

DOCKET NO. 343-SE-0605

Student b/n/f Parent EDUCATION	§	BEFORE A SPECIAL
V.	§	HEARING OFFICER FOR THE
GRAPEVINE-COLLEYVILLE	§	
INDEPENDENT SCHOOL DISTRICT	§	STATE OF TEXAS

**DECISION OF THE HEARING OFFICER**

I. Statement of the Case

Petitioner Student brings this appeal by his next friend, Parent, pursuant to the Individuals with Disabilities Education Improvement Act 20 U.S.C. § 1400 *et seq.*, (hereinafter referred to as "IDEIA"), against Respondent Grapevine-Colleyville Independent School District (hereinafter referred to as "Respondent" or "GCISD"). Petitioner Student by next friend Parent (hereinafter referred to as "Petitioner" or "Student") filed a written request for a due process hearing which was received by the Texas Education Agency on June 2, 2005. Petitioner was represented by Quentin McGown, Attorney at Law of Fort Worth, Texas. Respondent was represented by Nona Matthews of Walsh, Anderson, Brown, Schulze & Aldridge of Irving, Texas. A telephone prehearing conference was held on Friday, June 10, 2005, at which time both parties waived their right to a final decision within forty-five (45) days of the date the written request for due process hearing was filed. [34 C.F.R. §300.511(c)] A due process hearing was held on Tuesday, September 13, 2005, in Grapevine, Texas. The parties filed timely post-hearing briefs on or before September 30, 2005.

Petitioner Student is a \*\*\*-year-old student in GCISD who previously received special education placement, programs and services on the basis of meeting eligibility criteria as a student with a learning disability in written expression. Petitioner was dismissed from GCISD special education services on February 11, 2005. Petitioner raises the following issues in his due process hearing request:

1. Petitioner alleges that the Respondent failed to identify and classify all of Student's handicapping conditions.
2. Respondent has not appropriately communicated with the student's parents about his progress.

3. Respondent inappropriately interfered with the regular Admission, Review, Dismissal (“ARD”) process on January 31, 2005 and February 11, 2005, to the detriment of the student.
4. Respondent failed to provide appropriate support services while the student was eligible for special services.
5. Respondent failed to include a licensed physician on the student’s Multi-Disciplinary Team to review the data in connection with a determination of the student’s eligibility based on other health impairment (“OHI”).
6. Respondent failed to support its finding that the student’s severe discrepancy of \*\*\* points in five skills areas was not indicative of a learning disability, even though Petitioner’s parents reported to Respondent Petitioner’s struggles performing the work at the same time that the Respondent was reducing services.
7. Respondent failed to pursue an “OHI” eligibility classification despite a finding of the Full and Individual Evaluation (“FIE”) report that the student was taking medication for Attention Deficit Hyperactivity Disorder (“ADHD”) and the condition had been certified by a physician and reported to the Respondent.
8. Respondent failed to provide a free appropriate public education (“FAPE”) by discounting Petitioner’s repeated claims that Student was struggling and required increasing amounts of at-home instruction to overcome the Respondent’s lack of services.
9. Respondent deprived student and his parents meaningful participation in the ARD process by creating an environment of antagonism.

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

## II. Findings of Fact

1. Student is a \*\*\*-year-old male student who resides within the Grapevine-Colleyville Independent School District.
2. GCISD is a political subdivision of the State of Texas and a duly incorporated Independent School District responsible for providing Study a free appropriate public education in accordance with the Individuals with Disabilities Education Improvement Act, 20 U.S.C.A. § 1400, *et seq.*, and the rules and regulations promulgated pursuant to IDEIA.

3. Student is a student who had been found to be eligible for special education placement, programs and services as a student with a learning disability.

4. A Full and Individual Evaluation (FIE) was completed on Student on February 10, 2002. The FIE was conducted by \*\*\*, Diagnostitian for Grapevine-Colleyville ISD (G-ISD). The purpose of the FIE, which was a parent referral, was to determine if Student had a speech, language, or learning condition that requires special education services in order for the student to be successful in an educational setting.

5. The February 10, 2002 FIE examined the following areas of assessment: language, physical, emotional/behavioral, sociological, intellectual/adaptive behavior, educational learning competencies and assistive technology.

