; TR at 32, 106, 113.

7. During the May 17, 2019 ARD meeting, Parent notified the School District Student was not ***, and the School District informed Parent that, because Student was *** of the ARD Committee. Parent objected and asked *** for the meeting. The School District allowed Parent to***. Parent was displeased the School District attorney was in attendance at the ARD Committee meeting. The ARD Committee asked *** and Parent stated***. The ARD Committee meeting again ended in non-consensus.¹⁰
8. A third reconvene ARD Committee meeting was scheduled for May 29, 2019. Parent cancelled the meeting to seek counsel to represent Student. The School District notified parent teachers' last day of school was May 31, 2019 and an ARD Committee meeting would not be held until August 2019 because the 10 days to reconvene were "school" days.¹¹
9. The School District compliance specialist emailed Parent on August 28, 2019 to schedule the reconvene ARD meeting. The School District and parent attempted to schedule a meeting. Parent cancelled multiple committee meetings due to work schedule conflicts, car trouble, and flooding, and was inflexible with the time of day she would attend.¹²
10. The February 22, 2019 ARD Committee reconvened for a third time on December 5, 2019. Parent and Student attended. Parent stated the purpose of the meeting was to discuss Student's grades from the 2017-18 and 2018-19 school years. She was again informed a separate plan, outside of the ARD Committee, was previously developed to address Student's grades. The committee discussed removing the accommodation of Student receiving ***. Student reported Student uses Student's accommodations, and they are useful to Student.¹³
11. At ARD meeting held on December 5, 2019, the ARD Committee scheduled a fourth reconvene ARD meeting for December 19, 2019. Parent cancelled the meeting. The School District notified Parent it would not reconvene the December 5, 2019 ARD Committee meeting again and that meeting ended in non-consensus.¹⁴
12. The School District scheduled Student's annual ARD Committee meeting for February 21, 2020. Parent and the School District emailed several times about the annual ARD meeting. Parent was unwilling to participate in an annual ARD meeting until the "tabled" ARD meeting from December was completed. Prior written notice was sent to Student on February 18, 2020. Parent participated in a phone call with the School District's special

¹⁰ JE 1 at 24; JE 2 at 2.

¹¹ Respondent's Exhibit (RE) 3.

¹² RE 24.

¹³ JE 4 at 1, 2-3.

¹⁴ JE 4 at 3; RE 28.

- education coordinator and received an email explaining the December 5, 2019 ARD meeting was complete and additional reconvenes were not allowed this time.¹⁵
13. When the February 21, 2020 annual ARD meeting started, the School District began addressing***. The School District attempted to *** the procedural safeguards and***. Student and Parent instead wanted the School District to***. Student and Parent were reminded Student is***. Student was given a***.¹⁶
 14. Parent wanted to discuss the “tabled” ARD meeting from December 5, 2019. School District personnel attempted to explain the purpose of the annual ARD meeting was to extend Student’s services because it was the last day Student’s IEP called for services. The School District attempted to explain their plan to open the ARD meeting, enter in the deliberations the intent to continue services, and then table the ARD meeting to be reconvened at a different date. Parent did not allow anyone to speak directly to Student and talked over anyone attempting to explain the purpose of the ARD meeting. Parent and Student left the room***. District members of the ARD Committee did not hear Parent say she would return with the***. While Parent and Student were gone, the ARD Committee typed the deliberations which explained the ARD was opened, what occurred at the meeting, the determination to continue Student’s services, and the decision to reconvene the ARD meeting at a different date. The ARD meeting paperwork had “draft” written across it.¹⁷
 15. When Parent and Student returned to the meeting, Parent began banging on the door and cussing to be allowed into the room. The principal tried to explain that the meeting was over, but Parent was yelling and would not listen to anyone’s explanation of the ARD meeting. The District chose not to continue the ARD meeting after parent returned due to her behavior and because it was unlikely anything would be accomplished.¹⁸
 16. The due process hearing request was filed on May 20, 2020. A reconvene ARD meeting was held on May 29, 2020, after several emails *** regarding scheduling. *** moved the date of the ARD meeting three times prior to May 29, 2019. The purpose of the ARD meeting was to discuss Student’s***. Parent did not want to proceed with the ARD meeting because she was in the process of hiring an attorney for the due process hearing. The School District proceeded despite this objection because the meeting***. Parent and Student attended the meeting via telephone. Student and Parent did not acknowledge agreement or disagreement with the ARD Committee decisions.¹⁹

¹⁵ RE 29 at 1; TR at 360, 372; JE 5; TR at 372; RE 28.

