

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

**Student, bnf**

**Parent and Parent,  
Petitioner,**

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v.

**DOCKET NO. 332-SE-0603**

**HOUSTON INDEPENDENT  
SCHOOL DISTRICT,  
Respondent.**

**DECISION OF THE HEARING OFFICER**

**Procedural History**

Petitioner Student bnf Parent and Parent (“Student” or “Petitioner”) brings this action against the Respondent Houston Independent School District (“the school district”, “HISD”, or “Respondent”) under the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. Sec. 1400 et. seq as amended, and its implementing state and federal regulations.

Petitioner has been represented in this case by his legal counsel, Elaine P. Roberts of Bruckner Burch, P.L.L.C. Respondent has been represented in this case by its legal counsel, Hans Graff, Assistant General Counsel for HISD.

The request for hearing was filed on June 16, 2003. A number of continuances were granted at the parties’ request. The hearing was reset several times. A number of prehearing motions were submitted and resolved. The due process hearing was conducted on September 8, 9, 23, 25, and October 13 and 14, 2003.

The decision was extended until December 1, 2003 to allow submission of post hearing written arguments and briefs. The Texas Education Agency notified counsel for the parties on November 20, 2003 that the decision would be significantly delayed due to a family crisis for the hearing officer. An order extending the decision until January 30, 2004 was issued on January 15, 2004.

**Issues**

The issues in this case are as follows:

1. Whether HISD provided assessments and services in a timely manner under IDEA beginning in 2001 up through the present,

2. Whether HISD provided Student with FAPE beginning in 2001 up through the present,
3. Whether Student was denied transportation as a related service in the fall of 2002,
4. Whether HISD provided Student with an appropriate Extended Service Year program ("ESY") and,
5. Whether a signed Release and Settlement Agreement and/or the one year statute of limitations precludes Petitioner's claims arising more than one year prior to date of filing request for hearing.

### **Findings of Fact**

1. Student is eligible for special education services as a student with autism and severe speech/language impairment. Student lives within the geographical boundaries of HISD. There is no dispute about his eligibility for special education services. At the time of the due process hearing in this case Student was almost \*\*\* years old.
2. At age three, Student was diagnosed as a child with pervasive developmental disorder ("PDD"). He was found to be functioning at least two or more standard deviations from the mean in all areas assessed. Deficits in adaptive behavior and severe speech and language delays were specifically noted. PDD is in the spectrum of autism disorders. Autism is a developmental disability that significantly affects a student's verbal and non-verbal communication skills, social interactions, is generally evident before age 3, and, generally adversely affects a child's educational performance. Student has a very limited expressive vocabulary and development of expressive language skills has been an on-going need.
3. Student's parents were referred to HISD when he turned three. A Comprehensive Individual Assessment (CIA") was conducted and written report issued on February 8, \*\*\*. The multidisciplinary team concluded Student was eligible for special education services.
4. Student was placed in a ½ day Preschool Program for Children with Disabilities ("PPCD") at \*\*\*. Student attended a private preschool the other half of the day. IEP goals and objectives focused on Student's need to develop motor skills, communication, adaptive/self-help skills, cognitive skills, personal/social skills, and adaptive and functional behavior.
5. A Behavior Intervention Plan ("BIP") was also a component of Student's IEP inclusion activities with a regular education \*\*\* class were another feature of the PPCD program. Speech therapy and transportation were also provided as related services. Student attended the ½ day PPCD program for two years.

