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# DOCKET NO. 240-SE-0606

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B/N/F\*\*\*&\*\*\*

PETITIONER

vs.

EL PASO INDEPENDENT

SCHOOL DISTRICT

RESPONDENT

BEFORE A SPECIAL EDUCATION

HEARING OFFICER

FOR THE STATE OF TEXAS

## DECISION OF THE HEARING OFFICER

### Statement of the Case

Petitioner, \*\*\* (hereafter “student”), by his next friend, \*\*\* (hereafter “parent”), brought this action against El Paso Independent School District (hereafter “El Paso ISD”) pursuant to the Individuals with Disabilities Education Improvement Act (hereafter IDEIA), 20 U.S.C. §1400 et seq. The issues raised by Petitioner involve the student’s proposed educational placement in a \*\*\* classroom as opposed to placement in a \*\*\* classroom; the failure of El Paso ISD to provide the amount of speech therapy services to the student specified in his IEP; the failure of El Paso ISD to identify and evaluate the student’s Attention Deficit Hyperactivity Disorder; and the failure of El Paso ISD to provide the student with special transportation services during the 2006-2007 school year.

### Procedural History

Petitioner filed this request for a due process hearing on June 7, 2006. This case was originally assigned to the Honorable James N. Hollis and scheduled for hearing on July 13, 2006. The case was reassigned to the undersigned hearing officer and at the request of the parties, the due process hearing was continued to August 23, 2006. The parties also agreed to extend the decision due date to September 30, 2006. Petitioner was represented by his legal counsel, Mr. Mark Berry. El Paso ISD was represented by its legal counsel, Mr. Steven L Hughes. Based upon the evidence presented and admitted into the record of this proceeding, I make the following findings of fact and conclusions of law<sup>1</sup>:

<sup>1</sup>Findings of fact and conclusions of law are also contained in the Discussion section of this decision.

## **Findings of Fact**

1. The student is \*\*\* years-old and resides with his parents within the jurisdictional boundaries of El Paso ISD.
2. El Paso ISD is a political subdivision of the State of Texas and a duly incorporated independent school district.
3. The student has been receiving special education services from El Paso ISD in its \*\*\* program for children with disabilities (“PPCD”) since the age of \*\*\*. The student was referred for special education services due to both instructional and behavioral concerns. His \*\*\* teacher was concerned that he was making poor progress in acquiring basic reading skills, basic math skills and in producing written work. Behaviorally, he displayed poor attention and concentration, was noncompliant with teacher directives, had excessively high/low activity level, had difficulty following directions, was easily frustrated, had extreme mood swings, and had difficulty working with peers and staying on task. [Petitioner’s Exhibit #9].
4. A full individual evaluation of the student was completed by El Paso ISD which confirmed his eligibility for special education services as a student with speech impairments. He was found to possess normal intelligence, but have severe receptive and expressive language delay. Although \*\*\* years of age at the time of the evaluation, the student’s auditory comprehension was that of a child of \*\*\* year and \*\*\* months of age. [Petitioner’s Exhibit #9]. He could name over 20 familiar objects, understood the meaning of “no”; gestured appropriately to indicate “yes”, “no”, and “I want”; had an expressive vocabulary of at least 100 words; was able to deliver a simple message; could repeat parts of nursery rhymes and could tell you his first name. [Petitioner’s Exhibit #9].
5. An assessment to determine if the student met the DSM-IV criteria as a child with Autism or Pervasive Developmental Disorder was also completed by El Paso ISD.

