

**BEFORE A SPECIAL EDUCATION
HEARING OFFICER FOR THE STATE OF TEXAS**

DECISION OF THE HEARING OFFICER

**CASTLEBERRY
INDEPENDENT SCHOOL
DISTRICT, Petitioner**

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§
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v.

DOCKET NO. 023-SE-0903

**Student, b/n/f
C/O Eric Ransleben,
Respondent**

REPRESENTING PETITIONER:

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CASTLEBERRY	§	
INDEPENDENT SCHOOL	§	BEFORE A SPECIAL EDUCATION
DISTRICT, Petitioner	§	
	§	
v.	§	HEARING OFFICER
	§	
STUDENT, b/n/f	§	
Eric Ranslben	§	FOR THE STATE OF TEXAS
Respondent	§	

DECISION OF THE HEARING OFFICER

Statement of the Case and Procedural History

Petitioner, Castleberry ISD (“CISD” or “Petitioner”), requested an impartial due process hearing under the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §1400, *et seq.*, as amended. The Petitioner seeks to change the placement of Student (“Student” or “Respondent”) from his residential treatment facility placement to the CISD *** campus. Petitioner filed its Request for Hearing on September 17, 2003, and the case was assigned to the undersigned Hearing Officer on September 18, 2003.

There have been two telephonic pre-hearing conferences held in this matter and two continuances granted for good cause shown. The hearing was held on December 4, 2003. By agreement of the Parties, the Decision Due Date was extended to allow submission of written closing argument. On December 23, 2003, Respondent requested leave to file supplemental written closing argument, which was granted for good cause shown, and the Decision Due Date was revised to January 9, 2004. The record was closed on January 5, 2004.

The Petitioner contends that it is not required to continue Student’s placement in a residential treatment center. Further, upon Student’s dismissal from his residential placement setting, CISD contends that it is not responsible for payment of a group home setting as part of its provision of a free appropriate public education for Student.

As relief, CISD seeks a written order of this Hearing Officer that the school district is not required to continue Student’s residential placement and is not responsible for locating, paying for, or otherwise providing a group home setting for Student.

Based on the evidence and argument, the Hearing Officer makes the following findings of fact and conclusions of law:

Findings of Fact

1) Student is an *** year-old student who currently resides at the **** Treatment Center (“****”) in ****, Texas. Student’s parents reside within the geographical boundaries of CISD.

2) Student qualifies for special education and related services as a student with Emotional Disturbance (“ED”) and Mental Retardation (“MR”).

3) Student’s primary diagnosis is schizophrenia, paranoid type, with psychotic symptoms. He has a history of auditory hallucinations with homicidal content suggesting harm to self and others. Student has a moderate MR and is diagnosed with hepatitis C, a communicable disease.

4) Student’s parents live in separate dwellings and are in the process of a contentious divorce. His parents assert that Mr. **** has primary custody of Student under a divorce settlement agreement.

5) The preponderance of the credible hearing testimony and record evidence establish that Mr. **** has filed for guardianship of Student, yet has not completed the process.

6) In June 1999, Student’s parents placed him at the **** Center, formerly known as the **** School, in Austin, Texas. He remained in this placement until June 2002.

7) In June 2002, CISD convened a meeting of the Admission, Review, and Dismissal Committee (“ARDC”) to discuss Student’s placement. Although CISD believed that Student no longer needed residential care, the ARDC compromised with Student’s parents to place him at the *** Treatment Center (“****”). The *** facility provides residential treatment, psychiatric, behavioral, educational, and special education services for children and adolescents.

8) ***, Ph.D., is a clinical psychologist and administrator at *** Treatment Center who specializes in youth services, child, and family clinical work. Dr. *** began work with Student as his psychologist and case manager upon Student’s arrival at ***. In Dr. ***’ opinion, Student’s schizophrenia and paranoia are currently controlled. Dr. *** reports that the severity of Student’s symptoms has decreased and Student accepts verbal redirection fairly readily. [Transcript (“Tr.”). at 129]

9) *** uses a behavioral intervention plan (“BIP”) with identified behavioral goals and targeted behaviors for Student. Recent quarterly records of Student’s behavior reveal no instances of homicidal ideation or self-injurious behavior, one incident per quarter of physical aggression, and less than 10 incidents of verbal aggression. Student exhibits noncompliant behavior in the form of avoidance, off-task behavior, and slowness in compliance with directives. Over the past six months, Dr. *** reports that Student has had approximately 260 noncompliant behavior incidents.