6. Student needs a predictable routine and daily schedule to outline the major transitions of each day. He needs positive behavior management techniques to be implemented in a consistent manner and clear limits firmly enforced by teachers and parents. He needs a structured environment and a toileting schedule for both home and school. Student needs frequent breaks during long teaching intervals.
7. Student also needs a variety of communication methods with the ultimate objective to provide him with a more functional communication system so he can express himself in all environments. He prefers visual stimuli and needs a system of augmentative communication.
8. Various assessors have also recommended the use of the Picture Exchange Communication System (“PECS”) with Student. PECS is a communication system that uses a systematic approach to encourage verbal communication using a combination of visual picture symbols and sentence strips to create simple sentences. The student exchanges pictures for desired items. PECS gradually adds more details to the sentence-building activities and thus the student uses more complex expressive language.
9. Student’s parents and the private preschool used the PECS with Student. HISD never used this particular methodology. Student’s parents retained a private tutor to work directly with Student using PECS in the summer of 2001 and saw positive results with a concomitant reduction in frustration. A misunderstanding arose between Student’s parents and school personnel about the use of the PECS in the PPCD program.
10. An-home training assessment was completed in June 2001. The chief concerns for Student at home were interactions with his brothers; toileting skills; eating independently; and, communicating wants and needs effectively. Student tended to push and shove his brothers to get what he wanted or to show his displeasure. The in-home assessment found Student had two loving and attentive parents who were knowledgeable about autism and capable of structuring the home environment to maximize Student’s skills.
11. A set of in-home training goals were developed as a result of that assessment including dressing himself without assistance, sitting in a chair attending to task for five minutes, using utensils for eating, refrain from touching brothers inappropriately and to complete a simple home task with modeling. Goals for Student’s parents included teaching them toilet training techniques and to initiate a structured or routine system for the home. In-home training services of one hour per week began in September 2001 despite parental requests to begin in the summer.
12. An ARD was conducted in January 2002. HISD had previously agreed to reimburse Student’s parents for the cost of the private PECS tutoring the summer before. At the end of that ARD, Student’s mother signed a Release and Settlement Agreement at the principal’s request. She was in a hurry because school was about to be dismissed and the

principal assured her it was “just a formality.” The agreement contained boilerplate release language purporting to release HISD from virtually all past and future claims involving Student’s IEP, educational programming, related services or extended year services. Student’s mother and the \*\*\* principal were the only parties to sign the Release and Settlement Agreement. There were no lawyers present. After signing, the principal handed Student’s mother the reimbursement check for the private PECS training.

13. Student attended a PPCD ESY program for 18 days in June 2002. Student resisted the use of picture symbols and chose to communicate by sign language instead in the ESY program. This resulted in frustration for Student. His behavior was disruptive, non-compliant and difficult. The PPCD summer school teacher concluded that adjusting to a new setting and new people was too much change for him. However, she did notice a decrease in the negative behaviors the last week of summer school.
14. Student was placed in a full day PPCD class for the 2002-2003 school year. The full day PPCD class was a small, highly structured classroom environment with a small pupil to teacher ratio. The full day PPCD teacher reviewed and followed Student’s BIP. The full day PPCD teacher conferred with the ½ day PPCD teachers who knew Student. She reviewed his educational folder prior to the beginning of school. Although HISD did not utilize the PECS, the full day PPCD classroom did use a visual communication system for Student. He received speech therapy twice a week and OT for one hour per week. Student also attended regular education Spanish class, P.E., art and music for inclusion purposes.
15. The full day PPCD class used restrooms some distance from the actual classroom location. Student no longer had access to a restroom right next door as he had in the ½ day PPCD class. The full day PPCD teacher and instructional aide were both new to Student. At the beginning of the year, there was a delay of a few days providing Student with transportation. Student began to show signs of regression during the first four weeks of the 2003-2003 school year in his new full day placement. He was non-compliant and aggressive with both teachers and peers.
16. A school psychologist conducted a review of the full day PPCD classroom. An instructional aide with more experience working with children with autism was brought into the classroom. A number of other recommendations made by the psychologist were also implemented including changes in classroom organization, the use of a visual daily schedule, and, behavioral strategies to increase compliance and task completion. A plan was formulated to gather baseline data in order to design a specific toileting schedule for Student. An action plan was also designed to address Student’s behavioral issues.
17. Despite his difficulties adjusting to the new classroom, Student also exhibited some positive behaviors and attempts at oral communication as the month of September wore on. He began to stay with the group in some activities and began to show some cooperation with the teacher. The addition of a classroom computer as a reinforcer and the new instructional

aide were effective. He began to settle down as he became more comfortable with the daily classroom routine and began to show he could work on classroom activities.