- The results indicated that the student did not meet the criteria for a diagnosis of Autism or Pervasive Developmental Disorder. [P. Exh. #10].
6. An ARD Committee was convened on February 13, 2004 to determine the student's need for special education services. The ARD Committee found that the student qualified for special education services under the disability category of speech impairment. The ARD Committee developed an individualized educational plan for the student that included placement in a half day PPCD program and the provision of speech therapy services for sixty minutes per week for 32 of the 36 weeks of the school year. [Petitioner's Exhibit #8].
  7. On February 4, 2004, the student's parents obtained an "other health impairment" evaluation from the student's physician confirming that the student had moderate to severe Attention Deficit Hyperactivity Disorder, along with a Sensory Integration Disorder and Mixed Receptive and Expressive Disorder. The physician recommended occupational therapy for sensory integration issues and speech therapy to address his language disorder. The physician did not recommend any treatment using medication at that time. [Petitioner's Exhibit #19]. A copy of this evaluation was provided to the February 13, 2004 ARD Committee, but it was not reviewed by the Committee. [Hearing Transcript, pages 278-279].
  8. An Occupational Therapy evaluation of the student completed by El Paso ISD on March 1, 2004, did not recommend occupational therapy. [Petitioner's Exhibit #11].
  9. On August 5, 2004, an ARD Committee convened to develop the student's program for the 2004-2005 school year. The ARD Committee continued the student's educational placement in its half-day PPCD program, but added a half-day \*\*\* program. The ARD Committee also continued the provision of speech therapy services for sixty minutes per week for 32 of the 36 weeks of the school year. [Petitioner's Exhibit #5].
  10. On October 1, 2004, an ARD Committee convened to address concerns of the teacher regarding the student's inattention, sleeping in class, his failure to complete classwork or participate in class and his rocking and draping himself over his chair. At this meeting, the parents reported to the ARD Committee that the student had ADHD and that they would revisit the medication issue. [Petitioner's Exhibit #4].
  11. On March 3, 2005, an annual ARD Committee meeting was held regarding the student. The ARD Committee found that the student continued to qualify for special education services under the eligibility criteria of speech impairment. The ARD Committee continued the student's half-day programs in PPCD and \*\*\* for the remainder of the 2004-2005 school year and then transitioned the student into its PPCD program for the entire school day beginning in the fall semester of 2005. Additionally, the ARD Committee continued to authorize 60 minutes of speech therapy per week for 32 of the 36 weeks of the school year and provided for bus transportation for the student to and from school. [Petitioner's Exhibit #3].
  12. On December 9, 2005, an ARD Committee convened and determined that the student would continue in the PPCD program for the remainder of the fall semester of 2005 and beginning in January 2006, authorized a change in

- placement to a half day PPCD and a half day in \*\*\*. The ARD Committee also determined that for the 2006-2007 school year, the student would be placed in regular education with speech therapy services. The ARD Committee also continued speech therapy services of 60 minutes per week for 32 of the 36 weeks of school. [Petitioner's Exhibit #2].
13. On March 28, 2006, an ARD Committee convened and determined that the student's placement for the 2006-2007 school year would be in a regular education \*\*\* class. The student's parents desired that the student be placed in a regular education \*\*\* grade class with special education support services so that he could be with his age-appropriate peers, but believing they had no choice in the matter, reluctantly agreed to this placement.
  14. The March 28, 2006 ARD Committee declined to provide special transportation services for the student for the 2006-2007 school year because the student was only coded speech impaired and was going to be placed in a full day regular education \*\*\* program. [Petitioner's Exhibit #1].
  15. Prior thereto, the ARD Committee had provided the student with special transportation services recognizing that he needed a group monitor because of his inability to communicate effectively which could result in a hazard to his safety. [Petitioner's Exhibit #1].
  16. Since placement in special education, the student failed to receive the amount of speech therapy services specified in his IEP. From February 13, 2004 through the end of the 2003-2004 school year no speech therapy services were provided to the student by El Paso ISD. During that time period, a reasonable expectation is that speech services should have been provided to the student for 60 minutes per week for 12 weeks, totaling 720 minutes. [Petitioner's Exhibit #14].
  17. During the fall semester of 2004, the student should have received speech therapy services for 60 minutes per week for 16 weeks or a total of 960 minutes. Instead, the student was only provided with 450 minutes, a deficit of 510 minutes of services. [Petitioner's Exhibit #12].
  18. During the spring semester of 2005, the student should have received speech therapy services for 60 minutes per week for 16 weeks or a total of 960 minutes. Instead, the student was only provided with 600 minutes, a deficit of 360 minutes of services. [Petitioner's Exhibit #13].
  19. During the fall semester of 2005, the student should have received speech therapy services for 60 minutes per week for 16 weeks or a total of 960 minutes. Instead, the student was only provided with 630 minutes, a deficit of 330 minutes of services. [Petitioner's Exhibit #12].
  20. During the spring semester of 2006, the student should have received speech therapy services for 60 minutes per week for 16 weeks or a total of 960 minutes. Instead, the student was only provided with 600 minutes, a deficit of 360 minutes of services. [Petitioner's Exhibit #12].
  21. Prior to June 7, 2006, the student's parents were unaware and had not been notified by El Paso ISD that the student had not received the speech therapy services specified in his IEP. On the contrary, they had been informed by his speech therapist that he had been receiving his speech therapy services. It was not until approximately June 7, 2006, that the parents learned that the student had not