10) Student’s hallucinations have diminished at *** and do not disrupt his behavior at the current time. He is able to report the frequency of occurrence of his hallucinations to assist in his medical management.

11) Student’s symptoms are managed with medication, behavioral treatment, and active programming. Student is not able to manage his medication without supervision.

12) Student’s symptoms are chronic and will persist throughout his life. He most likely will require hospitalization for psychotic episodes from time to time. [Tr. at 74]

13) As an *** year old, Student falls squarely within the *** age range, the peak period of activity for psychotic disorders. During this time period, it is important to keep symptoms of the disorder under control to minimize future episodes later in life. [Tr. at 139-140]

14) It is not possible to make an accurate prediction about the future frequency of Student’s psychotic episodes. Structure and routine are important factors to help minimize, but not eliminate, Student’s psychotic episodes. It is likely that Student will require frequent hospital trips until he reaches his mid-twenties, possibly two to six times a year. [Tr. at 74 and 139-141]

15) Dr. *** does not think the *** setting is the LRE for Student. He recommends transitioning Student from *** into a group home setting rather than into either of his parent’s dwellings. In his opinion, Student’s parents do not possess skills and training at the present time for management of Student. Dr. *** is concerned that placement with either of Student’s parents will increase the risk that Student’s behaviors might escalate, resulting in psychiatric destabilization and hospitalization.

16) ***, Ph.D., in her capacity as Special Education Director for CISD, has been an active participant in Student’s ARDC meetings. Dr. *** is concerned that Student will become institutionalized if he remains in the restrictive setting of *** and recommends the prompt return of Student to CISD.

17) CISD consulted with Dr. *** to develop a BIP for Student and reviewed the plan upon completion. As part of this plan, CISD has trained staff members who will work with Student in the following: a) de-escalation techniques; b) proper techniques for physical restraint; c) how to distinguish between behavioral manipulation and psychotic events; d) how to identify the antecedents to escalating behaviors; and, e) crisis plan implementation for medical emergencies including psychotic episodes.

18) The proposed program developed by CISD for Student includes placement in the Community Based Instruction (“CBI”) *** classroom, a self-contained setting with a 1:3 staff-to-student ratio. Student would receive psychological counseling three times a week by a trained school psychologist. Student’s behavior would be observed and monitored by a licensed counselor and a psychologist.

19) Student requires structured school days and supervised non-school time. CISD plans to provide Student with an extended day program from 7:30 A.M. to 6:00 P.M. Monday through Friday to help provide the structure and routine that Student requires. During the afternoon extended hours, Student would go to a health club three times a week for exercise and leisure activity instruction. Twice a week Student would receive instruction in his living environment on independent living skills.

20) CISD has offered to train Student’s parents in de-escalation and physical restraint techniques and invited them to participate in a parent support group. To date, Student’s parents have not availed themselves of these opportunities.

21) CISD has not had an opportunity to implement the CBI placement for Student and would like to academically assess and evaluate Student in this setting for 30 school days before obtaining a vocational evaluation and functional behavioral assessment (“FBA”).

22) Student has exhibited no sleep problems at *** and on a recent home visit with his mother. Usually he is in bed at 9:00 P.M. and asleep by 9:30 P.M. He stays asleep during the night and does not awaken until morning.

23) On August 26, 2002, the ARDC convened to review Student’s program. *** personnel informed the ARDC that Student needed less service and could be moved to a group home or foster home with trained personnel who understand how to work with him. CISD determined to maintain Student’s placement at *** until October 2002 while his parents searched for a suitable group home within the CISD geographical area.

24) Following the ARDC of August 2002, CISD began active steps to assist the parents in finding a group home. CISD met with the Community Resource Coordination Group (“CRCG”) on September 25, 2002, to access various area agencies. Representatives from Mental Health and Mental Retardation (“MHMR”) Agency, the Texas Rehabilitation Committee, Cook Hospital, and United Cerebral Palsy participated in the meeting. Although Student’s parents were invited to this meeting, neither parent

attended. CCRG did not assist CISD in finding Student a group home and informed CISD that Student's parents bore that responsibility.

25) A group home setting, if located, will receive funding through MHMR or other social service agency.

26) Student qualifies for Medicaid and Supplemental Security Income benefits ("SSI").