6. The February 2, 2002 FIE contained the following findings:

**Language** - Student had average language skills.

**Physical** - Student had no physical disabilities that would affect his education.

**Emotional/Behavioral** - Student had no behavioral or emotional manifestations at home or in school that would influence his educational placement, programming or discipline. He was respectful of authority, had a good self concept, and while he exhibited a difficulty turning in work, his performance in some classes was better than others.

**Sociological** - Student's intellectual functioning is consistent with his adaptive behavior and he had no cultural lifestyle factors that would influence his behavioral patterns.

**Intellectual** - Using the Wechsler Intelligence Scale for Children - III, it was determined that Student's verbal standard score was \*\*\*; his performance standard score was \*\*\*; all in the superior range of intelligence.

**Educational learning competencies** - Using the Wechster Individual Achievement Test (WIA) it was found that Student had the following standard scores in the subject/skill indicated:

Reading-Broad: \*\*\*

Basic Reading Word:	***
Reading Comprehension:	***
Word Attack:	***
Mathematics-Broad:	***
Math Reasoning:	***
Numerical Operation:	***
Written Language-Broad:	***
Spelling:	***
Written Expression:	***

**Assistive Technology** - Study did not require assistive technology services or devices.

7. On the Eligibility Report for Learning Disability, the February 2, 2002 FIE reported the following levels of discrepancy between intelligence and achievement:

Written Expression:	***
Basic Reading Skill:	***
Reading Comprehension:	***
Mathematics Calculations:	***
Mathematics Reasoning:	***

The February 2, 2002 FIE concluded that Student demonstrated a significant developmental deficit in written language, and was, therefore, learning disabled.

8. The multi-disciplinary team members signed the Statement of Eligibility appended to the February 2, 2002 FIE and unanimously concluded that Student qualified for special education and related services based on a severe discrepancy between achievement and ability.

9. On March 26, 2002 \*\*\*, Ph.D., a licensed psychologist, completed a Psychological Referral Summary of Student. Student had been referred for a psychological evaluation to determine eligibility for special education support services under the Emotional Disturbance, Texas Education Agency disability category.

10. Dr. \*\*\* reported that she contacted Parent on March 19, 2002 to discuss the psychological referral, obtain informed consent, and to inquire about Student's parents' custody arrangement, for psychological purposes. She wrote that: "Parent reported a history of behavioral and emotional problems (e.g. Psychiatric hospitalizations and previous diagnosis diagnoses of "ADHD [Attention Deficit Hyperactivity Disorder], ADD [Attention Deficit Disorder], Possible Bipolar, Possible Schizophrenia, Oppositional Defiant Disorder"). He

reported that Student was doing well at home and in school and that the school was implementing classroom modification that allowed him to make academic progress.”

11. Dr. \*\*\* reported that during the March 19, 2002 phone conversation with Parent, she discussed the need to conduct an Admission, Review, Dismissal (“ARD”) meeting to discuss Student’s need for psychological services. However, Parent suggested that school personnel could monitor Student’s behavior for a week or two and then discuss the referral.

12. Dr. \*\*\* reported that she phoned Student’s father on March 26, 2002 to ask him if he wanted to continue psychological testing. Parent stated to her that he wanted to “close out” the psychological referral; that “everything is perfect,” that Student’s behavior had been great and that his prior behavior and difficulties might have been related to “hormones”.

13. Dr. \*\*\* noted that information from school indicated that Student’s in-school behavior was appropriate and that school personnel did not suspect a behavioral disability. School personnel did report some disorganization and difficulty completing homework assignments.

14. Dr. \*\*\* listed following recommendations on March 26, 2002:

- a. Student’s ARD committee consider all available information relating to home and school functioning to determine if he needs a psychological referral.
- b. If a psychological examination is not recommended, Student’s behavior should be monitored and appropriate intervention used if it deteriorates.
- c. Because of Student’s reported diagnosis, school lay personnel may wish to consider serving Student under a Other Health Impaired (“OHI”) disability category.
- d. Frequent communications between school and home regarding Student’s functioning.
- e. Student’s parents may wish to consider non-educational counseling services.

