
DOCKET NO. 254-SE-0706

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

PETITIONER

vs. BEFORE A SPECIAL EDUCATION
HEARING OFFICER
FOR THE STATE OF TEXAS

KELLER INDEPENDENT

SCHOOL DISTRICT

RESPONDENT

DECISION OF THE HEARING OFFICER

Statement of the Case

Keller Independent School District (hereinafter "Petitioner" or "the district") brought a complaint pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. §1400, et seq., complaining of the student and the student's parent. Petitioner was represented by Susan Graham, an attorney in the Austin office of Walsh, Anderson, Brown, Schulze & Aldridge. The parent appeared pro se.

Petitioner's request for hearing was filed on July 14, 2006, and came on for hearing in the offices of the district in Keller, Texas, on September 15, 2006. The parties filed written closing arguments and agreed that the decision in this matter would be timely issued on or before October 20, 2006.

The Petitioner alleged that the parent requested an independent educational evaluation ("IEE") at an admission, review and dismissal ("ARD") committee meeting and that their evaluation of the student by the district is appropriate. The district seeks an order declaring its evaluation appropriate.

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

Findings of Fact

1. *** is a student born in January 1997 who resides with his parents and attends school in the Keller Independent School District. [Petitioner's Exhibits 2 & 5]
2. *** has been receiving special education services from the district based upon eligibility criteria of autism and speech impairment. [Petitioner's Exhibits 1, 2, 4 & 6]
3. A psychoeducational assessment for *** was completed in November 2005. The assessment included a determination of ***'s level of functioning, identification of his learning patterns, behaviors, and skills, and the establishment of eligibility criteria for special education. The assessment specifically addressed "autism/pervasive developmental disorders." [Petitioner's Exhibit 1]
4. An occupational therapy assessment for *** was completed in December 2005. The assessment provided information for the district's provision of occupational therapy services and special education for *** [Petitioner's Exhibit 2]
5. A reevaluation of ***'s need for music therapy was also completed in December 2005. He responds well to music therapy and the district acted on the information to continue music therapy for ***. [Petitioner's Exhibit 3]
6. A full individual evaluation ("FIE") was completed for *** in December 2005. The FIE determined that *** meets the eligibility criterion for special education for speech impairment and recommended a continuation of speech therapy services for him. [Petitioner's Exhibit 4]
7. The district also performed a review of assessment and information about ***, observations of *** in his educational placement by a licensed specialist in school psychology ("LSSP"), consultation with school staff, and an update on the Assessment of Basic Language Learning Skills ("ABLLS"). [Respondent's Exhibit 6]
8. The psychoeducational assessment for *** in December 2005 included the Social Skills Rating System with forms for both the parents and the teachers, the Adaptive Behavior Assessment System with forms for both the parent and the teacher, and the Psychoeducational Profile - 3rd Edition (PEP-3). [Petitioner's Exhibit 1e]
9. The PEP-3 was used by the district because it is the most current assessment instrument appropriate for ***. No standardized measure which is appropriate for students' of ***'s age can provide standard scores for assessing children with autism or other related disorders. The scale from the PEP-3 provides useful information in assisting with educational programing. [Transcript Pages 15-17]
10. Three years before the latest assessment, the district utilized the Psychoeducational Profile - Revised (PEP-R). The PEP-R was the latest assessment instrument available at that time. The PEP-3 is currently the latest assessment instrument, and the district is required to use the most current instrument available in their assessment. [Transcript Pages 17 & 18]

11. ***'s parents were concerned that current assessment by the district in November 2005 did not use the PEP-R instrument originally used three years ago in the assessment of ***. ***'s parents believed that using the same instrument again might indicate whether or not *** was making progress in school, but district personnel explained that progress is better demonstrated on his IEPs and that the PEP-R is outdated as an assessment instrument for ***. The PEP-3 is used now to determine levels of functioning. [Transcript Pages 15-18 & 43-45]

Discussion

*** is a student eligible for special education and related services. The district has properly conducted a timely psychoeducational assessment and a full individual evaluation for him. ***'s parents believe that the evaluation should include information about ***'s educational progress. The assessment and evaluation conducted by the district determined ***'s levels of functioning, learning patterns, behaviors, and skills, and established his eligibility as a special education student.

Conclusions of Law

1. *** is a student who is eligible for special education and related services under the provisions of IDEA, 20 U.S.C. §1400, et seq., and related statutes and regulations.
2. The Keller Independent School District is responsible for the delivery of the special education and related services for the student.
3. The district's current evaluation for the student is appropriate. Respondent is not entitled to an independent evaluation at the district's expense, and the district satisfied the requirements of 20 U.S.C. §1415(b)(d) and 34 CFR 300.304.

ORDER

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

Petitioner's current evaluation is appropriate.

SIGNED this 20th day of October, 2006.

Lucius D. Bunton

Special Education Hearing Officer

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SYNOPSIS OF DECISION

ISSUE: Whether the district's current evaluation of the student is appropriate so that the parent is not entitled for an independent evaluation at the district's expense.

CITATION: 34 CFR 300.304.

HELD: For Petitioner.