- received the speech therapy services specified in his IEPs. [Hearing Transcript, page 289].
22. This is a \*\*\* year-old student with moderate to severe communication deficits. His most critical educational need is to improve both his receptive and expressive language skills. It was paramount that this student receive the recommended amount of speech services each week if he was to progress towards mastery of his annual speech goals and objectives. [Hearing Transcript, pages 72-73].
  23. As of March, 2005, the student had not mastered any of his speech therapy goals and had only mastered \*\*\* of the eleven objectives. [Petitioner's Exhibit #3, page 14].
  24. For the period from March 3, 2005 through December 9, 2005, the student mastered only \*\*\* of his four speech therapy goals and \*\*\* of the six objectives of his remaining two goals. No further evidence of his performance towards mastery of his speech therapy goals and objectives are contained in the record. [Hearing Transcript, page 94].
  25. On June 7, 2006, the parents filed this request for a due process hearing against El Paso ISD.
  26. In recognition that it had not provided the student with the requisite amount of speech therapy services, El Paso ISD personnel contacted the parents and offered compensatory speech therapy services to the student during the summer. The student attended the compensatory speech therapy sessions from June 15, 2006 through June 26, 2006 and received a total of 250 minutes of services. [Respondent's Exhibit #1 and 2].
  27. The compensatory speech therapy services offered by El Paso ISD would have continued during the summer of 2006 except that the speech therapist received an e-mail on June 28th from school staff to terminate services at the request of the parent's attorney. [Hearing Transcript, page 329].
  28. No ARD Committee authorized the provision of compensatory speech therapy services to the student during the summer or designated the particular goals and objectives to be addressed. The goals and objectives utilized were those developed at the March 28, 2006 ARD Committee meeting. [Hearing Transcript, page 331].

## **Discussion**

### **Speech Therapy Services**

El Paso ISD acknowledges it failed to provide the student with the amount of speech therapy services recommended by the various ARD Committees.

However, the District argues that it provided the student with a majority of the services recommended, that the student made educational progress and that Petitioner failed to establish any substantive denial of a free appropriate public

education. Additionally, El Paso ISD raises the affirmative defense of the one year statute of limitations pursuant to 19 Tex. Admin. Code §89.1151(c). The applicable one-year statute of limitations provides, “. . . a parent or public education agency must request a due process hearing within one year of the date the complainant knew or should have known about the alleged action that serves as the basis for the hearing request.” 19 Tex. Admin. Code §89.1151(c). I find, based on the evidence presented, that the one year statute of limitations relating to the failure of El Paso ISD to provide the requisite speech therapy services to the student did not begin to run until on or about June 7, 2006, when the student’s parents first learned of this deficit in services. Prior thereto, the student’s parents had been informed by the speech therapist that he was receiving his speech therapy services. Accordingly, Petitioner’s claim for relief regarding the failure to provide speech therapy services is timely filed and the relief requested is not limited to one year prior to the date the due process hearing complaint was filed.

