

Student, § BEFORE A SPECIAL EDUCATION  
B/N/F Parent §  
§  
VS. § HEARING OFFICER  
§  
HOOKS INDEPENDENT §  
SCHOOL DISTRICT § FOR THE STATE OF TEXAS  
DECISION OF THE HEARING OFFICER

Statement of the Case

Student, by his next friend and Parent (hereinafter "Petitioner" or "Student"), brought a complaint pursuant to the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §1400, et seq., complaining of the Hooks Independent School District (hereinafter "Respondent" or "HISD").

Petitioner appeared pro se. Respondent was represented by Rhonda Barfield, an attorney with the Fort Worth office of Henslee, Fowler, Hepworth & Schwartz.

Petitioner's request for hearing was filed on September 15, 2004, and came on for hearing in the Bowie County Courthouse in New Boston, Texas, on March 21, 2005. The parties were afforded an opportunity to file written closing arguments and agreed that the decision in this matter would be issued on or before Monday, April 4, 2005, in compliance with the provisions of the forty-five day rule.

Petitioner declined to participate in a prehearing conference in this matter but advised the Hearing Officer (and the Hearing Officer advised Respondent's counsel) of Petitioner's allegations. Petitioner alleges that the district failed to provide audiotapes and relevant materials to him, that the district discriminated against Student by not providing him with an appropriate educational placement, and that the district failed to perform evaluations properly. At the hearing, Petitioner sought as relief an order finding that the district failed to provide appropriate materials to the Petitioner, that the district failed to provide Student with an appropriate

educational placement, a determination that evaluations of Student were done improperly, and an order removing the mental retardation (“MR”) identification of Student from the Respondent’s records.

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

#### Findings of Fact

1. Student is a student who has been served by the Respondent in special education placement based upon IDEA eligibility criteria of visual impairment, other health impairment (“OHI”) because of a diagnosis of cerebral palsy, speech impairment, and mental retardation. [Respondent’s Exhibit 17]
2. Student lives within the Hooks Independent School District and has been served in HISD. His parents placed him at the Texas School for the Blind and Visually Impaired several years ago. After a short time there, he returned to HISD. [Transcript Page 9]
3. Student’s parents believe that Student has not made appropriate educational progress and that his teachers have not taught him appropriate Braille skills. On a number of occasions, they asked the district for independent educational evaluations. [Transcript Pages 9-17]
4. Student’s mother testified that Petitioners have received copies of all documents and admission, review and dismissal (“ARD”) tapes and materials that they have requested. [Transcript Page 18]
5. A full individual evaluation for Student was completed in June 2003 by an independent evaluator. The evaluation included a review of appropriate assessment data, an intellectual evaluation, an educational performance evaluation, and parent and teacher interviews. The evaluators determined that Student’s ARD committee should develop an individual education plan (“IEP”) based upon eligibility criteria of mental retardation, visual impairment, speech

impairment, and other health impairment because of his attention deficit disorder, a seizure disorder, and orthopedic impairment. The evaluations used the appropriate testing and evaluation materials and were properly developed utilizing materials that which are technically sound and validated for the specific purpose for which they were used. Student's testing was administered appropriately for a child with impaired sensory, manual, and oral skills. The evaluation was conducted by appropriately trained personnel and included input from appropriate educators, evaluators, and Student's parents. [Respondent's Exhibit 42]

6. HISD utilized an occupational therapy evaluation, an orientation and mobility evaluation, a visual evaluation, a psychological evaluation, and a functional vision evaluation, and learning media assessment. All the assessment and evaluation for Student was conducted properly by appropriate personnel. [Respondent's Exhibits 45, 46, 47, 48, 51, 52 & 53]

7. Student's parents remained unhappy with his educational progress and the provision of his IEP and related services and removed him from HISD on November 30, 2004. Student has been receiving educational services since that time in a placement within the Texarkana Independent School District. [Transcript Pages 16 & 17]

8. When Student left HISD, he was receiving educational and related services pursuant to an IEP developed at an ARD committee meeting in April 2004. Student's IEP addressed all areas of his educational needs and provided him an opportunity to make educational progress. Student's records indicate that he was making such progress. [Respondent's Exhibit 17]

9. HISD personnel familiar with Student's educational placement and instruction believe that Student was making appropriate educational progress at the time he was withdrawn from the district. [Transcript Pages 36-38, 46-49, 54, 57-61 and 80-83.]

#### Conclusions of Law

1. Student is a student who is eligible for special education and related services under the provisions of IDEA, 20 U.S.C. §1400, et seq., and related statutes and regulations.
2. When Student was enrolled in HISD, the Hooks Independent School District was the local education agency responsible for the provisions of Student's free appropriate public education.
3. The IEP developed for Student by HISD in April 2004 was properly developed by an ARD committee and provided Student with an educational placement and related services reasonably calculated to enable him to received educational benefit under the standard of Board of Education of the Hendrick Hudson School District v. Rowley, 458 U.S. 176 (1982), 34 CFR 300.552, and 19 T.A.C. §89.1055 and Cypress-Fairbanks ISD v. Michael F., 118 F.3d 245 (5th Cir. 1997), 34 CFR 300.300, and 19 T.A.C. §89.1055.
4. Petitioner failed to meet his burden to prove that the educational program provided by Respondent for Student was inappropriate. Tatro v. Texas, 703 F.2d 823 (5th Cir. 1983).
5. The district's evaluation of Student provided proper assessment of his educational disabilities and abilities and afforded the district and his parents information to develop an appropriate educational plan for him. 34 CFR 300.530-300.536; T.A.C. §89.1055.

ORDER

Based on the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED that all relief requested by Petitioner is DENIED.

SIGNED this 4<sup>th</sup> day of April, 2005.

/s/ Lucius D. Bunton

Lucius D. Bunton

Special Education Hearing Officer

DOCKET NO. 021-SE-0904

Student, § BEFORE A SPECIAL EDUCATION  
B/N/F Parent §  
§  
VS. § HEARING OFFICER  
§  
HOOKS INDEPENDENT §  
SCHOOL DISTRICT § FOR THE STATE OF TEXAS

SYNOPSIS

**ISSUE 1:** Whether the district provided an appropriate educational plan for Student.

**CFR CITATIONS:** 34 CFR 300.552.

**TEXAS CITATION:** 19 T.A.C. §89.1055

**HELD:** For Respondent.

**ISSUED 2:** Whether the district provided an appropriate educational evaluation of Student

**CFR CITATIONS:** 34 CFR 300.530-300.536

**TEXAS CITATIONS:** 19 T.A.C. §89.1055

**HELD:** For Respondent