

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

**STUDENT, bnf  
PARENT,  
Petitioner,**

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v.

**DOCKET NO. 266-SE-0405**

**NORTHSIDE INDEPENDENT  
SCHOOL DISTRICT,  
Respondent.**

**DECISION OF THE HEARING OFFICER**

**Procedural History**

Petitioner, STUDENT, (“Petitioner” or “STUDENT”) brings this action against the Northside Independent School District (“Respondent” or the “school district”) under the Individuals with Disabilities Education Act, as amended, 20 U.S.C. § 1401 et. seq (IDEA) and its implementing state and federal regulations.

STUDENT was initially represented pro se by his father, PARENT. Respondent has been represented at all times in this case by its legal counsel Paula Maddox Roalson of Walsh, Anderson, Brown, Schulze & Aldridge, P.C. A prehearing telephone conference was first conducted in this case on April 28, 2005. Petitioner was pro se. A continuance of the initial hearing date was granted in order to allow the parties more time for the hearing, to resolve a preliminary standing issue, and to allow the parties to consider the use of mediation.

Prior to the new hearing date, STUDENT secured legal counsel and Jeffrey Waren, Attorney at Law, entered an appearance on May 6, 2005. A second prehearing telephone conference was conducted on May 11, 2005 with both parties represented by their legal counsel. A second continuance was granted to resolve a scheduling conflict for Mr. Waren. The school district declined the option of attempting mediation in this case.

The due process hearing was conducted in this case, by agreement, on May 26-27, 2005. At the conclusion of the hearing both parties agreed on the need to submit written closing arguments and to extend the deadline for the Decision of the Hearing Officer to July 5, 2005. At the hearing officer’s request, counsel for both parties agreed to a second short extension of the deadline of the Decision of the Hearing Officer to July 8, 2005.

**Issues**

The issues in this case are:

1. Whether the school district failed to provide STUDENT (“STUDENT”) with the

- requisite transition plan within the meaning of the Individuals with Disabilities Education Act (“IDEA”) and its implementing state and federal regulations;
2. Whether the school district has provided STUDENT with a free, appropriate public education during the current school year and during the previous school year within the meaning of IDEA and its implementing state and federal regulations;
  3. Whether the Admission, Review & Dismissal Committee (“ARD”) meeting conducted on April 25, 2005 was convened in a timely manner within the meaning of IDEA and its implementing state and federal regulations.

A preliminary issue regarding whether STUDENT’s father had the requisite legal standing to pursue these IDEA claims was resolved prior to the due process hearing.

### **Relief Requested**

Petitioner requested the following items of requested relief:

1. The school district develop and implement a new transition plan that includes all appropriate services that meets the requirements of IDEA; and,
2. Provide STUDENT with compensatory services the nature and scope of which based upon presentation of the evidence during the hearing.

### **Findings of Fact**

1. STUDENT was \*\*\* years old at the time of the due process hearing. STUDENT has been eligible for special education services from the school district as a student with autism, mental retardation, and aspeech impairment. There is no dispute about STUDENT’s eligibility for special education. STUDENT also has been diagnosed with Intermittent Explosive Disorder, motor impairment (cerebral palsy) and epilepsy/seizure disorder. He has a history of epilepsy dating back to \*\*\* months of age and seizures since infancy. In the past, STUDENT has also been treated for glaucoma and cataracts.
2. Since January 2003 STUDENT attended the school district’s Vocational Transition Program (VTP) located at the \*\*\* (\*\*\*). Prior to that, STUDENT participated in the Applied Learning Environment (ALE) at \*\*\* School. STUDENT’s placement in the VTP at the \*\*\* occurred following a behavioral incident at \*\*\* School with the school nurse that precipitated a set of evaluations and a previous due process hearing. STUDENT’s placement has changed a number of times within the school district and there is a long history of disagreement between the parties over STUDENT’s placement and programming.
3. On July 20, 2001 STUDENT underwent neuro-surgery in an effort to minimize his seizure activity and address aggressive behaviors. The surgery involved excision of

that portion of the brain that had been identified as the epicenter of STUDENT's seizures. STUDENT has also been treated with a number of medications over the years. Adjustments to his medication regime have also been made to address his seizure activity and behavioral issues. The surgery, the adjustments to his medication, and placement at the \*\*\* have resulted in an improvement and reduction in STUDENT's seizure activity and aggressive behaviors although neither has been totally eliminated.