15. On April 23, 2002, an ARD meeting was convened on Student’s behalf. The purpose of the ARD meeting was to review the February 2, 2002 FIE completed on Student and the March 26, 2003 Psychological Summary. Parent was not in attendance.

16. The April 23, 2002 ARD committee (“ARDC”) determined that Student met TEA and federal eligibility criteria to receive special education services as a student who is learning disabled. The ARDC also determined that Student was capable of following the student code of conduct, without modification.

17. The April 23, 2002 ARDC determined that Student’s disability interfered with his ability to meet regular academic mastery levels in Language Arts/English; Reading; Math; Science, Social Studies and his electives. Student’s ARDC determined that Student would receive modifications in English, Math, Science and History. His ARDC also determined that Student would remain in regular education classes, would receive tutorials, and would have access to the school’s academic learning lab (“ALL”).

18. Student’s April 23, 2002 ARDC reviewed Dr. \*\*\*’s March 26, 2002 report and concluded that psychological evaluation was not necessary, but Student’s behavior would be monitored.

19. An ARD meeting was convened on February 6, 2003 on Student’s behalf. The purpose of the ARD meeting was to review all of Student’s assessment data and reports from Student’s teachers and parents. Parent was in attendance at the meeting.

20. Student’s February 6, 2003 ARDC determined that Student met eligibility criteria for learning disabled category, but did not need a behavioral intervention plan for his mainly appropriate behavior.

21. Student’s February 6, 2003 ARDC unanimously concluded that Student would continue his general education placement with modifications, and have access to the ALL. The ARDC also determined that communications between Parent and teachers would be maintained through Student’s planner.

22. An ARDC meeting was convened on February 6, 2004 on Student’s behalf. The purpose of the meeting was to conduct an annual review of Student’s special education program. The ARDC reviewed an FIE that was completed on February 10, 2002. The ARDC determined that Student continued to meet the learning disabled classification, but that additional data was needed to determine whether he continued to have the particular disability, assess his performance levels, and consider the nature and scope of necessary special education services. The ARDC scheduled another ARD to review the assessments required on or before February 6, 2005.

23. The February 6, 2004, ARDC continued Student’s existing IEP and placement in general education classes with modifications and tutorials.

24. Parent was present at the February 6, 2004 ARD meeting. During the ARD meeting he indicated that Student had received diagnoses of ODD and ADD from outside sources. He also requested that Student attend the ALL for tests and quizzes because of his belief that Student could focus better in the ALL. He agreed with Student's program.

25. An FIE was completed on Student on January 26, 2005. The FIE multi-disciplinary team included\*\*\*, Diagnostician; Parent;\*\*\*, school nurse;\*\*\*, Special Services teacher;\*\*\*, \*\*\*, \*\*\*, and \*\*\*, general education teachers. The reason for the referral was that it was time for Student's three year assessment.

26. The January 26, 2005 FIE reported that the WIAT-II was previously administered and Student's scores were listed as follows: Word Reading, \*\*\*; Reading Comprehension, \*\*\*; Numerical Operations, \*\*\*; Math Reasoning, \*\*\*; Written Expression, \*\*\*. On 1/11/05 the Woodcock Johnson Test of Achievement was administered and Student had the following scores: Basic Reading, \*\*\*; Reading Comprehension, \*\*\*; Math Calculations, \*\*\*; Math Reasoning, \*\*\*; Written Expression, \*\*\*. Student's achievement scores were all found to fall in the average range.

27. The January 26, 2005 FIE concluded that Student's Emotional/Behavioral characteristic as manifested in in-school and out-of-school settings does not appear to influence his educational placement.

28. When Grapevine-Colleyville ISD diagnostician \*\*\* re-evaluated Student's written expression standard score in January 2005, she did not find the severely depressed written language written language skills score relative to his intellectual score, as reported by a previous diagnostician on February 10, 2002.

29. Student's prior February 10, 2002 intellectual functioning assessments were deemed appropriate and he was not administered another intelligence test in the January 26, 2005 FIE. The January 26, 2005 FIE included an OHI and LD Disability Report.

