

STUDENT	§	BEFORE A SPECIAL EDUCATION
	§	
V.	§	HEARING OFFICER FOR THE
	§	
TREETOPS INTERNATIONAL	§	
SCHOOL	§	STATE OF TEXAS

**DECISION OF THE HEARING OFFICER**

I. Statement of the Case

Petitioner Student brings this appeal by her next friends, Parents, pursuant to the Individuals with Disabilities Education Improvement Act 20 U.S.C. § 1400 *et seq.*, (hereinafter referred to as "IDEIA"), against Respondent Treetop International School (hereinafter referred to as "Respondent" or "Treetop"). Petitioner Student by next friends Parents (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 May 16, 2006. Carolyn Morris, Parent Advocate of Parent to Parent Connection Advocacy Inc. of Dallas, Texas also spoke on behalf of Petitioner. Respondent was represented by Attorney Robert Schulman of the law firm Feldman & Rogers, LLP of San Antonio, Texas. A telephone prehearing conference was held on June 5, 2006, at which time neither party waived the right to a final decision within seventy-five (75) 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 Friday, July 7, 2006, at Treetop International School in Euless, Texas. Respondent opted to file post-hearing brief on or before July 24, 2006. Petitioner chose not to file a post-hearing brief.

Petitioner alleges that Student is a \*\*-year-old Student at the \*\*\* School who receives special education placement, programs and services on the basis of meeting eligibility criteria as a Student who has speech impairments and is learning disabled ("LD"). Petitioner asserted that:

1. Respondent failed to allow Student the \*\*\* chances to pass the State Developed Alternative Assessment ("SDAA") that she failed during \*\*\*, 2005, when it was given to her. As a result, she was to be retained in the \*\*\* grade for the 2005-2006 school year, unfairly.
2. Respondent failed to implement Student's individualized education program ("IEP") that was in effect during the 2004-2005 school year. Student's IEP required Respondent to give Student's parents timely progress reports, particularly if Student was having difficulty in any classes. Student's teachers failed to timely inform her parents that she was, apparently, having difficulty mastering the requirements of her IEP. Respondent only informed Student's parents that she was making progress. As a direct result, Student failed to achieve progress

required to be promoted to the \*\*\* grade and Respondent informed Student's parents that she would be retained.

3. Student's teachers demoralized her by telling her demeaning things, in violation of her rights.

The following witnesses testified at the July 24, 2006 due process hearing:

For the Petitioner:

\*\*\* - School Director and School Counselor with Treetops. Ms. \*\*\* has a Masters in Education and Administration as well as a Master's in Counseling and a Bachelors of Science in Psychology. Ms. \*\*\* has been at Treetops for \*\*\* years.

Mrs. Parent - Student's (the petitioner's) mother.

\*\*\* - Speech language pathologist. Ms. \*\*\* provides speech and language therapy services at Treetops. She has been under contract with the school since \*\*\*. Ms. \*\*\* has been a speech pathologist for \*\*\* years and holds a certificate from the American Speech & Language Association. Ms. \*\*\* is licensed in the State of Texas.

\*\*\* - Educational diagnostician at Treetops. Ms. \*\*\* has \*\*\* years of teaching in special education and \*\*\* years as educational diagnostician. She holds a Bachelor of Science in Business Education and a Masters in Special Education. She is certified by the state of Texas as an educational diagnostician.

For the Respondent:

\*\*\* - registrar and administrative assistant at Treetops. Ms. \*\*\* is in her sixth year at Treetops. Ms. \*\*\* has five years of being PEIMS coordinator, registrar and parent.

\*\*\* - Recalled by the Respondent

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 female Student who resides within the Dallas Independent School District, but has attended both Treetop International School and \*\*\* School.

2. Student attended Treetops for all of the 2004-2005 school year. She was in the \*\*\* grade while at Treetops. Following the 2004-2005 school year she was withdrawn from Treetops and placed in the \*\*\* School, which she attended during the 2005-2006 school year.

3. Treetop International School (“Treetops”) is a charter school located in the State of Texas and responsible for providing Student a free appropriate public education in accordance with the Individuals with Disabilities Education Improvement Act (“IDEIA”), 20 U.S.C.A. § 1400, *et seq.*, and the rules and regulations that implement IDEIA.