4. Dr. \*\*\* assessed STUDENT in May 2001. Dr. \*\*\* found that STUDENT's physical and motor abilities were strengths but also found significant variability among measures resulting in a functional range of \*\*\* age equivalent. Dr. \*\*\* found STUDENT's gross motor function was somewhat better than his fine motor and that his ability to use these skills to complete domestic chores fell within the range of \*\*\* age equivalent with cuing and close supervision.
5. STUDENT's communication abilities fell within the range of \*\*\* age equivalent depending upon the abilities sampled. STUDENT's receptive language skills were better than his expressive language. STUDENT's "language" included vocalizations and motor acts such as gestures. STUDENT has been consistently assessed as largely non-verbal. Dr. \*\*\* found that STUDENT's use of language in interpersonal interactions and attachment behaviors fell within the \*\*\* age equivalent, the use of language in a pragmatic fashion (i.e., purposeful goal-directed behavior) fell within the \*\*\* age equivalent and that the use of gestures fell within the \*\*\* age equivalent. Dr. \*\*\* observed that STUDENT communicated primarily by action and generalized gesture with the occasional use of simple symbolic gestures.
6. Dr. \*\*\* assessed STUDENT's daily living skills (e.g., eating, toileting, dressing, and self care) as within the \*\*\* age equivalent. STUDENT's ability to attend to and remain on a goal-directed task was assessed to fall between \*\*\* age equivalent. His academic skills were assessed to range between \*\*\* age equivalent and his ability to function independently at home and in community settings was at the \*\*\* months age equivalent.
7. Dr. \*\*\* found STUDENT's socialization skills fell between \*\*\* age equivalent and observed that STUDENT engaged in escalating undesirable behavior when displeased, including self-injurious behaviors or injurious behavior towards others. Dr. \*\*\*'s findings were consistent with the ability ratings provided by STUDENT's parents and teachers.
8. STUDENT's developmental course showed gradual improvement in physical function, albeit with significant delay, and less or no improvement in cognitive, language or social function since assessments began in 1997. Dr. \*\*\* concluded these findings were consistent with his medical history of autism, mental retardation, cerebral palsy and intractable seizure disorder. Dr. \*\*\* concluded that STUDENT was functioning behaviorally and intellectually within the range of \*\*\*. Dr. \*\*\* concluded that STUDENT will always require 24-hour supervision, assistance, and

- care either with his family or from other caregivers. Dr. \*\*\* did not expect STUDENT's intellectual function to surpass that of a small child and STUDENT has profoundly diminished potential for functional independence as an adult.
9. Dr. \*\*\* recommended the development of a small set of consistent and desirable physical responses to communicate basic needs or emotional states limited to those most essential to care giving. As an adult, Dr. \*\*\* anticipated that STUDENT will not have to use formal signs (for example, American Sign Language) as long as his communicative actions are regular enough to be recognized by a caregiver to whom they have been described. Dr. \*\*\* further recommended that no more than four communicative actions should be targeted and identified.
  10. STUDENT was assessed again in March 2003 by Dr. \*\*\* and Dr. \*\*\* at the school district's request. These assessments arose out of the previous due process litigation. By this time, STUDENT had been attending the VTP at the \*\*\* for a few months. Both Dr. \*\*\* and Dr. \*\*\* found that STUDENT's classroom teachers and the staff at the \*\*\* were providing appropriate instruction and interacting effectively with STUDENT. They also concluded that the structured, predictable and calm environment provided at \*\*\* was beneficial to STUDENT. Dr. \*\*\* noted the same communication needs assessed and recommended by Dr. \*\*\*. Dr. \*\*\* found that the opportunities for community based instruction and access to age appropriate activities were of benefit to STUDENT at the \*\*\*.
  11. STUDENT's educational program in the past two years at the \*\*\* has included a structured, predictable daily schedule. The goals and objectives have addressed his needs to continue to develop personal management skills, functional communication measures, and increase his ability to attend and complete tasks. He has been provided with opportunities to participate in community outings and interact and behave appropriately. Since his placement at the \*\*\* the number of behavioral outbursts and aggressive behaviors has decreased. STUDENT seems happier since his placement at \*\*\* gets along with the teaching and support staff, and successfully participated in the \*\*\* at the \*\*\* in May 2005.
  12. The Association for Retarded Citizens of Texas (ARC) contracts with the school district to provide information to families about transitioning from school to the community. The ARC is a non-profit organization serving as both an advocacy and resource organization for individuals with disabilities and their families. \*\*\* is the Support Service Director for the ARC in San Antonio and has worked in the field for over 20 years building an extensive set of relationships with community based programs in the area. Ms. \*\*\* has been involved in STUDENT's transition since age \*\*\* when he was placed on a Medicare waiver program waiting list. Ms. \*\*\* worked with STUDENT's father up until the spring of 2005 in connecting the family to community services and programs.
  13. STUDENT does not yet exhibit fully independent toileting skills and this has been a major concern of STUDENT's father for a number of years. STUDENT's father has