El Paso ISD alleges that the student made educational progress as evidenced by his mastery of various speech goals and objectives and the consistent modifications of his IEP to more advanced speech goals and objectives. Consequently, El Paso ISD contends that despite the deficit in speech therapy services, the student made educational progress and received a free appropriate public education.

The evidence does not confirm El Paso ISD’s allegation that the student made meaningful educational progress and received a free appropriate public education despite its failure to provide the speech therapy services specified in his IEP. This is a \*\*\* year-old student with moderate to severe communication deficits. His most critical educational need is to improve both his receptive and expressive language skills. [Hearing Transcript, pages 72-73]. It was paramount that this student receive the recommended amount of speech services each week if he was to progress towards mastery of his annual speech goals and objectives. Presumably, the ARD Committees, in applying applicable law,

developed and designed four speech therapy goals and eleven objectives that the student reasonable was expect to master within one year. 34 C.F.R. §300.347. At the end of the first year, the student had not mastered \*\*\* the goals and had only mastered \*\*\* of the eleven objectives. [Petitioner's Exhibit #3, page 14]. During that year, he received no speech therapy services from February 13, 2004, through May, 2004, and suffered a deficit of 510 minutes of speech therapy services during the fall semester of 2004. Consequently, his lack of achievement toward mastery of his speech therapy goals and objectives is understandable and directly attributable to the failure of El Paso ISD to provide the requisite amount of speech therapy services to the student.

For the period from March 3, 2005 through December 9, 2005, the student mastered only \*\*\* of his four speech therapy goals and one of the \*\*\* objectives of his remaining two goals. No further evidence of his performance towards mastery of his speech therapy goals and objectives are contained in the record. [Hearing Transcript, page 94]. The student failed to receive a total of 1050 minutes of speech therapy services from January 2005, through May, 2006. This failure to provide the speech therapy services contemplated and authorized by the ARD constituted a significant deprivation of needed educational services, and a denial of a free appropriate public education.

In mitigation, El Paso ISD set up a program during the summer of 2006 for the provision of compensatory speech therapy services for the student. Under this program, the student received 250 minutes of compensatory speech therapy services.

Based on the foregoing analysis, I find that the appropriate remedy for the student's deprivation of needed speech therapy services and substantive denial of a free appropriate public education is to order compensatory speech therapy services of 2030 minutes, being the 2280 minutes of services specified in the student's IEP since 2004 that were not provided, less 250 minutes of summer compensatory speech services provided to the student. Such compensatory speech therapy services shall be provided in a manner and at a time that will not

result in a reduction of other regular or special education services or related services authorized for the student.

### **Attention Deficit Hyperactivity Disorder**

Petitioner complains that El Paso ISD failed to identify the student with Attention Deficit Hyperactivity Disorder and add the eligibility category of "Other Health Impaired," despite being provided with medical evaluations confirming this diagnosis. Petitioner contends that if all the student's disabilities are not properly determined, then a proper IEP cannot be developed and that such a mistake impedes the student's right to a free appropriate public education.

The evidence confirms that since February 2004, the student has been diagnosed by a physician and is being medically treated for Attention Deficit Hyperactivity Disorder. Additionally, the evidence confirms that various ARD Committees had been provided with this information and yet failed to act to obtain any additional necessary evaluations of this "suspected" disability or to otherwise recognize this disability. El Paso ISD was obligated to conduct a full and individual evaluation of the student in all areas of his suspected disability. 34 C.F.R. §300.532. El Paso ISD failed to comply with this requirement.

### **Educational Placement/Grade Level**

Petitioner contests the decision of the March 28, 2006 ARD Committee to educationally place the student in a \*\*\* class for the 2006-2007 school year, despite having initially agreed to this grade level placement. Petitioner argues that the student was \*\*\* years-old at the beginning of the school year, that \*\*\* is not mandatory in Texas, and that in accordance Section 42.003 of the Texas Education Code, the student should be placed in the \*\*\* grade with his age-appropriate peers.