30. Student's physical functioning was evaluated in the January 26, 2005 FIE and he was found to be within normal limits for vision (with correction) hearing and gross/fine motor skills. The FIE acknowledged Student's reports of taking Straterra for ADHD, and four of Student's core teachers completed the Secondary Age Attention Deficit Disorder Evaluation Scale. All of the core teachers rated Student with the average range of behaviors related to attention.

31. The January 26, 2005 FIE indicated that Student's cultural and/or lifestyle factors do not appear to influence his behavioral patterns; nor does his sociological status indicate a lack of educational opportunities.

32. The January 26, 2005 FIE concluded that Student performed in the average range on all subtests (including the Key Math Diagnostic Arithmetic Test-Revised, that was administered because Student had not been passing the standard for TAKS in math the last two years). Though Student's scores are significantly discrepant from his IQ score obtained in the February 2, 2002 FIE; he was not determined to have a learning disability because his scores are in the average range.

33. During the discussion of the findings, Student's January 26, 2005 multi-disciplinary team concluded that Student does not demonstrate an educational need for specialized instruction for academic success. His two accommodations; ALL and nonverbal cues to refocus his attention were determined to be either unnecessary or capable of being delivered through general education. The conclusions of the team was unanimous.

34. Prior to the January 31, 2005 ARD meeting, Diagnostician \*\*\* telephoned Parent To summarize the findings of Student.'s January 26, 2005 IEP. Parent became angry during the telephone conversation and expressed his displeasure with the multi-disciplinary team's findings.

35. An ARD meeting was convened on January 31, 2005 on Student's behalf. The purpose of the meeting was to conduct an annual ARD review of Student's special education program and a three year review of his educational assessments. The ARDC reviewed Student's January 26, 2005 FIE.

36. The January 31, 2005 ARDC concluded that Student does not meet specific TEA and federal eligibility criteria to receive special education services. The ARDC dismissed Student from special education services at that meeting. Previously, Parent was given an OHI disability report to take to Student's doctor for consideration of the OHI disability based on Attention Deficit Disorder ("ADD"). This was done because of Student's reports of a prescription for Straterra for ADHD. However, the OHI disability report was not returned.

37. The January 31, 2005 ARDC discussed Student's performance in his classes. He had an \*\*\* average in English and his TAKS benchmarks range from the \*\*\* to \*\*\* percentile, or passing, in all subjects tested. Student sometimes hurried through his Chemistry assignments and did not always complete his Spanish assignments. Overall, Student did not always appear motivated, but he was usually as well behaved and as attentive as any of his classmates.

38. Parent attended the January 31, 2005 ARDC meeting and expressed a number of concerns about Student's existing program and the conclusions of the rest of the ARDC. He

expressed concern about Student's lack of attendance at ALL during the first semester and for test taking. He suggested to the ARDC that Student was academically successful only because of extensive work at home. He stated that he did not believe that Student could be successful without the ALL and could become depressed if he experienced academic failure in the future. Student's father refused to sign the ARD documents at the close of the meeting.

39. Because of Parent's refusal to sign the January 31, 2005 ARD deliberations, a ten day recess of the January 31, 2005 ARDC meeting was called, and the ARDC reconvened on February 11, 2005. Parent Was not in attendance at the meeting and stated by telephone that he had filed a complaint. The ARD meeting proceeded without Parent And the ARDC voted to dismiss Student from special education services.

40. On March 2, 2005 Student's doctor's office faxed an OHI Full and Individual Disability Report to GCISD's diagnostician. The report indicated that a physician had examined Student and diagnosed him with moderate ADD and reported that Student was taking Straterra for the impairment. On March 4, 2005 Parent was invited to a meeting to discuss the March 2, 2005 OHI report. The meeting was cancelled at Parent's request, however, so that he could review the school documentation.

41. While there was some tension between Parent and \*\*\*, principal at \*\*\* School, as demonstrated by awkward, impersonal greetings, Student's ARD meetings proceeded smoothly and without interruption, whether Parent attended them or not. When Parent attended Student's ARD meetings, he voiced his dissenting opinions, on occasion, and influenced changes in Student's IEP.

42. Student's early family life was troubled by a difficult relationship with his mother, the bitter divorce of his parents, and periods when he displayed angry, destructive behavior at home. For a number of years Parent has obtained professional counseling services for Student that have included brief psychological in-patient treatment and medication targeted at behavior and in attention.