18. HISD owed Student 17 hours of compensatory in-home training time by September 2002. There had been gaps in the provision of the in-home training service from January to June 2002. HISD agreed to increase in-home training to two hours per week. An in—home training IEP was reviewed and approved in September 2002. The amount of Student’s speech therapy was also increased.
19. However, as a result of growing dissatisfaction with Student’s progress, Student’s parents decided to withdraw him from HISD and place him in a private school. Student’s mother notified the school district on September 12, 2002 of her intent to withdraw Student. An ARD was convened to discuss the placement issue. Despite the improvements noted by some members of the ARD, Student’s mother confirmed her intent to withdraw him from school and she did so on September 27, 2002.
20. Student was enrolled as a full time student at The Shape of Behavior. The Shape of Behavior utilizes an Adaptive Behavior Analysis (“ABA”) approach to change behavior. Student has attended The Shape of Behavior five days a week for 30 hours per week since November 1, 2002. His parents received parent-training from the Shape of Behavior and also work with Student at home for an additional 10 hours per week. Student has made significant progress in all areas since his placement in the Shape of Behavior program.
21. During the 2001-2002 school year the statute of limitation rules for filing a request for a due process hearing in Texas changed from a two year time period to a one year time period. HISD did not provide Student’s parents with written notice of this change in the state rules. The amended statute of limitations rule in Texas took effect in August 2002. Student’s parents were provided with written notice of procedural rights at almost every ARD meeting. Student’s parents were active participants in ARD meetings and their suggestions and requests were often adopted. Student’s parents filed their request for a due process hearing on June 16, 2003.

## **Discussion**

### **Statute of Limitations Issue**

Petitioner filed his request for a due process hearing on June 13, 2003. Respondent argues that any and all of Petitioner’s claims that arose more than one year prior to the filing date are barred by the applicable statute of limitations and should be dismissed.

The relevant rule in Texas is:

***Effective with requests for due process hearings filed on or after August 1, 2002, a parent or public education agency must request a due process hearing within one year of the date the complainant knew or should have known about the alleged action that serves as the basis for the hearing request. 19 Tex. Admin.Code Sec. 89.1150 (c)***

This rule has been specifically approved by the Austin Court of Appeals. ***Texas Advocates Supporting Kids with Disabilities v. Texas Education Agency, 112 S.W. 3d 234 (Tex. Ct. App. – Austin 2003)***. The one year statute of limitations rule applies to this case since Petitioner’s request for hearing was filed well after the effective date of the rule.

Therefore, any of Petitioner’s claims that arose before June 13, 2002 are barred by the one year statute of limitations. This would include Petitioner’s complaints about the 2000-2001 and 2001-2002 school years. The only claims that arose within the requisite statutory period include any claims that the summer 2002 ESY program was not appropriate, and that the placement and program in the full day PPCD class was not appropriate. The factual basis for those claims arose after June 13, 2002. ***19 Tex. Admin. Code Sec. 89.1150 (c)***.

Petitioner knew or should have known of his right to request a due process hearing prior to June 12, 2002. The evidence established that HISD provided Student’s parents with a copy of the Notice of Procedural Rights at virtually every ARD meeting. Petitioner did not meet his burden of proof that the Notice of Procedural Rights was somehow deficient. The federal regulations require that the notice include a full explanation of such matters as the state complaint procedures, due process hearings, civil actions, and, timelines under the state procedure. Petitioner did not meet his burden of proof that the notice failed to include these provisions. ***34 C.F.R. Sec. 300.504 (b)(5)(10)-(14); Tatro v. State of Texas, 703 F. 2d 823 (5<sup>th</sup> Cir. 1984)***.

The evidence established that the proper notices were given. Student’s parents were active participants in the ARD process. State rules did not specify the timeline for filing a request for due process hearing prior to the adoption of the one year limitations period. Therefore, special education hearing officers looked to the case law for guidance and routinely adopted the state’s two-year tort limitations period. ***McDowell v. Fort Bend Ind. Sch. Dist., 737 F. Supp. 386, 388-389 (S.D. Tex. 1990); See for e.g., James P. v. North East Ind. Sch. Dist., Dkt. No. 270-SE-496 (SEA TX. 1996)***.

Petitioner argues that HISD had an affirmative duty to notify Student’s parents that the statute of limitations changed when the Texas Education Agency adopted the new rule. There is nothing in the federal law that requires such a duty. Instead, the evidence showed that Petitioner was provided with notice of his right to file a request for due process whenever he was aggrieved by the decisions of the ARD Committee. Student’s parents chose to use the ARD process to advocate for Student. They did so very effectively and were often successful. This is precisely the collaborative process

contemplated by IDEA. *34 C.F.R. Sec. 300.343 (c); 34 C.F.R. Sec. 300.344-345.; 19 Tex. Admin. Code Sec. 89.1050 (h).*

Petitioner further argues that the one year limitations period is inconsistent with IDEA. In fact, the rule is entirely consistent with the legislative intent of resolving special education disputes in an expeditious manner. Indeed, the statute itself requires that a hearing decision be issued within a very short period of time; 45 days from the date the request for hearing is filed. *34 C.F.R. Sec. 300.511*. Clearly, the extensive procedural requirements of IDEA that emphasize the ARD process, with a right to request due process every year, support the rationale for the one year statute of limitations rule in Texas; i.e., the longer it takes to resolve disputes through the hearing process, the greater the potential damage to a child's education. *Texas Advocates, supra*.