¹⁶ JE 6 at 24.

¹⁷ JE 6 at 24.

¹⁸ TR at 620, 623, 664-65.

¹⁹ RE 31; RE 32; JE 7 at 27-30.

17. A second reconvene ARD meeting was held on June 10, 2020, because *** disagreed with the May 29, 2020 reconvene of the February 21, 2020 annual ARD meeting. Student, Parent, and Student's non-attorney representative participated. ** provided a list of items *** disagreed with, such as the review of existing evaluation data (REED), prior grades, stay put, amend records, lost records, and accommodation logs. All items were discussed. Parent again brought up Student's 2017-18 and 2018-19 school year grades and that she felt the December 5, 2019 ARD meeting was unfinished. The ARD Committee determined Student***. Student passed all of Student's classes during the 2019-2020 school year. Student's***, which was Student's***.²⁰
18. Student's *** teacher spoke with Parent via email and phone regarding Student's missing assignments. She also spoke directly with Student about missing assignments and talked to Student's case manager when necessary to update him when Student missed class or assignments. She gave Student extra opportunities to make up missing work. At times, Student's case manager attended class with Student to ensure Student was present and on task. Student skipped certain assignments and tests, and this teacher gave Student opportunities to make up grades. During one reteach/retest opportunity, Student turned in a page with just Student's name on it instead of the test answers.²¹
19. Student's *** teacher emailed Parent when Student had a project or test and when Student was late with an assignment. He notified students during class of assignment due dates and personally notified Student. He gave Student opportunities to reteach and retest to improve Student's grade and notified Parent of these opportunities. Student never showed for reteach opportunities, but would retest and resubmit assignments. Student made 90s on tests on the first try. He emailed Student's case manager and Parent with updates on Student's absences, class notes, and missing assignments. Student only needed one reteach/retest opportunity in this class, and teacher provided it.²²
20. Student's *** teacher provided a syllabus on PowerPoint and Student took a picture of the syllabus. He made students take a picture because students tend to lose paper, but keep track of their phones. He also told students about deadlines three or four times a day. He allowed Student to retest and resubmit major assignments when Student received a grade below a 75. On one retest opportunity, Student turned in a blank test. Student was also given an opportunity to resubmit an essay and chose not to do so. The few times Student needed to take a retest, Student chose not to use the opportunity. Student was capable of performing well in the class and had high grades without any curve or redo opportunity; however, Student lacked effort. The teacher emailed Student's case manager and Parent with updates on attendance, grades, and concerns about Student's general well-being.²³

²⁰ JE 8; JE 19.

²¹ TR at 510-555.

²² TR at 769; RE 12; TR at 557-570.

²³ TR at 641-689; RE 14.

21. Student's *** teacher provided students with a syllabus via paper and Google classroom. She had a weekly calendar agenda on her board with assignments for the week, and would repeat the due dates orally in class. She provided Student reteach and retest opportunities, and Student did not always use those opportunities. She emailed Student's caseworker at least once a week to discuss Student's progress, missing work, and attendance. Parent was typically copied on these emails, or the case manager would forward the emails to Parent. Parent also communicated directly with the *** teacher via email.²⁴
22. Student's *** teacher gave Student reteach and retest opportunities. He also allowed Student to turn in assignments later than the due date. He also gave Student retest opportunities throughout the grading period, not just one day. Student did not always utilize the retest opportunities. The teacher spoke with Student's case manager on a daily basis, typically by email. Assignments and due dates were posted on Google classroom and the "gradebook" where students could view them. Additionally, he had assignments, due dates, and a daily agenda on his board in his classroom. He provided Student an itemized report showing exactly which assignments were missing and gave Student an entire week to address the assignments.²⁵
23. During the spring semester of 2020, Student's *** teacher emailed Student's case manager and Parent regarding attendance and missing assignments.²⁶
24. Student's *** teacher provided opportunities for Student to retest and Student did not take advantage of all of those opportunities. She emailed Student's case manager and Parent with updates on Student's attendance and missing assignments. She also provided Student with a *** one day.²⁷
25. During the spring semester of 2020, in-person classes ceased due to the Covid-19 pandemic. The School District provided Student a Chromebook for remote learning to use for project-based learning assignments. Students received three projects throughout the closure to receive credit for courses they were enrolled in that semester. The projects were intertwined with course work. Student's case manager changed in the spring of 2020. The new case manager emailed Student and Parent regarding Student's project-based learning projects. She emailed Student and Parent multiple times to check if Student needed assistance. She emailed instructions on how to complete the project-based learning assignments. She communicated with Student between 11:30 p.m. to 1:00 a.m. one day to help Student complete a project. She encouraged Student to resubmit one assignment for a higher grade, which Student did.²⁸

²⁴ RE 9; TR at 689-718.