43. Before February 18, 2005, student had not had a history of misbehavior and school code of conduct violations at any of the Grapevine-Colleyville ISD schools that he attended. On February 18, 2005, however, Student was found in possession of num-chucks, a club as defined by Section 46.01(1) of the Texas Penal Code, on \*\*\* School's campus. Following a disciplinary hearing on March 3, 2005, Student was expelled to the Tarrant County Juvenile Justice Alternative Educational Placement ("JJAEP") for a term of ninety (90) school days. Student was attending the JJAEP at the time of the hearing.

44. Parent is extensively involved in assisting Student in completing homework assignments on a daily or nearly daily basis. Student is reluctant or even resistant to completing

his homework unassisted. The chore of Student completing his homework is often disruptive to his family's life at home.

45. During the fall semester of the 2004 - 2005 school year, stopped attending the ALL because he felt he was understanding most of his classes and he did not think he still needed to go. During this same period, Student's teachers and Parent were regularly checking on his progress by sending his school planner between his home and the school.

46. Student's school planner communication system required him to hand the planner to a teacher at the end of each class period. The teacher would then write down if he did not turn in an assignment or did not write down all of his homework. Also, the teachers would write down whether he had tests, quizzes, or projects that were coming due. Student and his teachers consistently used the planner system and Student felt that the system assisted him in his academic successes.

47. According to grade reports, Student earned passing grades in all subjects from \*\*\* school to the present in GCISD. In \*\*\*school, Student has earned a total of \*\*\* credits, with semester averages in academic subjects ranging from \*\*\* in Algebra \*\*\* to \*\*\* in World History in the 2003-2004 school year. As to standardized testing, Student Met the standard in Reading, and Social Studies, but did not meet the standard in Mathematics in Spring, 2003 TAKS testing, and met all standards in Reading, but not in Mathematics in Spring 2004 TAKS testing. In Spring 2005, Student met the standard for English Language Arts, but no answer documents were submitted for testing on Social Studies, Science and Mathematics TAKS tests.

### III. Discussion

Generally:

The issues in this due process hearing are largely resolved by a thoughtful reading of the seminal Supreme Court decision of *Hendrik Hudson Central Sch. Dist. v. Rowley*, 458 US 176, 102 S. Ct. 3034 (1982) and understanding its limiting role on special education, generally. The “educational floor” of which the Court speaks is precisely that point that Student is specifically beyond, given his intellectual abilities and his academic achievement levels. Special education does not attempt to ameliorate a gap between a student’s theoretical potential and actual performance, when that level of actual performance exceeds the “educational floor” established by Congress and the *Rowley* decision. Regardless of the discrepancy between potential and performance, the absolute measure of whether a student is eligible for special education is whether a student can and does complete a general education curriculum with passing grades and no special education supports. The emotionalism, personal tragedy, and animus of this case aside, the record shows that Student is capable of performing above the “educational floor” without special education supports. Also, the record shows that the procedures used to make that determination were appropriate.

Petitioner raised nine issues in this case. As of the Petitioner’s Closing Argument timely filed on September 30, 2005, the Petitioner had apparently abandoned two of them (3 and 9). However, each issue will be discussed and assessed based on the preponderance of the evidence presented at the September 13, 2005 hearing:

***Issue 1: Petitioner alleges that the Respondent failed to identify and classify all of Student’s handicapping conditions.***

The record shows that Respondent appropriately identified all of Student’s handicapping conditions through timely evaluations; and was appropriately responsive to parent concerns about additional suspected disabilities. The February 10, 2002 and January 26, 2005 FIEs were appropriately performed and used standard, accepted testing instruments and techniques, and arrived at similar conclusions. Even when the multi-disciplinary teams that performed the evaluations were presented with parent concerns such as suspected ADHD or ADD or psychological problems, each FIE included additional subtests and screening evaluations to rule out the concerns. The FIE teams and the subsequent ARD committees that reviewed the FIEs

are only obligated to make a determination based on what is presented to the ARDC, not what is outside of the ARDC's available data.