become particularly concerned that STUDENT's need for assistance with toileting poses an obstacle for his acceptance into community day programs after his exit from the public school system. This concern became a priority when STUDENT was denied after school care from a community based agency program in March 2005. The after school program did not have adequate funds to provide STUDENT with the 1:1 assistance that he requires. STUDENT's father concluded that STUDENT's lack of independent toileting skills create a "barrier" for him with regard to placement in community programs. STUDENT's father became angry and frustrated as a result of this experience and became distrustful of \*\*\* and the ARC.

14. STUDENT's parents have been divorced for a number of years. Both, however, have been involved in STUDENT's education in different ways. At the time of the hearing, STUDENT's parents were named as co-guardians of the person under Bexar County Probate Court Letters of Guardianship dated May 17, 2005. STUDENT lives with his father and the family plans to continue to have STUDENT live at home for as long as possible. STUDENT's mother did not participate in this hearing as either a party or a witness.
15. An initial Individual Transition Plan (ITP) was first developed for STUDENT by an ARD Committee on May 2, 2000. The ITP was reviewed and modified by an ARD Committee two more times: on May 11, 2001 and on September 23, 2002. Each of the three ITP's addressed four major components: Integrated Employment, Post Secondary Education or Training, Residential/Independent Living, and, Recreation/Leisure/Community Participation. Each component addressed the network of support needed, how and when the support services would be provided, and, for an annual review and update.
16. The ITP's presented to each of the three ARD Committees were in pre-printed formats. The ITP format included a wide variety of goals, objectives, services, and schedule of services that the ARD Committee could choose from in designing STUDENT's ITP. The ITP format also provided the ARD Committee with an opportunity to design its own set of goals, objectives, services or schedule of services.
17. For example, the ARD Committee chose from an array of options under the Post Secondary Education or Training component of the ITP. The September 2002 ITP chose "Day Activity/Adult Services" for STUDENT as an appropriate Post Secondary Education or Training goal. From there, the ARD Committee selected family, agencies, and community resources as the network of support needed, that the support services to be provided would be "on-going," and that STUDENT needed to continue activities, goals and objectives leading to the long-term goal of participating in Day Activity/Adult Services after his exit from the public school system.
18. The September 2002 ITP established STUDENT's post secondary living arrangements as with parents or relatives as the primary goal, with group home living, if necessary, as a secondary option. The September 2002 ITP also noted that a tour of some day programs the following spring and summer would be appropriate towards

implementation of STUDENT's participation in either Day Activity or Adult Service community programs.