²⁵ TR at 718-755.

²⁶ RE 17.

²⁷ TR at 803-822; RE 15.

²⁸ TR at 868-97; RE 18.

26. Student was unable to remember specific teachers and maintained Student was only provided three retest opportunities. Student was shown multiple emails with information about retests and still did not remember any of the retest opportunities.²⁹

VII. DISCUSSION

A. Duty to Provide FAPE

The purpose of the IDEA is to ensure that all children with disabilities have available to them a free, appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. 20 U.S.C. § 1400(d)(1)(A). The school district has a duty to provide a FAPE to all children with disabilities ages 3-21 residing in its jurisdiction. 34 C.F.R. § 300.201(a); Tex. Educ. Code § 29.001.

The school district is responsible for providing students with disabilities with specially designed personalized instruction with sufficient support services to meet the student's unique needs in order to receive an educational benefit. The instruction and services must be provided at public expense and comport with the student's IEP. 20 U.S.C. § 1401(9); *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 188-189, 200-201, 203-204 (1982).

B. Burden of Proof/Statute of Limitations

The burden of proof in a due process hearing is on the party challenging the proposed IEP and placement.³⁰ *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *Teague Ind. Sch. Dist. v. Todd L.*, 999 F.2d 127, 131 (5th Cir. 1993). In this case, the School District was obligated to provide Student with a FAPE. The burden of proof is therefore on Petitioner to show the School District did not do so. *Id.*

²⁹ TR at 833-65.

³⁰ There is no distinction between the burden of proof in an administrative hearing or in a judicial proceeding. *Richardson Ind. Sch. Dist. v. Michael Z.*, 580 F. 3d 286, 292 n. 4 (5th Cir. 2009).

The School District asserted the affirmative defense of the Statute of Limitations, claiming Petitioner is barred from bringing claims prior to May 20, 2019. The Statute of Limitations is not addressed in this decision because Petitioner's claims relate to the 2019-2020 school year.

C. Implementation of the IEP

The four factor FAPE analysis is not appropriate for this case because Petitioner did not plead a general denial of FAPE. Petitioner's Complaint instead included a claim of denial of FAPE due to failure to implement Student's IEP and also challenged whether services were provided in a coordinated, collaborative manner by key stakeholders.

The appropriateness of an IEP is typically determined by consideration of the four "indicators of whether an IEP is reasonably calculated to provide a meaningful educational benefit under the IDEA," which were set forth in *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F. ex rel. Barry F.*, 118 F.3d 245, 253 (5th Cir. 1997). In *O.W.*, the Court determined when a plaintiff brings a claim based on a failure to *implement* an IEP, the first factor (whether the program is individualized) and second factor (whether the program is administered in the least restrictive environment) are generally "not at issue." *Spring Branch Indep. Sch. Dist. v. O.W. by next friend Hanna W.*, 961 F. 3d 781, 795-96 (5th Cir. 2020) (citing *Houston Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 348 (5th Cir. 2000)). Rather, a court must decide whether a FAPE was denied by considering, under the third factor, whether there was a "substantial or significant" failure to implement an IEP; and under the fourth factor, whether "there have been demonstrable academic and non-academic benefits from the IEP." *Id.* at 796 (citing *Bobby R.* at 349).

The evidence showed the School District properly implemented Student's IEP and Student achieved academic and non-academic benefit. Parent argued Student did not receive the proper syllabus or Student's retest log signed by teachers. The reteach/retest log signed by teacher was an accommodation listed in Student's March 4, 2019 IEP and not listed as an accommodation on an IEP after that date. It is unclear why the accommodation was removed from the IEPs after March 4, 2019. Regardless of whether a log was signed for the retest opportunities, the School District allowed Student the opportunity of reteach and retest. It is also unclear why the accommodation

of reteach/retest was included in Student's IEP when all students in the School District had the same opportunity per School District policy. However, all of Student's teachers provided Student the opportunity to retest on tests or resubmit major grades if necessary. Most teachers also allowed Student additional time to complete assignments. Student did not avail ***self at all times of the retest opportunities. Student even turned in blank papers during one retest opportunity.