27) No group home had been located for Student in October 2002, so Student remained at ***. On November 21, 2002, the ARDC convened to review Student's current individualized educational plan ("IEP") and to discuss moving Student back to CISD. Once again, *** personnel recommended that Student be moved to a less restrictive environment. Student's parents agreed with the placement plans for their son, but disagreed with CISD's refusal to pay for their travel twice a month to visit their son. The ARDC made plans to reconvene the meeting on December 11, 2002, for further discussion of the parents' request. [P.3]

28) Student's parents did not attend the reconvened ARDC on December 11, 2002. The ARDC decided to refuse reimbursement to Student's parents for bi-monthly travel to *** and continued Student's placement at *** under his current IEP in the hopes that a group home could be located in the Fort Worth area. The ARDC planned to reconvene in March 2003 to review Student's progress towards transitioning to a LRE.

29) During the spring semester of the 2002-03 school year CISD made repeated effort to find a group home setting for Student. Student's parents did not participate in any of the meetings with various agencies set up by the school district and did not return telephone calls to the Texas Commission on Mental Health and Mental Retardation when that agency made Student's case a priority case. [P.15]

30) On March 17, 2003, the ARDC convened to review the IEP for Student's return to CISD. Student's parents did not attend the meeting but provided written information for consideration by the ARDC. Mr. *** reported that no group home would be available in the near future through MHMR, and requested the ARDC meet again near June 2003, to discuss Student's return to CISD and to his home. Based on this information, the ARDC agreed that Student would remain at *** until June 2003, at which time he would move in with Mr. *** [P.5 at 29]

31) Student's most recent individual transition plan ("ITP") plan was developed by ***, a consultant with special expertise with vocational programs and working with the Texas Rehabilitation Commission.

32) On May 21, 2003, an ITP meeting was held for Student prior to an ARDC meeting. Mrs. *** attended both meetings. The ARDC considered current assessment data and the proposed program for Student developed by CISD, including

Student's ITP plan and graduation supplement. The ARDC considered input from Dr. *** that, should location of a group home placement for Student prove impossible, Student will need structure and routine. The ARDC made plans to observe Student in his CBI setting for thirty days and then, if necessary, revise his BIP with the input of a new FBA. Mrs. *** agreed to have Student come live in her dwelling upon his return, scheduled for June 6, 2003. At Mrs. ***'s request, the ARDC agreed to extend Student's return date to June 20, 2003, in the event that arrangements for his return take longer. All members of the ARDC agreed with the program.

33) On June 6, 2003, Student's father filed for due process with the TEA. This case was assigned Docket No. 314-SE-0602 and was assigned to the undersigned Hearing Officer. In this proceeding, Mr. *** invoked stay-put of Student's *** placement and contested the change of placement to CISD.

34) On September 9, 2003, Docket 314-SE-0602 was dismissed at the request of the Petitioner, as all matters in dispute had been settled.

35) On September 17, 2003, CISD filed for due process.

36) Student's parents claim their emotional and physical well-being is impacted by stress. In addition, they claim that they lack the ability to provide Student with proper supervision during non-school hours. Both parents report that they are on medication and suffer from depression.

37) Over the past year, Student has made two home visits with his mother of three- and four-day duration. During the visits, Mrs. *** successfully managed Student's medication and provided a routine for Student.

38) Mrs. *** is currently self-employed and does not work outside her home. She frequently takes care of her two-year-old granddaughter and has made her living environment child-safe.

39) Mrs. *** has over nine years experience as a special education paraprofessional for Keller ISD and Castleberry ISD. She has experience with BIP implementation and has worked with MR and ED students. During her work as a paraprofessional, she received training in non-violent crisis intervention and behavioral intervention training.

40) The preponderance of the credible hearing testimony and record evidence failed to establish that Student's parents are incapable of caring for his needs and managing his behavior during non-school hours if they receive proper training.

41) The preponderance of the credible hearing testimony and record evidence establishes that CISD will assist Student's parents or a group home setting to ensure that adequate supports and services are available during non-school hours.

If Student lives with either of his parents, CISD is willing to help Student's family access services through other agencies as well as provide respite services.

42) Student's parents want Student placed in a group home setting and have made effort to find a suitable group home within the geographical area of CISD or ***.

43) CISD made meaningful effort to locate a group home for Student within the geographical area of CISD or *** area and invited Student's parents to participate in the process.