19. The ITP format also included a list of transition services and identification of the party or parties responsible for implementing those services. These transition services were grouped into different categories: instruction, related services (such as occupational therapy, physical therapy, transportation, speech, etc.), community experiences (such as volunteer work, social activities, recreation services, community clubs or organizations, community based instruction, etc.), development of employment or other post-school adult living objectives, and, services/life considerations. The September 2002 ARD Committee chose grooming and social skills as appropriate adult living objectives for STUDENT.
20. The September 2002 ITP recognized STUDENT's need for medical services, case management or case coordinator services, guardianship, and adult service agency visits as components of his post secondary school experience. Subsequent ARD meetings were conducted in January 2003, May 2003, September 2003 and September 2004. Parent training was recognized as a need at the September 2003 ARD in order to help parents and teachers work as a cohesive unit to support STUDENT. A Transition Services Supplement was prepared at the September 2003 ARD. In September 2003, the family was still connected to the ARC and unsure of the need to consider the use of community day programs at that time.
21. One purpose of the September 2004 ARD was to again address transition services and to discuss STUDENT's graduation. The September 2004 ARD reached consensus on an appropriate IEP which included a revised Behavior Intervention Plan (BIP), a Transition Services Supplement, and, a Parent/In-Home Training Assessment. Six 60 minute sessions of parent training were offered in the IEP.
22. An ARD meeting was conducted on April 25, 2005 at the request of STUDENT's father to further discuss STUDENT's transition from the public school system into the community. The school district invited representatives from Alamo Solutions, Inc. (Alamo Solutions) to participate in the ARD since the relationship with \*\*\* at the ARC was so strained. Alamo Solutions is funded by both the United Way and by the Kronkowski Charitable Fund, a privately endowed charitable foundation. Alamo Solutions does not receive any funding from the school district.
23. The mission of Alamo Solutions is to assist individuals and their families in locating community services. Alamo Solutions has worked with at least nine students from the \*\*\* in facilitating the transition from school to community. Alamo Solutions works with over 15 different school districts in Bexar County, Texas and collaboratively with eight outside agencies, including the ARC. Alamo Solutions does not implement the services or programs but instead acts as a conduit and facilitator, assisting STUDENT and his family to make connections with community agencies and programs.

24. Following the April 2005 ARD, Alamo Solutions conducted an initial intake for STUDENT and took a number of steps to assist STUDENT and his family with the transition from school to the community. For example, an Alamo Solutions caseworker has accompanied STUDENT's mother on tours of several community day programs and has offered to conduct visits to three more programs. STUDENT's father has not yet made any community program tours although they have been offered by the ARC and by Alamo Solutions. Tours of community programs continue to be available to STUDENT's father by both of those agencies.
25. The Alamo Solutions caseworker is in the process of setting up an appointment for STUDENT's father with the Center for Health Care Services (CHCS) in order to secure additional funding for STUDENT. The Alamo Solutions caseworker plans to meet with STUDENT's Medicare Case Manager in order to set up funding for the provision of a 1:1 aide to support STUDENT in whatever day program is ultimately selected. In sum, Alamo Solutions has begun to assist STUDENT and his family in developing a holistic plan for his participation and life in the community.
26. As an outgrowth of the April 2005 ARD the Alamo Solutions caseworker discussed STUDENT's toileting and communication needs with his father and shared some ideas about possible approaches to these issues. She also invited STUDENT's father to tour community programs and notified him he needed to make an appointment with the Medicare Case Manager in order to secure the available Medicare funds. The Alamo Solutions caseworker has also completed an application for STUDENT to use VIA-TRANS, the City of San Antonio's designated public door to door transportation service for persons with disabilities. Warm Springs Rehabilitation Center is available to provide STUDENT with transportation in the meantime.
27. A special education case manager (i.e., social worker) for the school district has also been available to facilitate STUDENT's transition from school to the community. The case manager works at the \*\*\* and is knowledgeable about transition services and community services. She has worked with hundreds of students in transitioning from school to the community. The case manager's focus is on the family's need for services; she attends ARD meetings to discuss those needs and offer information to families about possible community services and programs.
28. The school district's case manager first attended an ARD for STUDENT in 2002. However, at that time, the family was being served by \*\*\* at the ARC so her involvement was minimal in order to avoid duplicating services. The case manager also attended the April 2005 ARD since the relationship between STUDENT's father and \*\*\* had disintegrated. The case manager served as a resource for STUDENT's father at the ARD and continued to remain available to him throughout the remainder of the school year.
29. STUDENT's transition into a community program was previously discussed at the September 2004 ARD but STUDENT's father was uncertain about his plans for STUDENT's future. School district staff made several different kinds of overtures to