Testimony elicited from school personnel indicated that the student's parents had the right to enroll the student in \*\*\* grade, if that was their desire. [Hearing Transcript, page 257]. Although generally, students cannot be retained in \*\*\* without their parents' permission, this rule is not applicable to special education students. Under the IDEIA, only a duly constituted ARD Committee can make

educational placement decisions for students with disabilities. See 34 C.F.R. §300.552. Such decisions include not only the school or other location where the services are to be provided, but also the grade level placement. Accordingly, the March 28, 2006 ARD Committee had the authority to educationally place the student in a \*\*\* class for the 2006-2007 school year.

Petitioner further contests the decision to place the student in the \*\*\* claiming it is not the least restrictive environment for implementation of the student's IEP.

Petitioner argues that the student should have been educationally placed in the \*\*\* grade with age-appropriate peers. Least restrictive environment

determinations involve educating students with disabilities to the maximum extent appropriate with children who are nondisabled and that removal of children with disabilities from the regular educational environment occurs only if the nature and severity of the disability is such that education in regular classes with the use of supplemental aids and services cannot be achieved satisfactorily. 34 C.F.R.

§300.550. The grade level placement of the student is not part of the least restrictive environment analysis in this case. The age differences between the students is not significant.

The evidence confirmed that the ARD Committee acted appropriate and in compliance with applicable law when making the placement decision for the student. The evidence showed that the student had attended only 2 hours of \*\*\* class during the second semester of the previous school year and had not achieved mastery of the \*\*\* curriculum. His \*\*\* teacher testified that the student had a hard time writing simple letters, would refuse to do his work, and had difficulty following her directions. Socially, the teacher indicated that he was immature and was ostracized by the other students which had adversely affected his self-esteem. The teacher opined that the student was probably capable academically of doing \*\*\* grade work with special education support services, but that his social problems could prevent him from doing well academically. The teacher further testified that this school year, the student is much happier and that the other children in the class look up to him. She confirmed the student is

the oldest child in the class, but stated he physically blends in with the other students. It was her recommendation that he be allowed to spend a full year in \*\*\* where he can be slowly introduced to the full range of Texas Essential Knowledge and Skills in the manner and sequence in which they are taught. [Hearing Transcript, pages 195-201].

Based on the evidence presented, I find that the student's placement in a regular education \*\*\* program for the 2006-2007 school year is appropriate and in compliance with applicable law. The age difference between the student and his \*\*\* classmates is not so significant as to render the placement inappropriate.

### **Transportation**

Parents seek special transportation services from El Paso ISD due to the student's severe communication deficits and his social immaturity. They seek bus transportation with a monitor of the type previously provided by El Paso ISD. El Paso ISD claims that the real concerns of the parents involve their perceived lack of supervision for the student once he arrives on campus. El Paso ISD points out that the student lives in close proximity to the school and that he would not be eligible for bus transportation if a regular education student. His parents acknowledged their concern about having to transport the student to school early due to their job schedules and claimed there was no adequate supervision for students who arrived early on campus.

Transportation is a recognized form of related services. Transportation to and from school and between schools must be provided if they are required to assist a child with a disability to benefit from special education. 34 CF.R. §300.24.

Although the parents may have numerous reasons for requesting special transportation services from El Paso ISD, the specific reason given by the ARD Committee for declining to provide special transportation services to the student for the 2006-2007 school year was because the student "carries the code of SI (speech impairment), therefore, parents will be responsible for transporting him to school for the 06/07 school year. He will be educated in a regular academic setting." [Petitioner's Exhibit #1]. Prior thereto, the ARD Committee had provided

for special transportation recognizing that the student needed a group monitor because of an inability to communicate effectively which could result in a hazard to his safety. [Petitioner's Exhibit #1]. I find no significant change in the student's condition from the previous year and that the ARD Committee failed to properly consider the nature and severity of his disabilities and his unique needs when denying bus transportation. I find that the student is entitled to special transportation services from El Paso ISD including supervision of the student while being transported to and from school. Such services are required to assist the student to benefit from special transportation.