44) Student's parents failed to participate in a collaborative and meaningful way with CISD's efforts to locate a group home setting for Student or to make plans for Student's transition from *** back to CISD.

45) At the close of the record, neither Student's parents nor CISD have located any group home for him that will work suitably with a school district.

46) Student wants to return to school in CISD. He has ties to the CISD community and his family. His two older brothers live nearby and include Student in activities when he is home, such as outings to movies or watching videos at their dwellings.

Discussion

Background

The facts of this case reveal a student with a mental disorder who has lived away from his family and community in a residential treatment center for over four years due to his behavioral problems. Student's parents chose to place him into a residential treatment facility in 1999; Student's parents want him to remain in a 24-hour placement now and in the future.

This is not a case where a school district has ignored the parents' input and placement preference for their child's education. Instead, the school district has gone the extra mile to accommodate the desires of the parents.

The Petitioner's filing is the second due process filing on behalf of Student before this Hearing Officer. In the first due process proceeding, Docket 314-SE-0602, Student's father invoked the stay-put provisions of IDEA for Student to remain in his current residential placement, ***, until a group home placement within the CISD geographical vicinity could be located that would provide 24-hour care of Student. The parties settled their dispute and proceeded with plans to return Student to CISD, yet Student did not return to the school district.

In the instant proceeding, CISD filed its request for due process to remove Student from a residential facility that educators believe is unsuitable and detrimental for Student's present and future success. CISD believes it has exhausted all attempts assist Student's parents in locating the setting they want for Student – a group home placement. Student's parents, by contrast, believe that only a 24-hour setting such as a group home will be able to provide the structure and support their son needs and assert that they are individually unable to adequately take care of Student during non-school hours.

Legal Standard

Although the school district filed the instant proceeding, Student bears the burden to show that the program offered by the school is inappropriate. *Tatro v. Texas*, 703 F.2d 823 (5th Cir.1983) *aff'd on other grounds sub nom., Irving Ind. Sch. Dist. v. Tatro*, 468 U.S. 883; *Alamo Heights ISD v. State Board of Education*, 709 F.2d 1153 (5th Cir. 1986).

Under IDEA, all school districts that receive federal funding must offer a free appropriate public education ("FAPE") to the disabled students within their geographical boundaries. 20 U.S.C. §1412(1) and §1414(d). To determine if a student is receiving a FAPE, the Fifth Circuit identified four factors as an indication of whether a child's IEP is reasonable calculated to provide a meaningful benefit under IDEA: 1) whether there is an individualized program based on the student's assessment and performance; 2) whether the individualized program is administered in the least restrictive environment ("LRE"); 3) whether the services are provided in a coordinated and collaborative manner by the key stakeholders; and, 4) whether positive benefits are demonstrated both academically and non-academically. *Cypress Fairbanks Indep. Sch. Dist. v. Michael F.*, 118 F.3d 245 (5th Cir. 1997). A school district is not required to maximize the educational benefit that a student receives from his education as long as the student receives "some benefit." *Bd. of Educ. v. Rowley*, 102 S.Ct. 3034, 3051 (1982).

The second *Michael F.* factor requires the public school to ensure that the student's proposed placement is the LRE. *Michael F.*, *supra*. In determining whether a proposed placement represents the LRE for the student, the school district must first determine whether the student may be educated within a regular classroom environment with the use of supplementary aids and services. *Daniel R..R. v. SBOE*, 874 F.2d 1036 (5th Cir. 1989). If the answer is no, then the school district must ensure that the student is mainstreamed to the maximum extent possible. *Id.*

When residential placement is at issue, state regulations authorize such placement only for students who require the placement in order to receive a FAPE. 19 T.A.C. §89.61. If the residential placement is proposed "primarily due to medical reasons or primarily due to problems in the student's home," then the residential placement is not appropriate within the meaning of IDEA. 19 T.A.C. §89.61(b)(1). Additionally, a residential placement is not to be approved under IDEA's implementing

regulations until a school district has attempted implementation of a less restrictive placement prior to the residential placement. *Id.*

Current Residential Placement

Student's behavior has improved and stabilized in his present placement at ***. Both CISD Special Education Director Dr. *** and *** staff agree that Student does not need the level of care he receives at the facility and benefit from a less restrictive setting. I agree.