4. Student is eligible for special education placement, programs and services as a Student who has speech impairments and is learning disabled (“LD”).

5. Parent testified that Student was diagnosed with PPCD, which affects the Student’s speech, and the Student’s expressive and receptive language abilities are impacted. Student has received additional speech therapy services from a private facility called \*\*\*.

6. An Admission, Review, Dismissal (“ARD”) meeting was held on Student’s behalf. The purpose of the ARD meeting was to develop Student’s individual education program (“IEP”) for the 2004-2005 school year. The meeting was convened, in part, to consider the Full and Individual Evaluation (“FIE”) report regarding Student that was completed on December 1, 2004. Student was in the \*\*\* grade at the time of the meeting.

7. The ARD Committee (“ARDC”) of December 1, 2004 reviewed Student’s FIE which was requested by the ARD of September 29, 2004 when she transferred to Treetops. Student’s performance on the standardized intelligence tests indicated that Student was above the mentally retarded range. The FIE revealed a severe discrepancy in Student’s achievement in oral expression, but did not reveal a severe discrepancy in other skill areas. Classroom observation of Student’s behavior in the subject area of Reading revealed that she does not attend to task or follows written directions, but did follow oral directions, participate in class discussion and interact with peers, when appropriate. Student reportedly needed help in staying on task and not talking about irrelevant matters, she often required significant help to complete a task. She learned rote tasks (except math skills) well but abstract thinking and concepts often escaped her. Her behavior was good, and she wanted to please and was easily corrected. The educational team found that the severe discrepancy between ability and achievement in Oral Expression caused by Student’s learning disability existed to a degree that was not correctable without special education and related services. The team determined that the severe discrepancy between ability and achievement was not the result of a visual, hearing or motor impairment; mental retardation; emotional disturbance; or environmental, cultural or economic disadvantage. Student appeared to meet the disability criteria for a specific learning disability.

8. The December 1, 2004 FIE referred Student to special education/suspected disabilities based on Student’s difficulties comprehending \*\*\* grade concepts. A speech

assessment was made for Student on October 5, 2004 and December 1, 2004 based on clinical evaluation of language functioning. Student's was found to be below average in English receptive and expressive skills. She could understand language more in her own personal work, at a concrete level of learning, but had difficulty learning and retaining experiences not her own and difficulty with concepts and abstractions (reasoning skills). Student is reportedly very verbal and social, but is not always able to use appropriate conversation language skills.

9. The December 1, 2004 FIE reported that Student had appropriate motor abilities and full vision and hearing functioning. Student's parent reported slower development than other children, and also problems during pregnancy/birth which weren't specified. The FIE found that Student did not have any physical conditions which affected her ability to benefit from the educational process.

10. The December 1, 2004 FIE reported that Student lived with her natural parents, both of whom work outside the home. Student has two siblings at home, a \*\*\* year old brother and \*\*\* year old sister. The FIE found that no cultural or lifestyle factors influenced Student's leaning and behavioral patterns. Her sociological status did not indicate a lack of previous education opportunities in reading and/or math. Student's parent reports that she is very social and sometimes this gets her in trouble in school. However, she took correction well and behaved very well. The FIE found that Student was capable of following the Student code of conduct and that her behavior did not interfere with learning.

11. The December 1, 2004 FIE assessed Student's intellectual functioning using formal measures on October 27, 2004, and found that Student had a full scale IQ of \*\*\*. Her verbal comprehension was at \*\*\*, perceptual reasoning \*\*\*, working memory \*\*\* and processing speed \*\*\*. Student's level of intellectual function was found to be consistent with her adaptive behavior. Student's academic performance, also evaluated on October 27, 2004, found that Student's Reading was a \*\*\*, Math \*\*\*, Written Language \*\*\* and Oral Language \*\*\*.

12. The December 1, 2004 FIE reported that Student did not need assistive technology, given that her learning problems appear to be in the realm of abstraction and conceptualization. She was functioning as an over achiever except in Math. The FIE reported that Student appeared to meet eligibility for Special Education services. Student was found to require instruction modification in Reading, Math and English/Language Arts. The FIE recommended that Student may have needed to learn \*\*\* or \*\*\* grade Texas Essential Knowledge and Skills ("TEKS") in language arts and math in order to make progress. The FIE found that Student may have required content modifications in reading, math and English/Language Arts, and recommended that TEKS content might have needed to be lower level than \*\*\* for Student to be successful.