- STUDENT's father with information about transition services and opportunities and attempted to communicate about STUDENT's transition into the community. Unfortunately, these efforts were not particularly successful. For example, the school district sponsored and publicized monthly lunch hour talks and presentations for parents in order to provide transition information but STUDENT's father did not attend those meetings. Brochures and flyers were sent home in STUDENT's backpack but it does not appear that STUDENT's father received them although some of that information was available at an ARD meeting.
30. Tours of community placements were offered in both the fall and the spring. Some parent training was provided but school personnel found that STUDENT's father did not respond to their attempts to schedule additional sessions. STUDENT's classroom teacher also raised the issue of STUDENT's transition into the community with his father through their daily communication system. For whatever reason, the parties did not begin to actively communicate and focus on community services again until the April 2005 ARD.
  31. STUDENT's program at the \*\*\* uses the Applied Learning Environment (ALE) curriculum. It is a specially designed curriculum for students with mental retardation and autism. ALE addresses five domains: community based management, recreation and leisure, personal management, vocational skills, and functional academics. The goals of STUDENT's IEP address each of the five ALE domains and include benchmarks to measure his progress.
  32. STUDENT's communication goals and objectives have been modified within the past two years. This year he has been using a modified sign language system and a picture schedule in the classroom. The picture schedule is used by both STUDENT and the school staff to select and transition from one educational activity to another as he moves through the school day. STUDENT has responded well to the picture schedule. STUDENT works on his communication skills all day in an on-going basis in the natural school environment. The school staff encourages and prompts STUDENT to use his preferred mode of communication (visual and physical gestures) in order to express his needs to others.
  33. Although using the restroom independently was not a specific IEP goal for STUDENT this past school year, he worked on continuing to develop that skill as a natural occurrence throughout the school day. His daily class schedule included at least three restroom visits and while he still needed assistance in using the restroom he is beginning to show an interest in being changed promptly when he soils his diaper indicating he may be ready to use the restroom more independently. Community based day programs can continue to work with STUDENT in mastering this skill.
  34. Vocational training is also a component of the ALE curriculum. For example, STUDENT received vocational training in sorting and collating tasks relevant to a wide variety of work jobs. He also did laundry and seemed to enjoy it. An appropriate vocational goal for STUDENT has been to increase his ability to attend to a task for

- longer periods of time. This year he has been able to sit for up to 25 minutes working on a vocational task.
35. STUDENT has shown progress this year getting his own snack and cleaning up with less prompting. He is less anxious and his ability to tolerate situations and noises has also improved. He has only had a handful of tantrums this year and he has been successful in participating in such community based instruction as going to the grocery store, behaving appropriately in community settings such as the bowling alley, store, movie theater and restaurants.
  36. STUDENT's lack of independent toileting skills will not hinder his placement in an appropriate community setting. There are several community programs that accept individuals who haven't mastered independent toileting although STUDENT is able to participate in the toileting process. The additional Medicare funding can be used to provide STUDENT with a 1:1 attendant and thus his lack of independent toileting skills is not a major impediment to identifying an appropriate community program for him. Furthermore, the majority of day programs for young adults provide assistance with toileting so STUDENT's lack of independent toileting skills is not an obstacle to his ability to transition into a community program.
  37. STUDENT's teacher has observed that STUDENT has bonded well with the school staff and expects him to be able to transition well into a community program once he gets to know the staff, program and routine. The ability to assist, cooperate and participate is important for appropriate and successful community placement. STUDENT has demonstrated an ability to do all three.