At the present time, Student no longer has hallucinations or homicidal thoughts, his physically aggressive acts are minimal, and he sleeps soundly. Student's behavior incidents are limited to verbal aggression and noncompliance. The hearing testimony established that Student's medications are functioning properly and his behavior has stabilized to the point that he can be managed easily with verbal redirection rather than physical restraint. Based on this uncontroverted evidence, I find that *** is not the LRE for Student.

Because *** is not the LRE for Student, it fails to meet the second prong of the 5th Circuit's four-prong test enunciated in *Cypress Fairbanks* and cannot provide FAPE to Student. I conclude that Student must be placed in a less restrictive setting than ***.

Proper Placement for Student

The program offered by CISD for Student is not challenged by Student's parents. I find that this program is appropriate. The record evidence established that Student will be taught by a trained staff in self-contained classroom with five other students from 7:30 A.M. to 6:00 P.M. on Monday through Friday. Student's behavior will be managed with an intervention plan carefully tailored to meet his needs. As part of his BIP, he will receive counseling and psychological services and will be monitored by the same providers. Student will have the opportunity to go to a health club three times a week where he will be able to swim, an activity that he enjoys. On two afternoons, he will receive independent living skills instruction at his residence. [Tr. at 45.]

Group Home

Student's parents are concerned for Student when he is not in school. They want Student to be placed directly into a group home setting rather than first attempting care of Student in their respective dwellings. The parents' hearing testimony consisted of numerous reasons for their alleged inability to care for Student such as their pending divorce custody agreement, their high levels of anxiety and stress, work schedules, future plans to work, lack of housing space, anxiety, being on medication, and depression. The parents offered no written evidence to verify their verbal assertions. I am not persuaded by these excuses and find that their testimony lacked credibility. However, such circumstances, while certainly problematic for the parents if true, are

simply not relevant to a determination of what constitutes the least restrictive educational placement for Student. The preponderance of the evidence clearly establishes that residential placement with 24-hour professional care and supervision is no longer necessary for Student to be able to participate meaningfully in his special education program. CISD is therefore no longer obligated by IDEA to provide a residential placement for Student. The preponderance of the evidence also fails to support the parents' contention that a group-home placement is necessary for Student to benefit from his educational program. Thus it is also not necessary under IDEA for CISD to provide such a program.

Student's parents believe that Student "must" be placed into a group home or he will be in danger of deterioration. During the hearing, Dr. ***, Student's treating psychologist, expressed fear that Student "might" deteriorate in his parents' care due to their lack of training and the fact that they are now in single-parent situations. Dr. *** does not want to risk the chance that Student's behaviors might increase and advises placing Student directly into a group home. While the concerns of Student's psychologist must be considered, they are not determinative of whether or not Student requires placement in a group home setting for educational reasons in order to benefit from CISD's program. Alternatively, Dr. ***' testimony is speculative when considered in light of the totality of the evidence, which I find preponderates to establish that neither a residential placement nor a group home setting are necessary for Student to participate in his educational program and receive meaningful benefit from schooling.

The record evidence and testimony in this proceeding reveals that at least one of Student's parents has specialized skill suited to meet Student's needs - his mother. Not only does Student's mother have specialized training from her nine years as a special education aide in management of students like Student, she has specific training in non-violent behavioral interventions. Regardless of her present physical and emotional state, she is able to care for her active two-year-old granddaughter, has child-proofed her home, and has a proven success with Student's home visits during this past year. She agreed at the May 2003 ARDC meeting to have Student come live with her. Her arguments concerning the various potential barriers that might happen by virtue of the present uncertainty in the family courts are not relevant to the essential issue here, namely what constitutes the LRE for Student. Even if these family law issues were relevant, her contentions, as stated, are speculative at this stage. And of course neither I nor the school district has the authority to speak to issues between Student's parents regarding custody, possession, or guardianship of Student. [Tr. at 176]

Even if ultimately Student's mother does not retain the right to possession of Student, I remain unconvinced that Student's father and mother lack the ability to care for him if they avail themselves of the services offered by CISD to train them, provide respite care, and help them access other services in the Fort Worth-Dallas area. At the present time, Student's medications are working well, his behaviors are controlled, and he can be redirected verbally. Student is sleeping well through the night and goes to bed at 9:00 P.M. The parental task to supervise Student between 6:00 and 9:00 P.M.

five days a week and on weekends is not unreasonable. Further, Student has older brothers in the area to help his parents with Student's supervision.

