

DOCKET NO. 147-SE-0308

STUDENT BNF PARENT.	§	BEFORE A SPECIAL EDUCATION
	§	
VS.	§	
	§	HEARING OFFICER
HOUSTON INDEPENDENT	§	
SCHOOL DISTRICT	§	
	§	FOR THE STATE OF TEXAS

DECISION OF THE HEARING OFFICER

Statement of the Case

Student, by next friend and parent (hereinafter "Petitioner" or "the student"), brought a complaint pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. §1400, *et seq.*, complaining of the Houston Independent School District (hereinafter "Respondent" or "the district").

Petitioner appeared pro se. Respondent was represented by Hans P. Graff with the Office of the School Attorney of the Houston Independent School District. Petitioner's request for hearing was filed on March 11, 2008, and came on for hearing by agreement of the parties and order of the hearing officer on May 6, 2008. At the conclusion of the hearing, the parties were offered an opportunity to file written closing arguments prior to the issuance of the decision and agreed that the decision in this matter would be timely issued on or before June 9, 2008.

Petitioner alleged that the student was entitled to speech services from the district and that the district failed to provide them for significant periods of time. As relief, Petitioner sought compensatory speech services.

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. Student is residing with parent within the Houston Independent School District.  
[Petitioner's Exhibit 2 and Respondent's Exhibits 4-10]

2. The student was born in November \*\*\* and receives special education based upon an eligibility criterion of speech impairment ("SI"). [Petitioner's Exhibit 2 and Respondent's Exhibits 4 & 5]

3. The student's speech impairment involves problems with fluency and articulation.  
[Transcript Pages 23 & 34, Petitioner's Exhibit 2 and Respondent's Exhibit 1]

4. During the 2006-2007 school year the student was enrolled in the Alief Independent School District and received speech services from the district based upon his classification as the student with a speech impairment. [Petitioner's Exhibits 1 & 2]

5. The student was enrolled in the Respondent district on August 28, 2007, and the student's parent gave to the district copies of minutes of admission, review and dismissal ("ARD") committee meetings from the Alief Independent School District and copies of the student's individual education plan ("IEP") which had been developed in Alief Independent School District. [Transcript Page 8 and Petitioner's Exhibit 2]

6. The district had a transfer ARD committee meeting on September 11, 2007, which continued the student's existing IEP providing speech services. [Respondent's Exhibit 3]

7. The district did not begin providing speech services to the student until sometime in October 2007. [Transcript Pages 9 & 14]

8. The student's parent asked the district for an ARD committee meeting to consider the student's placement and services when the student received no services. The student's parent was advised that an ARD committee meeting would be held in October or early November 2007

and went to the school for the meeting. The student's parent was told at the meeting that the speech therapist for the student was not available and that the meeting would be rescheduled. An ARD committee meeting was not rescheduled until April 2008. [Transcript Pages 9 & 10]

9. An ARD committee meeting for the student was convened on April 23, 2008. The student's parent attended the meeting and was shown ARD committee documents from an ARD purportedly held in November 2007. The student's parent was presented with the ARD documents and the documents concerned an ARD allegedly held in November. The student's parent noted that she was shown as present at the meeting, that a signature purporting to be hers was on the documents, and that she knew she had not attended that meeting. [Respondent's Exhibit 4 and Transcript Page 10]

10. Time records from the student's parent's employment indicate that the student's parent was present at work on the day of the alleged ARD meeting. [Petitioner's Exhibit 1]

11. The student did not receive speech services from the time of the student's enrollment until sometime in October. The student received services from October until Thanksgiving 2007. The student did not receive services from Thanksgiving until April 2008. [Respondent's Exhibit 5 and Transcript Pages 11-14]

12. The speech services for the student were discontinued after Thanksgiving 2007 until resumed in April 2008 because the speech therapist assigned to the student retired. A speech therapy coordinator for the district testified that the district administration was unaware that the speech therapist on the student's campus had retired – and not serving the campus – until notified by the student's parent. [Transcript Pages 28 7 29]

13. An ARD committee for the student was convened on April 23, 2008. The committee determined that the student had not received thirty (30) hours of speech therapy to

which the student had been entitled during the course of the 2007-2008 school year. The committee offered the student and the student's parent compensatory speech services in the amount of thirty (30) hours. The student's parent attended the ARD committee meeting and agreed that thirty (30) hours of compensatory speech services are appropriate. The district has offered private speech therapy (if the student's parent can find a private speech therapist) and speech services on Saturdays as well. [Respondent's Exhibit 5 and Transcript Pages 14-16]

### Discussion

Petitioner maintains that the student was denied appropriate speech services from the district because of administrative problems in the delivery of speech services. Petitioner showed at the hearing that the student has been denied approximately thirty (30) hours of speech services and that the district personnel completed ARD documents purportedly showing the student's parent's participation in an ARD meeting when the student's parent was not present at any meeting.

The district's problems in securing services from a speech therapist for the student has denied the student speech services which the district admits the student is entitled to. The district has offered appropriate compensatory services for the student.

### Conclusions of Law

1. Student is a student 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 Houston Independent School District is the local education agency responsible for the provision of an appropriate educational placement for Student
3. The district failed to implement the student's IEP and provide speech services to the student depriving the student of an appropriate educational placement under the standard of

Board of Education of the Hendrick Hudson School District v. Rowley, 458 U.S. 176 (1982), 34 CFR 300.552, and 19 T.A.C. §89.1055.

4. The district's failure caused violations of IDEA which were not de minimis. Student did not receive thirty (30) hours of speech services to which the student was entitled. The student is entitled to compensatory speech services in the amount of thirty (30) hours. School Committee of Burlington vs. Department of Education, 471 U.S. 359 (1985) and Alamo Heights Independent School District vs. State Board of Education, 790 F.2d 1153 (5<sup>th</sup> Circuit 1986).

#### ORDER

Based on the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED that:

1. The district provide to Student thirty (30) hours of compensatory speech services.
2. Respondent shall timely implement this decision by making an offer of a plan to implement the decision within ten (10) school days.
3. To demonstrate their compliance with this decision, the Respondent shall furnish to the Texas Education Agency within fifteen (15) school days from the date of this decision documentation (with copies to Petitioner) demonstrating that the decision is being implemented within the prescribed time. The district shall include a signed assurance from the superintendent that the orders in this decision will be implemented.

All other relief requested by Petitioner is DENIED.

SIGNED this 9<sup>th</sup> day of June, 2008.

                  /s/ Lucius D. Bunton  
Lucius D. Bunton  
Special Education Hearing Officer

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STUDENT,  
B/N/F PARENT

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§

BEFORE A SPECIAL EDUCATION

VS.

HEARING OFFICER

HOUSTON INDEPENDENT  
SCHOOL DISTRICT

FOR THE STATE OF TEXAS

SYNOPSIS

**ISSUE:** Whether the Respondent failed to provide the student with a free appropriate public education so that the student is entitled to compensatory educational services.

**CFR CITATIONS:** 34 CFR 300.552.

**TEXAS CITATION:** 19 T.A.C. §89.1055.

**HELD:** For Petitioner.