Petitioner assails the Respondent for not identifying additional disabilities such as OHI (based on ADHD or ADD) but Parent Demonstrated ambivalence toward the evaluation which hampered such determinations. Parent requested a psychological evaluation and then abruptly revoked consent before it began. Apparently, that decision was based on Student's improved behavior at home. However, Student's behavior in *school* never warranted a psychological evaluation. Parent did advise Respondent that Student was taking Straterra for ADD, on more than one occasion. Merely taking a medication or even having a disorder does not equal an educational disability. Student's in-school attentiveness was average, as was his behavior. When Parent was given the opportunity to present an OHI disability report, he did not do so, timely. When he did present a completed report, he declined to attend an ARD meeting to consider it. To blame the Respondent for making a determination based on their available data is not logical.

***Issue 2: Respondent has not appropriately communicated with the student's parents about his progress.***

The record shows that there was ample communication between the school and Petitioner's parent, even if some of the information was acrimonious. Based on his testing results and performance, Student was never more than a marginally impaired special education student with a minimal IEP. The timely annual ARD meetings seemed to be all that was necessary, other than responding to intermittent and conflicting parent requests for additional referrals. The student planner system seemed to be in operation – important, since that was the chosen method of monitoring Student's educational progress. Even when the unwelcomed January 26, 2005 FIE results were shared with Parent, GCISD informally contacted Parent first, through a telephone call. If communication was limited, it does not appear to be through a fault in Respondent's personnel or procedures.

***Issue 3: Respondent inappropriately interfered with the regular Admission, Review, Dismissal ("ARD") process on January 31, 2005 and February 11, 2005, to the detriment of the student.***

Despite some conflicting reports centered on the demeanor of Principal \*\*\* in ARD meetings and/or the disinclination of Parent to shake his hand, there is no evidence that a single ARD meeting was interrupted or impeded. When the ARDC agreed the ARDs were completed. When the ARDC disagreed, the ARDs were completed. Disagreement is an anticipated outcome of the ARD process.

***Issue 4: Respondent failed to provide appropriate support services while the student was eligible for special services.***

There is no credible evidence that Student was ever denied a special education service for which his ARDC determined he was eligible. Presumably, Petitioner refers to Student's

attendance at the school's academic learning lab. All of Student's IEPs indicated that Student's use of the ALL was as needed. Apparently, he used the ALL when he felt the need and did not use it when he did not. The fact that he has had consistent academic success even with the use/disuse of the ALL means that the need was inconclusive. Perhaps, he might have had better grades and shorter homework sessions if he used the ALL on a daily basis. However, his attendance there was never compulsory and he, nevertheless, derived educational benefit.

**Issue 5:**        ***Respondent failed to include a licensed physician on the student's Multi-Disciplinary Team to review the data in connection with a determination of the student's eligibility based on other health impairment ("OHI").***

The multi-disciplinary team for the January 26, 2005 FIE did include a nurse and the team provided Parent with an OHI Disability Report to be completed by Student's doctor. Parent failed to provide the completed OHI report to the FIE team or the January 31, 2005 ARDC. Other than that, the January 31, 2005 ARDC contained the required participants specified in the law.

**Issue 6:**        ***Respondent failed to support its finding that the student's severe discrepancy of \*\*\* points in five skills areas was not indicative of a learning disability, even though Petitioner's parents reported to Respondent Petitioner's struggles performing the work at the same time that the Respondent was reducing services.***

Petitioner simply misunderstands the requirements of the IDEIA regarding educational disabilities. A significant discrepancy between a child's educational achievement and intellectual ability indicate the need for special education interventions only if they are *needed* for the child to have academic success. Academic success, generally speaking, means passing grades in a general education curriculum and placement. Therefore, if a student's achievement scores fall in an average range on a testing instrument and the student's actual grades are average to better than average, a discrepancy between that achievement score and IQ scores does not, indicate an educational disability; no matter how large. Of course, other factors such as behavior, socialization, physical access, go into the determination by an ARDC whether a student should receive special education services. Petitioner's reliance on the discrepancy alone, however, is misplaced.