## **Conclusions of Law**

After due consideration to matters of record, matters of official notice, and the foregoing findings of fact, in my capacity as a Special Education Hearing Officer for the State of Texas, I make the following conclusions of law:

1. Petitioner was denied a free appropriate public education by El Paso ISD from February 13, 2004 through the end of the 2005-2006 school year due to the failure of El Paso ISD to provide the student with the required amount of speech therapy services. The failure to provide 2280 minutes of speech therapy services to the student during that time period constituted a significant deprivation of educational services and resulted in the student failing to achieve mastery of most of the goals and objectives of his speech therapy IEP. *Bd. Of Educ. of Hendrick Hudson Sch. Dist. v. Rowley*, 458 U.S. 175, 206-7 (1982).
2. Petitioner's claims of denial of a free appropriate public education prior to June 7, 2005, relating to speech therapy are not barred by the applicable one year limitation period. Instead, that portion of the regulation containing a "discovery rule" is applicable and the evidence established that Petitioner did not know and should not have known prior to June 7, 2006 that the student had not received all of the speech therapy services authorized by the ARD Committees. 19 Tex. Admin. Code §89.1151(c).
3. El Paso ISD failed to identify and evaluate student's diagnosed ADHD to determine eligibility for services under the "other health impairment" category. El Paso ISD was obligated to conduct a full and individual evaluation of the student in all areas of his suspected disability. 34 C.F.R. §300.532.
4. The \*\*\* program proposed for the student for the 2006-2007 school year is an appropriate educational placement for implementation of his IEP as developed by the March 28, 2006 ARD Committee and constitutes the least restrictive environment for implementation of this IEP. *Bd. Of Educ. of Hendrick Hudson*

- Sch. Dist. v. Rowley, 458 U.S. 175, 206-7 (1982); *Daniel R.R. v. State Bd. Of Educ.*, 874 F.2d. 1036 (5th Cir. 1989).
5. Only duly constituted ARD Committees may make educational placement decisions for students with disabilities. Accordingly, the March 28, 2006 ARD Committee had the authority under the IDEIA to educationally place the student, age\*\*\*, in \*\*\* for the 2006-2007. . 34 C.F.R. §300.552.
  6. ARD Committee failed to properly consider the nature and severity of student's disabilities and his unique needs when denying bus transportation. The student's severe communication deficits and social maturity put him at significant risk of potential harm if not properly transported and supervised to and from school. Accordingly, he is entitled to special transportation services that provides the necessary supervision of the student while being transported to and from school. Such services are required to assist the student to benefit from special transportation. 34 C.F.R. §300.27

## **ORDER**

After due consideration of the record and the foregoing findings of fact and conclusions of law, I ORDER that El Paso ISD convene an ARD Committee meeting within 15 days of the date of this decision to implement the following:

1. Prepare a schedule for the provision of 2030 minutes of compensatory speech therapy services to the student during the summer of 2007. Such services shall be provided in increments of not less than 30 minutes per session and provided on dates and at times during the summer reasonably convenient to the parents. Such services shall address the goals and objectives of his then current IEP. Further, El Paso ISD shall determine the location for the provision of services and shall provide special transportation services for the student to and from said location. Alternatively, with mutual consent, the parties may agree to reimburse the parents for costs of private transportation of the student to and from the location of services at the state mileage reimbursement rate. Should the parties be unable to agree to a sufficient number of dates and times for providing the student with the total amount of compensatory speech therapy services during the summer of 2007, then any remaining compensatory speech therapy due the student shall be provided during the summer of 2008, under the same terms and conditions mandated herein. El Paso ISD will not be required to make up any compensatory speech therapy services missed as a result of the student failing to attend the sessions, unless such failure is due to illness of the student confirmed by a physician's note; and
2. Make arrangements to obtain any additional evaluation data it deems necessary to determine the student's eligibility for special education services under the category of "other health impairment" as it relates to his diagnosed Attention Deficit Hyperactivity Disorder and any other diagnosis. Said evaluation shall be completed within 30 days of the date the ARD Committee convenes.