13. The December 1, 2004 FIE reported that Student had a communication disorder, and that the communication disorder appeared to adversely affect her educational performance,

reflecting a need for special education and related services. The FIE diagnosticians found that Student had severe receptive and expressive language impairment. It was reported that Student experienced difficulty with receptive/expressive language skills and pragmatic language skills. Her auditory perceptual skills were found to be weak as well. Student's voice, fluency and oral mechanism were all within normal limits.

14. The ARDC of December 1, 2004 determined Student's levels of educational performance and needs using the FIE dated December 1, 2004, and using Student's disability/eligibility reports which established that Student was LD in Oral Expression and had a speech impediment (SI). The Committee determined that no additional evaluation data was needed.

15. The ARDC of December 1, 2004 reviewed the following evaluation data to determine Student's disability and educational needs: achievement tests from the October 27, 2004 FIE; parent input from the October 5, 2004 report; teacher recommendations from the September 29, 2004 ARD; physical condition reported October 5, 2004 by the parent; social or cultural background; and adaptive behavior from the October 27, 2004 FIE. The ARDC determined that Student had a learning disability and had need for special education. The determinant factor for special education eligibility was not a lack of instruction in reading or math or limited English Proficiency, and she did otherwise meet eligibility.

16. The ARDC of December 1, 2004 found that Student's disability affected involvement in general curriculum as follows: she required instructional modifications in Reading, Math, Language, Science and Social Studies; she required content modifications in reading math and language. The ARDC found that Student did not require a specialized curriculum other than TEKS. Student's need for speech therapy was found to affect access or involvement and progress in the general curriculum.

17. The ARDC of December 1, 2004 established that Student's strengths were a great attitude, excellent word reading and spelling. Student's behavior was not found to impede her learning or that of others. The ARDC found that the Student was not blind/visually impaired or autistic, and determined that she had no need for assistive technology out side of supplementary services and speech therapy. The ARDC found that a review of the progress on the previous year's annual goals was not applicable.

18. The ARDC of December 1, 2004 found that Treetops was not Student's home campus, but that the parent had chosen the charter school. The ARDC minutes indicated that \*\*\*, diagnostician, \*\*\*, Special Education teacher, \*\*\*, Speech therapist, \*\*\*, administrator and \*\*\*, teacher were present at the ARD meeting. The minutes also reflected that Ms. \*\*\* gave a report of the testing for learning disabilities. The ARDC determined that Student would be served by special modifications and an IEP as a child with a Learning Disability. Student would also continue with speech therapy as a Student with a speech impairment. Student's progress was reported by her classroom teacher, who said that Student was on a \*\*\* grade level for math

word problems and on a \*\*\* grade level for reading but not comprehension, and that writing was difficult for her. Ms. \*\*\* also reported on Student's progress. IEP drafts were presented and accepted by the committee. The minutes reflect that the committee determined that Student's learning disability is severe and Texas Assessment of Knowledge and Skills ("TAKS") would be modified or she would take the SDAA/Locally Developed Alternative Assessment ("LDAA").

19. The PEIMS form, reviewed by the ARDC of December 1, 2004, established that Student would not take the TAKS Reading or Math tests for the \*\*\* grade. Instead, Student would take a teacher developed LDAA.

20. Student's instructional modifications and supports, determined by the December 1, 2004 ARDC indicated that Student should receive specialized instructional methods through speech therapy and special education. The ARDC determined that the following modifications were needed: reduced assignments, extra time for completing classwork assignments, emphasis on major points, specialized curriculum, math problem-solving read orally, short instructions, opportunity to repeat and explain instructions, extra time for responses, no/reduced penalty for spelling/grammar errors, an assignment notebook, visual aids, consideration of effort/participation as part of grade, oral exams, frequent and immediate feedback, encouragement for classroom participation, peer tutor/ paired working arrangement, teacher check for understanding and directions given in a variety of ways/ simplified vocabulary.

21. The December 1, 2004 ARDC determined that Student would not take the Reading Proficiency Test and would not take the \*\*\* grade reading, or math TAAS or TAKS tests. The ARDC determined that Student would take a Brigance or teacher developed LDAA, with the rationale that the Student was receiving TEKS instruction below grade level.