Petitioner finally argues that even if the one year statute of limitations applies, it should be tolled in this case. The evidence showed that Student's parents did know or should have known of school district actions that could form the basis of a due process request. They were active and effective participants and advocates for Student at each and every ARD. They were very involved in his educational program both at home and at school. Student's parents called ARD's whenever they were concerned about an aspect of his program. They had a choice every year and made it. To toll the limitations period would defeat the clear legislative intent of resolving special education issues quickly and minimizing any delay or damage to a child's educational opportunity. *Id.*

### **Release and Settlement Agreement**

I need not reach the question of whether the Release and Settlement Agreement signed on January 31, 2002 precludes Petitioner's claims arising prior to the date because those claims have been resolved as outside the applicable statute of limitations period. However, even without the application of the limitations rule, I decline to reach that issue since it is outside my jurisdiction as a special education hearing officer in Texas. The issue of whether a written settlement agreement is an enforceable contract is a matter purely of state law and not an issue arising under IDEA. For example, questions of whether there was valuable consideration exchanged, or whether there was a true "meeting of the minds" are not issues arising under IDEA or its implementing state and federal regulations. I have no authority to decide such questions. *See, 19 Tex. Admin. Code Sec. 89.1151.*

### **Summer 2002 ESY program**

The evidence supports the conclusion that the summer 2002 ESY program did not provide Student with FAPE. It was simply too short and did not address his need for continuous educational programming and structure in order to avoid regression. The summer 2002 ESY program needed to provide Student with services through the remainder of the summer not simply for 18 days in June. In addition, the summer ESY program required too much of Student who had a very difficult time coping with transitions. *34 C.F.R. Sec. 300.309; 19 Tex. Admin. Code Sec. 89.1065.*

While he might have adjusted to the new environment and teacher if the program had continued for a longer period of time (and the evidence showed that he may have been beginning to do so) HISD never gave him that opportunity. The program ended just when he was beginning to show signs of improvement. Therefore, Petitioner met his burden of proving that the educational benefit from his summer 2002 ESY program was merely “de minimis” and therefore, he did not receive FAPE in that regard. *Polk v. Cent. Susquehanna Int. Unit 16, 853 F. 2d 171 (3d Cir. 1988)*.

### **Full Day PPCD program 2002**

However, in the same way that HISD failed to provide Student with an adequate opportunity to derive a meaningful benefit from his summer program, Student’s parents did not allow HISD an adequate opportunity to provide Student with an appropriate program in the 2002-2003 school year. He only attended the full day PPCD classroom for four weeks or so before he was unilaterally withdrawn and placed by his parents at the Shape of Behavior.

This was not enough time to give the full day PPCD program a chance to work given Student’s difficulties coping with transitions. Student had a number of adjustments to make in the full day PPCD placement: New teacher, new aide, new peers, different, new and more inclusion classes, a new schedule, etc. It is not surprising that Student had difficulty coping with the major transition of going from the ½ day PPCD class that he’d attended for two years to the full day PPCD class (leaving the ½ day private preschool environment as well).

These were all changes that could be expected to be challenging for Student. The evidence showed that the IEP, BIP and related services were all designed to address Student’s significant needs in language, behavior, and, cognition. HISD simply did not have enough time to attempt to meet those needs. Parents who choose to make a unilateral placement do so at their own risk. *Sch. Comm. of Town of Burlington v. Dept. of Educ., 471 U.S. 359, 373 (1985)*.

### **In Home Training**

HISD clearly owed Student a significant number of compensatory hours of in-home training based on the delays and gaps in the service from previous years. In-home training was a critical and significant aspect of Student’s educational program – many of his adaptive behavior and communication skills were being addressed in the home setting. Failing to provide the compensatory in-home training that HISD agreed to do constitutes a failure to provide FAPE in that regard. The evidence showed that the Shape of Behavior program ensured that in-home training and in-school instruction were coordinated and reinforced one another. Doing so resulted in meaningful progress for Student. HISD failed to provide this necessary component to Student in the 2002-2003 school year. *Polk, supra; 19 Tex. Admin. Code Sec. 89.1055 (e)*.