The evidence also showed Student received a syllabus in Student's core classes as required by Student's IEP. The accommodation of a syllabus was not "checked" on Student's IEP until December 5, 2019 ARD; however, syllabi were provided to Student by teachers prior to the IEP actually reflecting the accommodation. It is unclear why the syllabus accommodation was added to Student's IEP or what deficit it was meant to address; however, Parent requested it be added to *** and it was added by the ARD Committee. Parent argued the syllabus was not the type that was discussed in ARD Committee meetings, and she wanted a syllabus with all assignment and test deadlines. Student's core subject teachers provided Student with a syllabus. Additionally, several teachers utilized Google classroom to notify Student of assignment due dates. Teachers had agendas on their boards in their classrooms with assignments and due dates and verbally reminded students of due dates during class. Student's teachers also emailed Student's case manager and Parent about missing assignments, retest opportunities, and Student's absences.

The School District did not have a substantial or significant failure to implement Student's IEP. The syllabi provided to Student may not have been exactly what Parent was seeking; however, the intent of providing assignment deadlines was furthered by every teacher through other strategies. Further, even if the accommodation of a retest log should have been included, its absence did not create a failure to implement Student's IEP because every teacher allowed Student retest opportunities.

Under the fourth factor of academic and non-academic benefit, the evidence showed Student made progress. Student successfully***. When Student attended class and put forth effort, Student was successful without any reteach/retest needed. Student passed all of Student's classes and received Student's *** during the 2019-2020 school year. Student was a***.

Petitioner did not meet Petitioner's burden of proof on this issue. The School District properly implemented Student's IEP and Student made academic and non-academic progress.

D. Services Provided in a Coordinated, Collaborative Manner by Key Stakeholders

Petitioner did not complain about whether Student's IEP was individualized on the basis of assessment and performance or the least restrictive environment until Petitioner's closing brief. The Hearing Officer did not address those prongs of *Michael F.* because they were not issues for hearing. The IDEA contemplates a collaborative process between school districts and parents. *E.R. v. Spring Branch Indep. Sch. Dist.*, 2017 WL 3017282, *27 (S.D. Tex. 2017), *aff'd* 909 F.3d 754 (5th Cir. 2018). The IDEA, however, does not require a school district, in collaborating with a student's parents, to accede to a parent's demands. *Blackmon ex rel. Blackmon v. Springfield R-XII Sch. Dist.*, 198 F.3d 648, 658 (8th Cir. 1999). The right to meaningful input does not mean a student's parents have the right to dictate an outcome because parents do not possess "veto power" over a school district's decisions. *White ex rel. White v. Ascension Parish Sch. Bd.*, 343 F.3d 373, 380 (5th Cir. 2003). Absent bad faith exclusion of a student's parents or refusal to listen to them, a school district must be deemed to have met the IDEA's requirements regarding collaborating with a student's parents. *Id.*

The evidence showed Student's program was provided in a coordinated, collaborative manner by key stakeholders. Parent was in constant communication with teachers and administration. Parent was emailed multiple times by every teacher about Student's attendance, missing assignments, and general well-being. Parent and Student's first case manager communicated via email, phone, and text. The case manager would physically bring Student to class and sit with Student to ensure Student attended and was on task. The case manager and teachers communicated via email about Student multiple times to try to get Student to class, complete missing work, and complete retest opportunities.

Parent and Student participated in ARD Committee meetings. During ARD meetings Parent would speak over anyone when she was not hearing what she wanted to hear. She did not listen to School District explanations and would not allow the School District to speak to Student

directly***. Parent and Student claim they were “locked out” of an ARD meeting on February 21, 2020. The evidence showed the School District attempted several times to explain the purpose of the meeting, their intent to open it to ensure Student’s services did not lapse, and then table the ARD to reconvene at a mutually agreed upon time. Parent did not listen to any of the explanations and continued to demand the ARD stop and no one speak to Student. No School District personnel heard Parent announce her plan to return to the meeting. When Parent and Student returned to the meeting, Parent was banging loudly on the door and cussing. The ARD meeting was finished by that point. The School District could not reopen the ARD meeting in a beneficial way due to Parent’s behavior.