22. The December 1, 2004 ARDC determined that Student was in the Least Restrictive Environment and should receive part or all instruction in a special education setting. The ARDC cited as a reason for rejecting the option of putting Student in a general education environment that TEKS objectives for her assigned grade level exceed her present level of education performance as noted though criterion-referenced assessment on the IEP, therefore, Student required small group/individual instruction based on present competencies which were significantly below current grade placement, for speech therapy only. All of Student's classes were in regular education with modifications and IEP goals, and tutoring as determined by the ARDC. Student was to receive speech therapy only as a pull-out.

23. The December 1, 2004 ARDC determined that Student should receive the following schedule of services for the 2004-2005 school year, and the fall semester of the 2005-2006 school year, to be administered in general education, with the exception of speech therapy: \*\*\* of time spent in Reading, Language Arts, Math, Science, Social Studies, and perceptual motor/fine arts. Student was to receive \*\*\* min/week of speech therapy. The ARDC determined that an Extended School Year ("ESY") was not needed.

24. The ARDC of December 1, 2004 reviewed Student's progress report from the speech language pathologist for December 1, 2004 to December 1, 2005, which stated that "Student's attention skills have improved. She is able to attend to tasks with infrequent redirection during a \*\*\* minute therapy session. Her strength in receptive language skills was word classes, the ability to associate words by relationship. She experienced difficulty with auditory memory and processing skills, expressive language, and pragmatic (social) language skills." Student's measurable annual goal was to improve receptive/expressive language/communication skills by mastering 3 of 4 following goals, evaluated by observation and standardized tests every 9 weeks.

Short-term objectives	level of mastery	Evaluation on 1/10/05	Evaluation on 3/21/05	Evaluation on 5/18/05
improve auditory retention/recall: repeat a series of 4 words; repeat a 6-8 word sentence	80%	*** Progress	*** Progress	*** Progress
improve comprehension/auditory processing; recall details in sentence level information	80%	*** Progress	*** Progress	*** Progress
improve expressive communication skills: describe an object/word by function/association	80%	*** Progress	*** Progress	*** Progress
Improve pragmatic skills: appropriately maintain a conversation topic (responding to questions, asking questions, acknowledging the speaker, making comments)	80%	*** Progress	*** Progress	*** Progress

In the second reporting period (1/10/05), Student was reported having worked hard during speech therapy sessions. She had made progress in all areas with the exception of goal \*\*\*. Student was to continue to work on all goals. In the \*\*\* reporting period (3/21/05) it was noted that Student continued to work hard during therapy sessions. She had made some progress on all goals. In the \*\*\* reporting period (5/18/05) it was reported that Student worked hard in speech sessions. She had made minimal progress on all goals. She had difficulty retaining the information for one class to the next.

25. The ARDC of December 1, 2004 reviewed Student's progress report, which stated her annual goal to be to demonstrate mastery of the TEKS in the content areas of English/Language Arts and Mathematics. The report indicated that Student achieved a level of

mastery of \*\*\*, evaluated by observation and work samples on the following short term objectives: participate in the general education setting; move between class settings in a timely manner and established check-in procedures independently; arrive to instructional setting with appropriate texts; complete class assignments on a timely basis; improve accuracy and quality of completed assignments. Student reached a mastery level of \*\*\* on the short term objective to increase comprehension of subject area. All short term objectives were measured every 3 weeks.

26. The ARDC of December 1, 2004 reviewed Student's progress report for Language arts, which Student was attending in general education. Student's annual goal was to master \*\*\* grade TEKS at 70% mastery. The Student achieved a \*\*\* level of mastery, evaluated by teacher made tests, observations and work samples, on the short term objectives of comprehension, spelling, reading and listening.

27. The ARDC of December 1, 2004 reviewed Student's progress report for Science, which Student was attending in general education. Student's annual goal was to master \*\*\* grade TEKS at 70% mastery. The Student achieved a \*\*\* level of mastery, evaluated by teacher made tests, observations and work samples, on the short term objectives of: conducting a simple descriptive investigation; using a measuring tool to collect information; and reporting the finding orally.