## PECS

The failure to implement the PECS in the full day PPCD program does not constitute a violation of IDEA. Although the PECS may be an effective communication system for children with autism, the use of visual symbols to encourage expressive language met Student's communication needs. While the PECS methodology may be a superior approach, IDEA does not require a school district to maximize a child's educational potential. *Bd. of Educ. Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176 (1982). Furthermore, IDEA allows parents to participate in but not dictate educational planning. The choice of a particular methodology is left to the school district. *Lachman v. Illinois State Bd. of Educ.*, 852 F. 2d 290 (7<sup>th</sup> Cir. 1988).

## Transportation

A few days delay in providing bus service at the beginning of a new school year, although inconvenient, is not illegal under IDEA. Any harm caused by the confusion over transportation as a related service was de minimis and therefore not a violation of IDEA. A party challenging the implementation of an IEP must show more than a de minimis failure. *Houston Ind. Sch. Dist. v. Bobby R.*, 200 F. 3d 341 (5<sup>th</sup> Cir. 2000)

## Conclusions of Law

1. Petitioner's claims arising outside the applicable one year statute of limitations period in Texas are outside the jurisdiction of the special education hearing officer and must be dismissed. *19 Tex. Admin. Code Sec. 89.1150 ( c )*; *Texas Advocates Supporting Kids with Disabilities v. Texas Education Agency*, 112 S.W. 3d 234 (Tex. Ct. App. – Austin 2003).
2. Petitioner's claims regarding the enforcement of a written Release and Settlement Agreement are a matter purely of state law and thus outside the jurisdiction of the special education hearing officer in Texas. *19 Tex. Admin. Code Sec. 89.1151*.
3. The Extended Service Year program of summer 2002 did not provide Petitioner with the requisite meaningful educational benefit and thus failed to provide him with a free, appropriate public education within the meaning of IDEA. *34 C.F.R. Sec. 300.309*; *19 Tex. Admin. Code 89.1065*.
4. The full day PPCD program was designed to provide Student with the requisite meaningful educational benefit and thus did provide him with a free, appropriate public education within the meaning of IDEA. *Bd. of Educ. Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176 (1982).

5. The in-home training aspect of Respondent's program did not provide Student with the necessary services in a timely or appropriate manner given his needs as a student with autism and thus that aspect of his educational program did not provide Petitioner with a free, appropriate public education within the meaning of IDEA. *19 Tex. Admin. Code Sec. 89.1055 (e)*.
6. Petitioner did not meet his burden of proof on his claims regarding use of the PECS methodology or the delay in providing transportation in the 2002-2003 school year. *Lachman v. Illinois State Bd. of Educ., 852 F. 2d 290 (7<sup>th</sup> Cir. 1988); Tatro v. State of Texas, 703 F. 2d 823 (5<sup>th</sup> Cir. 1984)*.

### **ORDERS**

Based upon the foregoing findings of fact and conclusions of law I hereby **ORDER** the following:

1. All of Petitioner's claims arising more than one year from the date Petitioner's request for a due process hearing was filed in this cause are hereby **DISMISSED FOR WANT OF JURISDICTION** as outside the relevant statute of limitations;
2. Petitioner's state law claims regarding the enforceability of a written Release and Settlement Agreement are also **DISMISSED FOR WANT OF JURISDICTION**;
3. As equitable compensation for Respondent's failure to provide Petitioner with an appropriate summer 2002 ESY program, it is hereby **ORDERED** that Respondent shall reimburse Petitioner for the cost of the summer 2002 program provided by The Shape of Behavior; and,
4. As equitable compensation for Respondent's failure to provide Petitioner with the compensatory in-home training services it previously agreed to provide, it is hereby **ORDERED** that Respondent shall reimburse Petitioner for that portion of in-home and/or parent-training provided to Petitioner and/or his parents by the Shape of Behavior for the 2002-2003 school year.