Search for a Group Home

I find that the preponderance of the record evidence fails to establish that that Student requires placement into a group home setting in order to access his educational program at CISD. Because Student does not require a group home placement to receive FAPE at CISD, I find that CISD is not required to find, locate, and provide a group home placement for Student at the current time.

Conclusions of Law

1. Student is a student entitled to special education and related services under the provisions of IDEA, 20 U.S.C.A. §1400, *et. seq.*, and its implementing regulations.
2. Student's parents reside in Castleberry Independent School District ("CISD"), a legally constituted independent school district operating as a political subdivision of the State of Texas. CISD is responsible for providing Student with a free appropriate public education. 20 U.S.C.A. §1412; 34 C.F.R. §300.300; 19 T.A.C. §89.1001.
3. Student's continued placement at the *** Treatment Center is due primarily to problems within the student's home and is not the least restrictive environment for him. 19 T.A.C. §89.61(b)(1).
4. Student failed to prove by a preponderance of the evidence that CISD has a duty to locate and pay for a group home setting. A group home setting for Student, although perhaps affording the optimum services, is not necessary for Student to receive an educational benefit at CISD at the current time. *Bd. of Educ. v. Rowley*, 102 S.Ct. 3034 (1982); *Teague Indep. Sch. Dist. V. Todd L.*, 999 F.2d 127, 132 (5th Cir. 1993)
5. CISD developed an appropriate individualized educational program ("IEP") and behavioral intervention plan ("BIP") for Student designed with sufficient supports and services. *Cypress-Fairbanks ISD v. Michael F.*, 118 F.3d 245 (5th Cir 1997), 19 T.A.C. §89.1055 and 19 TAC §89.61(b)(1).
6. CISD's proposed IEP and BIP provide the least restrictive environment in which to educate Student and allows him to be near his family. *Sherri A.D. v. Kirby*,

975 F.2d 193, 206 (5th Cir. 1992) (citing *Burlington Sch. Comm.*, 105 S.Ct. at 2004; *Kerkam v. Superintendent, D.C. Pub. Sch.*, 931 F.2d 84, 87 (D.C. Cir. 1991)); 34 C.F.R. 300.550.

7. CISD has not had an opportunity to implement Student's IEP and should be given the chance to do so. 19 TAC §89.61(b)(1)(d).
8. CISD has met its obligation to Petitioner under IDEA by offering an appropriate IEP in the LRE; all that remains is for Student to come to school and receive the services offered.

ORDERS

Based upon the record of this proceeding, the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that CISD's request for a ruling affirming the appropriateness of its May 21, 2003 IEP for Student is hereby **GRANTED**.

All other relief not expressly granted is hereby **DENIED**.

Any findings of fact that are more properly characterized as conclusions of law, and any conclusions of law that are more properly characterized as findings of fact, shall be considered and shall have the same effect as if properly characterized.

Signed on this the 9th day of January 2004.

Finding that the public welfare requires the immediate effect of this Final Decision and **ORDER**, the Special Education Hearing Officer makes it effective immediately.

/s/ Mary Carolyn Carmichael

Mary Carolyn Carmichael
Special Education Hearing Officer

DOCKET NO. 023-SE-0903

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STUDENT, b/n/f	§	
ERIC RANSLEBEN,	§	FOR THE STATE OF TEXAS
Respondent	§	

SYNOPSIS

ISSUE: ***A. Whether a student with a chronic emotional disorder and mental retardation who has stabilized behavior requires continued residential placement in order to participate meaningfully in his special education program?***

C.F.R. CITATION: 34 C.F.R §300.550(b)

TEXAS CITATION: 19 TAC §89.61(b)(1)

HELD: **For the school district.**

The school district established that the student no longer required placement in a residential facility with 24-hour care. Continued residential placement cannot be justified under the Individuals with Disabilities Education Act. The least restrictive setting for the student is his home campus in the program offered by the school district.

ISSUE: ***B. Whether the school district must locate and place the student into a group home setting as part of its provision of a free appropriate public education for the student to benefit from his educational program?***

TEXAS CITATION: 19 T.A.C. §§89.61(b)(1) and 89.1055

HELD: **For the school district.**

Although a group home setting might benefit the student during non-school hours, it was not required for the student to access his educational plan at the school district. The school developed an appropriate individualized plan for the student in the least restrictive environment.