28. The ARDC of December 1, 2004 reviewed Student's progress report for Mathematics, which Student was attending in general education. Student's annual goal was to master \*\*\* grade TEKS math skills at 70% mastery. The Student achieved a \*\*\* level of mastery, evaluated by teacher made tests, observations and work samples, on the short term objectives of word problems, graphing and place value.

29. Student's December 1, 2004 IEP did not specifically include a directive for Student's teachers to provide regular written reports of Student's academic progress to Student's parents.

30. All members of the December 1, 2004 ARD committee, including the parent, agreed to required elements of the IEP. Student's father indicated that he had been fully informed and understood the ARDC determination of eligibility for special education, and gave permission for the initial provision of special education and related services to Student, and understood that his consent was voluntary and could be revoked at any time.

31. Student earned the following year end grades in the subjects indicated, for the 2004-2005 school year:

Language Arts -	***
Math -	***
Perceptual Motor-	***
Reading -	***
Science -	***

Social Studies - \*\*\*

Student made some educational progress during the 2004-2005 school year at Treetops.

32. An ARD Meeting was convened at Treetops School International on May 16, 2005 on behalf of Student. Student was in the \*\*\* grade at the time of the ARDC meeting.

33. The ARD of May 16, 2005 determined that Student's present level of educational performance and Student's IEP were the same as the ARD of December 1, 2004. The previous IEP remained in effect and services to be provided were the same as in the ARD of December 1, 2004.

34. The ARD of May 16, 2005 determined that there would be no changes from the December 1, 2004 ARD in Student's testing requirements.

35. The May 16, 2005 ARDC's minutes revealed that Parent was called at home and attended the ARD by conference phone call. Student's teacher reported on the LDAA administered on April 27, 2005, when the Texas Primary Reading Inventory ("TPRI") was given. Student was reportedly making some progress but was not at the \*\*\* level. The committee discussed Student repeating \*\*\* grade. It appeared she needed more time to master her goals. The committee recommended Student repeat the \*\*\* grade, she had not mastered her current goals at 70%. Modifications and IEP goals were reviewed and deemed appropriate; these would continue as written in the ARD of December 1, 2004. Student's mother, Parent, in attendance by conference call, did not agree with the committee, but the District Representative, General Education Teacher and Special Education teacher agreed. There was no mutual agreement to all the required elements of the IEP.

36. The May 16, 2005 ARD meeting ended in disagreement. Parent stated that she opposed Student's retention in the \*\*\* grade. Parent's disagreement with the decision of the remainder of the ARDC was confirmed by telephone following the meeting. No further effort was made by Treetops to recess the meeting or reconvene the same or another meeting.

37. Student's parents had no communication with any employee of Treetops between the May 16, 2005 ARD meeting and a telephone conversation between Parent and \*\*\* that occurred on August 10, 2005. During that conversation, Parent informed Ms. \*\*\* that Student would not be returning to Treetops and would be attending the \*\*\* School, in Fort Worth, Texas. The \*\*\* School is a private school.

38. The first time Student's parents notified Treetops that they wanted reimbursement for Student's placement in the \*\*\* School was when the request was included in their May 16, 2005 due process request.

39. Parent testified that Student had bad things said about her that Student heard. However, there were not reports of such comments after May 16, 2005.

40. There was little academic instruction for any Treetops Student from May 16, 2005 until the end of the 2004-2005 school year.

41. The May 16, 2005 ARDC decision to retain Student in the \*\*\* grade was not based on her failures to pass the LDAA developed for her. While Student did fail the LDAA twice, the decision was primarily based on Student's failure to achieve mastery of academic goals that had been established for grade levels that were already below Student's \*\*\* grade placement during the 2004-2005 school year.

### III. Discussion

Most of the issues that Student's next friend wanted to address by this due process hearing were either foreclosed by the applicable Statute of Limitation properly applied to these facts; or the limitation of issues imposed by the petitioner's due process request. Student attended Treetops for the entire 2004-2005 school year. That school year ended on May 25, 2005. Any violations associated with an allegation that Treetops failed to *implement* Student's existing IEP — whether the claim related to negligence in the provision of progress reports or otherwise — would have occurred throughout the school year. If Student's parents wished to challenge how Treetops implemented Student's program for the 2004-2005 school year, they should have filed their request for a due process hearing soon after the end of the 2004-2005 school year, so that most of the events that would have been covered within the hearing would have occurred within the one year Statute of Limitations period that is imposed on alleged violations of IDEIA for Texas Students. Instead, Student's parent waited until May 16, 2006, almost a complete school year later, to file this claim. By law, the only portion of the school year that *could be* considered in this case concerning an alleged failure to implement Student's program was the last week of the 2004-2005 school year.