The district shall timely implement this decision within 10 school days in accordance with 19 TAC §89.1185(q) and 34 CFR §300.514. The following must be provided to the Division of Complaints Management at the Texas Education Agency and copied to the Petitioner within 15 school days from the date of this decision: 1. documentation demonstrating that the decision has been implemented; or 2. if the timeline set by the Hearing Officer for implementing certain aspects of the decision is longer than 10 school days, the district's plan for implementing the decision within the prescribed timeline, and a signed assurance from the superintendent that the decision will be implemented.

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

**SIGNED the 29<sup>th</sup> day of January 2004.**

/s/Olivia B. Ruiz  
OLIVIA B. RUIZ  
SPECIAL EDUCATION HEARING OFFICER

**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 Sec. 89.1185 (p); Tex. Gov't Code, Sec. 2001.144(a)(b).

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

**Student, bnf**

**Parent and Parent,  
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v.

**DOCKET NO. 332-SE-0603**

**HOUSTON INDEPENDENT  
SCHOOL DISTRICT,  
Respondent.**

**SYNOPSIS**

**Issue:** Whether school district provided appropriate assessments and related services (OT, speech therapy, in-home training, assistive technology, FBA) in a timely manner beginning in 2001 school year for preschool student with PDD and severe speech/language impairment.

**Held:** **For the school district.** Petitioner's claims arising more than one year prior to filing date of due process request dismissed for want of jurisdiction as outside applicable one year of statute of limitations.

**Citation:** **19 Tex. Admin. Code Sec. 89.1150 (c)**

**Issue:** Whether school district provide FAPE to preschool student with PDD and severe speech/language impairment including whether student needed PECS, whether daily schedule provided minimal amount of unstructured time; whether speech and language services, including AT services and instructional materials were appropriate; whether in-home and parent-training were appropriate; whether basic life skills were a component of student's IEP; whether student was provided with appropriate amount of interaction among non-disabled peers, whether staff was informed of duties and responsibilities; and, whether classroom was properly equipped (specifically whether restroom was too far away).

**Held:** **For the school district in part and the student in part.** FAPE claims arising more than one year prior to filing date of due process request dismissed for want of jurisdiction as outside applicable one year of statute of limitations. Petitioner did not meet burden of proof that 2002 full day PPCD program with related services of OT, AT, music and speech therapy and inclusion classes did not provide student with FAPE. Parents withdrew student from school after only four weeks in program. Student had great difficulty with transitions. School district did not have adequate opportunity to implement IEP that was designed to meet student's needs.

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However, school district's failure to provide student with compensatory in-home training during summer and continuing into fall 2002 was violation of IDEA. In-home training was significant and critical aspect of student's IEP. School district agreed owed student significant number of in-home training hours for gaps in service from January to June 2002. Student had not received any in-home training in summer 2002 or fall 2002 when he withdrew to attend private school.

**Citation:** 19 Tex. Admin. Code 89.1055 (e)

**Issue:** Whether school district provided student with appropriate ESY services.

**Held:** **For the student in part and the district in part.** Claims related to ESY program outside applicable one year statute of limitations dismissed for want of jurisdiction. School district provided ½ day PPCD program as ESY services in 2002 but this was not a long enough period of time to prevent regression.

**Citation:** 34 C.F. R. Sec. 300.309; 19 Tex. Admin. Code 89.1065

**Issue:** Whether student was denied transportation as a related service in fall 2002.

**Held:** **For the school district.** Any harm caused by delay of a few days in providing bus service to full day PPCD student with PDD and severe speech/language impairment at the beginning of 2002-2003 school year was de minimis and therefore not a violation of IDEA.

**Citation:** 34 C.F. R. Sec. 300.24 (b)(15)

**Issue:** Whether one year statute of limitations rule effective August 2002 precluded Petitioner's claims arising prior to date of filing request for due process in June 2003.

**Held:** **For the school district.** One year statute of limitations rule precluded all of Petitioner's claims arising prior to date request for due process was filed in June 2003. Only claims arising in June 2002 to present were cognizable. One year statute of limitations should not be tolled.

**Citation:** 19 Tex. Admin. Code Sec. 89.1150 (c)

**Issue:** Whether signed Release and Settlement Agreement of January 2002 precluded Petitioner's claims.

**Held:** **For the student.** Issues related to enforceability of signed release and settlement agreement matter purely of state law and therefore outside jurisdiction of special education hearing officer in Texas.

**Citation:** 19 Tex. Admin. Code Sec. 89.1151

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