The School District allowed multiple reconvene ARD meetings when agreement was not reached, instead of the one required by state regulations. Tex. Admin. Code. §89.1050(g)(1). The February 22, 2019 annual ARD Committee meeting was reconvened three times ending on December 5, 2019. The School District attempted multiple times to have the meeting prior to December, but Parent cancelled for various reasons. During the ARD meeting, the committee agreed to reconvene a fourth time on December 19, 2019; however, Parent cancelled the meeting. Once the School District stopped allowing multiple reconvene ARD meetings, it is understandable why Parent was confused about why she could not reconvene the December 5, 2019 ARD meeting during the February 21, 2020 annual ARD meeting. The School District, however, provided prior written notice and an email explaining why the December 5, 2019 ARD meeting was completed and would not have another reconvene. The School District chose to follow state regulations to cease the multiple reconvenes of the February 22, 2019 annual ARD Committee meeting, and this decision did not interfere with the collaborative efforts involved in developing Student’s program.

Parent continued to bring up grades from Student’s ***(2017-18) and *** (2018-19) school years during all ARD Committee meetings. The School District continued to inform parent those grades were an administration issue, not a special education issue. The School District developed a plan outside of the ARD Committee to address Student’s grades from those years. The fact the School District did not address this issue in ARD meetings to Parent’s satisfaction did not make the process biased against Parent.

The School District allowed Parent to***. At the ARD meetings held on May 17, 2019 and December 5, 2019, Parent was***. At the February 21, 2020 ARD meeting, the School District ceased to allow Parent to***. Again, it is understandable why this action would confuse Parent due to prior ARD meetings; however, it is within the School District's right to proceed with***.

Petitioner did not meet Petitioner's burden on this issue. Student's services were provided in a coordinated, collaborative manner by key stakeholders. Parent's disagreement with decisions did not make the process one-sided.

E. Procedural Issues

Petitioner alleged a procedural violation of not allowing participation of Student and/or Parent in ARD Committee meetings. Under the IDEA, a denial of FAPE can only be found if the procedural violation: impeded the child's right to a FAPE; significantly impeded the parent's opportunity to participate in the decision making process regarding the provision of FAPE to the parent's child; or caused a deprivation of educational benefit. 34 C.F.R. §300.513(a)(2)(i-iii).

The evidence showed Parent was allowed meaningful participation in the decision-making process. In addition to the efforts school personnel made to include her in communications regarding Student noted above, the School District made multiple efforts to reconvene ARD Committee meetings to reach agreement and went to significant lengths to help her understand why decisions were made. The School District attempted to schedule meetings at a mutually agreeable time, but Parent would cancel or otherwise refuse to participate. Even after***, the ARD Committee continued***. The School District also attempted to allow Student participation; however, Parent refused to allow the School District to speak directly to Student. In the June 10, 2020 ARD Committee meeting, Student's advocate discussed a list of items *** from the May 29, 2019 ARD Committee meeting. The School District addressed each item.

The procedural allegations raised by Parent do not rise to the level of a denial of FAPE. Student's right to a FAPE was not impeded, Parent's opportunity to participate in the decision-

making process was not impeded, and Student was not deprived an educational benefit. 34 C.F.R. §300.513.

VIII. CONCLUSIONS OF LAW

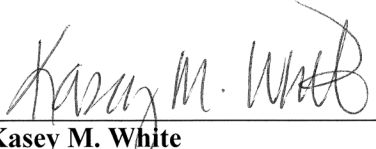
1. The School District implemented Student's IEP accommodations of reteach/retest and syllabus. *Spring Branch Indep. Sch. Dist. v. O.W.*, 961 F.3d 781, 797 (5th Cir. 2020).
2. The School District provided Student a FAPE by providing Student's services in a coordinated, collaborative manner by key stakeholders. *E.R. v. Spring Branch Indep. Sch. Dist.*, 2017 WL 3017282, *27 (S.D. Tex. 2017), *aff'd* 909 F.3d 754 (5th Cir. 2018).
3. The School District did not violate Student's and Parent's procedural rights. 34 C.F.R. §300.513.

IX. ORDERS

1. Based upon the foregoing findings of fact and conclusions of law Petitioner's requests for relief are **DENIED**.

All other relief not specifically stated herein is **DENIED**.

SIGNED November 23, 2020.



Kasey M. White
Special Education Hearing Officer
For the State of Texas

X. NOTICE TO THE PARTIES

The Decision of the Hearing Officer in this cause is a final and appealable order. Any party aggrieved by the findings and decisions 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. 19 Tex. Admin. Code §89.1185(p); Tex. Gov't Code, Sec. 2001.144(a) (b).