Additionally, within 15 days thereafter, another ARD Committee shall convene to review the results of the assessment, make eligibility determinations and if necessary, modifications to the student are IEP.

It is further ORDERED that no later than 7 school days of the date of this ORDER, El Paso ISD shall offer and make available to the student special transportation to and from school on a bus or other vehicle with proper supervision.

Finding that the public welfare requires the immediate effect of this Final Decision and ORDER, I hereby make it effective immediately.

SIGNED this 30th day of September 2006.

James W. Holtz  
Special Education Hearing Officer

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# DOCKET NO. 240-SE-0606

B/N/F\*\*\*&\*\*\*

PETITIONER

vs. BEFORE A SPECIAL EDUCATION  
HEARING OFFICER  
EL PASO INDEPENDENT SCHOOL DISTRICT FOR THE STATE OF TEXAS  
RESPONDENT

## SYNOPSIS OF DECISION

**ISSUE:** Whether School District's failure to provide the speech therapy services specified in student's IEP constituted a substantive denial of a free appropriate public education.

**CITATION:** *Board of Educ. v. Rowley*, 458 U.S. 176 (1982).

**HELD:** For Parents. Petitioner was denied a free appropriate public education from February 13, 2004 through the end of the 2005-2006 school year due to the failure of the school district to provide the student with the amount of speech therapy services specified in his IEPs. The failure to provide 2280 minutes of speech therapy services to the student during that time period constituted a significant deprivation of educational services and resulted in the student failing to achieve mastery of most of the goals and objectives of his speech therapy IEP. As relief, the student is entitled to compensatory speech therapy services in an amount equal to the deficit incurred from February 13, 2004, through the end of the 2005-2006 school year, less the amount of compensatory services previously provided by the school district.

**ISSUE:** Whether state regulatory one year statute of limitation limited the amount of compensatory speech therapy services sought by Petitioner?

**CITATION:** 19 Tex. Admin. Code §89.1151(c)

For Parent: The state regulatory one year statute of limitation related to due process hearings begins only when the parents knew or should have known of the about the alleged action that serves as the basis for the request for hearing. In this action, the parents first became aware on or about June 7, 2006, that not all of the speech therapy services specified in the student's

**HELD:** IEP had been provided to the student and that the deficit began in February, 2004. Further, prior to June 7, 2006, the parents had been led to believe by the speech therapist that such services had been provided. Accordingly, it was not until June 7, 2006 that the parents knew or should have known about the deprivation of speech therapy services and they timely brought this due process hearing.

**ISSUE:** Whether student diagnosed with ADHD by physician should be evaluated by school district to determine whether student meets additional eligibility criteria of "other health impairment?"

**CITATION:** 34 C.F.R. §300.532.

**HELD:** For Parent: School District was obligated to conduct a full and individual evaluation of the student in all areas of his suspected disability.

**ISSUE:** Whether student, age \*\*\*, can be educationally placed by ARD Committee in \*\*\* against parents' wishes, when state law allows children \*\*\* years of age to be enrolled in \*\*\*grade?

**CITATION:** 34 C.F.R. §300.552.

**HELD:** For School District: Only duly constituted ARD Committees may make educational placement decisions for students with disabilities. The ARD Committee had the authority under the IDEIA to educationally place the student, age \*\*\*, in \*\*\* for the 2006-2007.

**ISSUE:** Whether \*\*\* year old student with severe communication deficits and social immaturity is entitled to special transportation to and from school with proper supervision?

**CITATION:** 34 C.F.R. §300.27

**HELD:** For Parent: ARD Committee failed to properly consider the nature and severity of student's disabilities and his unique needs when denying bus transportation. The student' severe communication deficits and social maturity put him at significant risk of potential harm if not properly transported and supervised to and from school Accordingly, he is entitled to special transportation services that provides the necessary supervision of the student while being transported to and from school. Such services are required to assist the student to benefit from special transportation.