Similarly, Student's parents limited the inquiry by their May 16, 2006 request so that issues that could have been explored were not. For example, the record raises the issues of the appropriateness of Student's existing IEP; the speed to which it was (or was not) amended; the ARD procedures used by Treetops; and even the issue of appropriate assessment. None of these questions were before me, however. I could consider only allegations of failed IEP implementation, demeaning statements and failure to allow Student another chance to pass the SDAA in connection with her retention.

The record does not support Petitioner's allegations. There is little or no evidence that Treetops failed to implement Student's existing IEP the last week of the 2004-2005 school year. There is certainly no evidence that Treetops failed to send home progress reports after May 16, 2005, or that such reports would have been appropriate or desired by Student's parents. There is no evidence that Student was subjected to demeaning statements on or after May 16, 2005, even if such statements could have been related to a legitimate IDEIA violation. Finally, the record shows that Student was to take an LDAA, not a SDAA. Technically, then, the record completely

fails to support that allegation. More importantly, the asserted failure was the alleged reason for Student's retention in the \*\*\* grade. However the record does not support this conclusion. Student's program was thoroughly and thoughtfully developed on December 1, 2004. Many of her goals and objectives were set at a \*\*\* or even \*\*\* grade level, even though she was in the \*\*\* grade at the time. While Student clearly made some educational progress for 2004-2005, it makes logical sense to retain a Student until she masters existing goals, rather than promote the Student to the \*\*\* grade and expand the disparity between grade level and academic goals and objectives. Perhaps modification of the program on or before May 16, 2005 was appropriate. That is not a question before me. However, the record supports Treetops' witness testimony that failure of Student to pass the LDAA was not the reason for the May 16, 2005 ARDC recommendation to retain her.

Respondent submitted a post hearing closing argument that included and liberally cited documents that were not admitted into the evidence of this case. It is not clear that the hearing officer *could have* taken official notice of some of the documents included with the closing argument, such as Technical Digests or TEA Reference Manuals, even if official notice had been requested during the hearing. The parties are advised that my decision was not based on items that were not admitted into the record during the July 7, 2006 due process hearing.

#### IV. Conclusions of Law

1. Petitioner Student was a Student at Treetops International School and is eligible for special education services based on her classification as a Student who has speech impairments and is learning disabled ("LD"). 20 U.S.C.A. § 1401(3); 34 C.F.R. § 300.7; 19 T.A.C. § 89.1040.
2. Respondent Treetops International School has 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. Due process hearings heard in Texas are limited to allegations of violations of IDEIA that occurred within one year of the date that the parent knew or should have know about the alleged action that forms the basis for the complaint. (20 U.S.C.A. §1415(f); 19 T.A.C. §89.1151(c).
4. Petitioner failed to demonstrate that Responded failed to implement Petitioner's individualized education program appropriately or otherwise provide her with a free appropriate public education.

#### 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 28<sup>th</sup> day of July, 2006.

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Stephen P. Webb  
Special Education Hearing Officer

DOCKET NO. 214-SE-0506

STUDENT § BEFORE A SPECIAL EDUCATION  
V. § HEARING OFFICER FOR THE  
TREETOPS INTERNATIONAL §  
SCHOOL § STATE OF TEXAS

**SYNOPSIS**

**Issue:** Whether Treetops International School, a charter school within the Dallas Independent School District territory, failed to appropriately implement the IEP of a \*\*\* year old Student who is learning disabled. The Student was withdrawn from Treetops following the end of the 2004-2005 school year and the request for due process hearing was filed on May 16, 2006.

**Federal Citation:** 20 U.S.C.A. §1400 *et seq*, 20 U.S.C.A. §1415

**Texas Citation:** 19 T.A.C. §§ 89.1050, 89.1055, and 89.1151 (c)

**Held:** For the Respondent, the applicable one year statute of limitation prevented consideration of virtually all of Petitioner's claims. Petitioner failed to show that the Student did not have her IEP appropriately implemented or did not receive a FAPE.