**Issue 7:**        ***Respondent failed to pursue an "OHI" eligibility classification despite a finding of the Full and Individual Evaluation ("FIE") report that the student was taking medication for Attention Deficit Hyperactivity Disorder ("ADHD") and the condition had been certified by a physician and reported to the Respondent.***

Petitioner's assertion of this issue is particularly unpersuasive, given Parent's actions. By the time Parent finally provided Respondent with a physician's certification of Student's ADD, he declined to participate in the ARD process. Parent's and Student's reports of suspected ADD

or ADHD and Student's medication did prompt the ARDC to inquire whether Student's impairment seems to affect his educational progress, assuming he had the impairment. All formal and informal screening prior to March 2, 2005, when the OHI report was finally provided, answered this question in the negative. Not all students with ADHD or another impairment are OHI or otherwise eligible for special services. Student, apparently, was not.

**Issue 8:**         .         ***Respondent failed to provide a free appropriate public education ("FAPE") by discounting Petitioner's repeated claims that Student was struggling and required increasing amounts of at-home instruction to overcome the Respondent's lack of services.***

There was no indication that Respondent discounted Petitioner's claims that Student was struggling at home. First, for most of the period reviewed at the hearing, the information of extensive homework sessions was not consistently provided to Student's ARDCs. However, struggles with homework would not, alone, indicate that a special education student's program was deficient if the student was otherwise having academic success. Homework difficulties are a consistent problem shared by students in general and special education.

**Issue 9:**         ***Respondent deprived student and his parents meaningful participation in the ARD process by creating an environment of antagonism.***

The record, as a whole, does not support this allegation.

#### IV. Conclusions of Law

1. Petitioner Student is a student in Grapevine-Colleyville ISD ("GCISD") who has been found to be eligible for special education services based on his classification as a student with a learning disability . 20 U.S.C.A. § 1401(3); 34 C.F.R. § 300.7; 19 T.A.C. § 89.1040.
2. Respondent GCISD had a responsibility to provide 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. GCISD appropriately provided Student with a FAPE until the time that it determined that he was no longer was eligible for special education services.
4. GCISD appropriately performed an educational assessment on Student to determine if he continued to meet state and federal eligibility requirements for special education services.
5. GCISD appropriately concluded that Student no longer met state and federal eligibility requirements for special education services and appropriately dismissed him from special education services.

#### V. Order

After due consideration of the record, the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer ORDERS that the relief sought by Petitioner is DENIED.

SIGNED this 5<sup>th</sup> day of October, 2005.

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Stephen P. Webb  
Special Education Hearing Officer

DOCKET NO. 343-SE-0605

Student b/n/f Parent § BEFORE A SPECIAL EDUCATION  
V. § HEARING OFFICER FOR THE  
GRAPEVINE-COLLEYVILLE §  
INDEPENDENT SCHOOL DISTRICT § STATE OF TEXAS

**SYNOPSIS**

**Issue:** Did Grapevine-Colleyville ISD appropriately dismiss from special education a \*\*\*-year-old student with a superior IQ and a substantial discrepancy between intellectual ability and academic achievement?

**Federal Citation:** 20 U.S.C.A. §1414;34 CFR §§ 300.340-300.350, and §300.350; *Hendrik Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176 (1982); *Daniel R.R. v. State Board of Education*, 874 F.2d 1036 (5<sup>th</sup> Cir. - 1989).

**Texas Citation:** 19 T.A.C. §§ 89.1050, 89.1055; *Tatro v. State of Texas*, 625 F.2d 557 (5<sup>th</sup> - 1980).

**Held:** For the Respondent. The student's IQ scores and achievement scores showed substantial discrepancies in one area. However, the student's lowest score was in the average range and the student had average grades and standardized test scores with minimal to no special education services. The student was no longer eligible for special education.

**Issue:** Did Grapevine-Colleyville ISD appropriately identify and evaluate the student for all disabilities that affected his education?

**Federal Citation:** 20 U.S.C.A. § 1412, 1414; 34 C.F.R. §§ 300.125, 300.320, 300.345, 300.535

**Texas Citation:** 19 T.A.C. §§ 89.1050, 89.1055; *Tatro v. State of Texas*, 625 F.2d 557 (5<sup>th</sup> - 1980).

**Held:** For the Respondent. Grapevine-Colleyville ISD's multi-disciplinary team timely performed a full and individual evaluation on the student and determined that he did not have an educational disability.