### **Discussion**

IDEA requires school districts to provide a free, appropriate public education (FAPE) to every student with a disability through age 21. 20 U.S.C. §1412 (a)(1)(A). IDEA also requires each student with a disability receive appropriate transition services. 20 U.S.C. §1401 (3); 34 C.F.R. § 300.29. One of the purposes of IDEA is to prepare students with disabilities for employment and independent living. 34 C.F.R. § 300.1 (a). Therefore, to the extent appropriate, an IEP must include instruction and experiences that enable the student to prepare for life after public school, including, where appropriate, employment and independent living. 34 C.F.R. Part 300, Appendix A, Part III, Questions 11-13.

IDEA regulations establish specific requirements related to the provision of transition planning and transition services. *Id.* For students 15 years or older, the IEP must include a statement of the student's needs taking into account the student's interests and preferences as they related to post-secondary education, vocational training, integrated competitive employment, continuing and adult education, adult services, independent living, or community participation. The IEP must also include a statement of needed transition services including, if appropriate, a statement of the interagency responsibilities or any needed linkages with other service providers and a statement of the student's projected post-school outcomes based on the student's needs,

preferences and interests in the areas of employment, post-secondary education and community living. 34 C.F.R. § 300.347.

### **Transition Services Defined**

IDEA defines transition services as a coordinated set of activities that:

1. Is designed within an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services independent living, or community participation;
2. Is based on the individual student's needs, taking into account the student's preferences and interests; and
3. Includes instruction, related services, community experiences, the development of employment and other post school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

34 C.F.R. § 300.29 (a)(1)-(3).

### **Related Services as an Aspect of Transition Services**

Transition services may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education. 34 C.F.R. § 300.29 (b). Related services may include: occupational therapy, parent counseling and training, (which includes assisting parents to understand the unique needs of their child, and, helping parents acquire the necessary skills that will allow them to support implementation of the child's IEP), recreation, and rehabilitation counseling services (which may also include vocational rehabilitation counseling services, social work services, speech-language pathology services, and transportation). 34 C.F.R. §§300.24 (b) (5) (7) (10) (11) (13) (14) and (15).

### **STUDENT's IEP and ITP**

STUDENT's IEP included occupational therapy, speech-language pathology services, and transportation. In addition, parent counseling and training have been provided in the past and continued to be available to STUDENT's father. Social work services have also been made available to STUDENT and his family through the school district's contract with the ARC, from its own team of special education case managers and, more recently through Alamo Solutions.

STUDENT's IEP and ITP meet all the regulatory requirements. The IEP goals and objectives were outcome oriented designed to address STUDENT's needs identified by various

assessments and evaluations. He has been provided with opportunities to participate in community based experiences through the ALE curriculum as it is implemented at the \*\*\*. His classroom teacher's efforts to address his communication and occupational therapy needs have been supported by regular consultation with related service personnel. Instruction and reinforcement of skills has been provided within the natural school environment.

STUDENT's program has included daily instruction, prompting and reinforcement of independent toileting skills and while he still has not yet mastered this skill, he will not be denied a place in an appropriate community program. It is reasonable to infer that the improvement in STUDENT's behavior is the result of many interventions and factors including successful neurosurgery, adjustments in his medication, supportive parents and family, modifications in his behavior intervention plan, and the implementation of his educational program by a loving, caring school staff.

There have been some miscommunications between STUDENT's father, school personnel, and community based resources. Although the evidence supported efforts by the school to provide information and opportunities to STUDENT's father about transition services and community programs they were not effective in doing so. Whatever the reason, it appears as if STUDENT's father does indeed have the opportunity of working with both Alamo Solutions and other outside agencies in selecting an appropriate young adult day community based program for STUDENT.

The school district played a critical role in setting up these opportunities for STUDENT's family – whatever disagreements STUDENT's mother and father may have about the appropriate choice for STUDENT's post secondary school placement those issues cannot be resolved through an IDEA hearing. Instead, the evidence showed that the school district provided information and access to resources in a variety of ways and thus, met its responsibility to provide STUDENT with appropriate transition services within the meaning of IDEA. *See, Pace v. Bogalusa City Sch. Bd.*, 137 F. Supp. 2d 711 (D.C. La. 2001); *Coldspring-Oakhurst (Tx.) Cons. Ind. Sch. Dist.*, 33 IDELR 250 (OCR 2000).

### **Was the April ARD Convened in a Timely Manner?**

Finally, there was no credible evidence to support a finding that the school district failed to timely convene the April 2005 ARD. Instead, the evidence showed that a discussion about transition services was delayed by mutual agreement of the parties. Even if this was a procedural violation, not all procedural flaws result in a denial of FAPE. Instead, only procedural inadequacies that result in a loss of educational opportunity or seriously infringe the parent's opportunity to participate in the IEP process result in a denial of FAPE. No loss of educational opportunity or parental participation occurred under the circumstances of this case. *See, W.G. v. Bd. of Trustees of Target Range Sch. Dist.*, 960 F. 2d 1479, 1485 (9<sup>th</sup> Cir. 1992).

### Conclusions of Law

1. The school district provided STUDENT with the requisite transition plan within the meaning of IDEA and its implementing state and federal regulations. 20 U.S.C. §1401 (3); 34 C.F.R. §§300.29 (a)(1-3)(b), 300.347 .
2. The school district provided STUDENT with a free, appropriate public education within the meaning of IDEA. *Pace v. Bogalusa City Sch. Bd.*, 137 F. Supp. 2d 711 (D.C. La. 2001).
3. The school district convened the April 2005 ARD in a timely manner by mutual agreement of the parties. 34 C.F.R. § 343, 19 Tex. Admin. Code § 89.1050.

### ORDER

Based upon the foregoing findings of fact and conclusions of law, it is therefore **ORDERED** that Petitioner's claims are hereby **DENIED** and all relief not specifically granted herein is **DENIED**.

**SIGNED the 8<sup>th</sup> day of July 2005.**

/s/ \_\_\_\_\_  
Ann Vevier Lockwood  
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,  
Petitioner,**

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v.

**DOCKET NO. 266-SE-0405**

**NORTHSIDE INDEPENDENT  
SCHOOL DISTRICT,  
Respondent.**

**SYNOPSIS**

**ISSUE:**

Whether school district provided requisite transition services to \*\*\* year old student with severe and profound mental retardation, autism, severe communication impairment, and history of seizure disorder. **20 U.S.C. § 1401 (3); 34 C.F.R. §§ 300.29 and 300.347.**

**HELD:**

**For the school district.**

School district designed an initial Individual Transition Plan (ITP) when student first turned age \*\*\* and revised it twice. Subsequent ARD meetings reviewed and modified the plan and a Transition Services Supplement was a component of student's IEP his \*\*\* of public school.

The ITP addressed all the IDEA regulatory requirements including "day activity/adult services" as a post secondary educational and training goal; specifying the network of support needed, the type of living arrangements the students would require, the set of related services the student needed to receive, as well as his need for medical services, case management services, guardianship, and adult service agency visits as components of his post secondary school experience.

The school district ensured that the parent was connected with at least two knowledgeable outside community agencies who could and did facilitate community services to the family and can continue to do so. Parent's concern that student's lack of independent toileting skills was not an impediment to placement in an appropriate community day program.

**ISSUE:**

Whether the school district's program provided the multiply disabled \*\*\* year old student with FAPE. **20 U.S.C. § 1412 (a)(1); 34 C.F.R. § 300.121.**

**HELD:**

**For the school district.**

Student's IEP addressed his communication, personal management, vocational and behavioral needs. Student made progress in all areas during the relevant time period. Goals and objectives were appropriate and addressed areas noted in evaluations. Student's ability to successfully participate in community based activities and effective interactions with school staff supported conclusion that student received an educational benefit from his instruction.

**ISSUE:**

Whether the ARD meeting conducted in April 2005 was convened in a timely manner. **34 C.F.R. § 343; 19 Tex. Admin. Code § 89.1050.**

**HELD:**

**For the school district.**

Evidence established that attempts beginning in the fall of 2004 to discuss transition services and to provide parent with information and opportunity to visit appropriate community day programs were not successful until parent requested ARD in spring 2005 and litigation had ensued. Miscommunications between parent and school and between parent and outside community agencies contributed to the delay but delay in convening ARD to further discuss transition services was by mutual agreement of the parties.