

STUDENT	§	BEFORE A SPECIAL EDUCATION
	§	
V.	§	HEARING OFFICER FOR THE
	§	
VAN ALSTYNE INDEPENDENT	§	
SCHOOL DISTRICT	§	STATE OF TEXAS

**DECISION OF THE HEARING OFFICER**

I. Statement of the Case

Petitioner brings this appeal by their next friend pursuant to the Individuals with Disabilities Education Improvement Act 20 U.S.C. § 1400 *et seq.*, (hereinafter referred to as "IDEIA"), against Respondent Van Alstyne Independent School District (hereinafter referred to as "Respondent" or "Van Alstyne ISD"). Petitioner (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 August 21, 2008. Petitioner was represented by Attorney Elise Mitchell of Advocacy, Inc. in Dallas, Texas. Respondent was represented by Attorney Mari McGowan of Abernathy, Roeder, Boyd & Joplin, P.C. in McKinney, Texas.

All procedural matters have been conducted by agreement of the parties and in accordance with their schedules. A telephone prehearing conference was held on September 12, 2008, and a Prehearing Order was issued on September 19, 2008. Disclosure occurred on October 8, 2008, and the due process hearing was held on October 16 and 17, 2008 at the Van Alstyne ISD Administration Building. Petitioner and Respondent requested the opportunity to file written closing arguments and agreed that the parties would file their briefs on November 10, 2008. A Post Hearing Scheduling Order was issued on October 20, 2008 setting forth the agreed upon briefing scheduled and establishing an agreed upon decision due date of November 24, 2008.

Petitioner states that Respondent has deprived Student of a free appropriate public education ("FAPE") as follows:

1. Curriculum was consistently lacking modification in the regular classroom setting. Petitioner stated that although a teacher tried to provide developmentally appropriate work for Student, there were no Individualized Education Plan ("IEP") instructional modifications, there was no support from any special education consults, and there was no evidence that any efforts that were made were designed to include, rather than exclude, Student.
2. Petitioner maintained that Respondent has sought to remove Student to a restrictive setting away from his home school campus before providing Student with a variety of supplementary aids and services designed to provide Student a FAPE in the regular classroom setting.

3. Petitioner asserted that Respondent failed to develop an IEP for Student which incorporated such accommodation, modifications, and curriculum notifications as would provide Student the opportunity to receive a FAPE with the provision of supplementary aids and services in a regular education classroom on Student's home campus.

As relief in this due process hearing, Petitioner requested that Respondent be ordered to do the following:

1. Work with an independent inclusion expert to train Student's teachers on methods for including Student appropriately in age appropriate regular education classes.
2. Work with an independent behavioral specialist to develop a behavior plan for Student to resolve behavioral issues in the regular education setting to allow maximum participation and success.
3. Implement an inclusive IEP for Student in a regular education setting on Student's home school campus.
4. Provide all other such relief, both at law and in equity to which Student may be entitled.

Respondent generally denied Petitioner's allegations and contended that, while a free, appropriate public education was provided in Student's previously agreed upon placement at Van Alstyne ISD, Student should now be placed in the Life Skills classroom at \*\* School offered by Grayson County Special Education Co-Op in order to receive special education programming and services in the least restrictive environment.

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 student who resides within School District.
2. School District is a political subdivision of the State of Texas and a duly incorporated Independent School District responsible for providing Student 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 was initially identified in late 2003 as a student with speech impairment in an early childhood program. Since May, 2007, however, Student has been receiving special

education placement, programs and services as a student who has speech impairment and mental retardation.

4. Student's parents first referred Student to school officials to be identified as a child with a disability On September 17, 2003, because Student's parents felt that Student had a speech delay and very limited vocabulary as well as behavioral problems related to Student's difficulty communicating. Student parents requested that Student be referred to special education for the speech and behavior problems and gave the District consent for a Full and Individual Evaluation ("FIE").

5. Student's first multi-disciplinary assessment team made the following determinations regarding Student's FIE:

- a. Student is a child with a disability needing services for speech impairment and non-categorical early childhood educational problems.
- b. Student would benefit from Speech Therapy to strengthen and develop speech and language skills.
- c. Student's Admission, Review and Dismissal ("ARD") committee should consider requesting OT/PT assessment to determine educational need for further services.
- d. Student would benefit from services through the Preschool Program for Children with Disabilities (PPCD) to remediate developmental deficits and strengthen self-help skills.

6. Student's Annual ARD Review and Dismissal ("ARD") committee convened on December 2, 2003 to review Student's FIE and to discuss Student's placement and conduct the annual review. Student's Individualized Education Plan ("IEP") was implemented for the remainder of 2003 through December 3, 2004. Student's IEP goals and objectives consisted of speech and language skills, general knowledge and comprehension skills, and self help skills.

7. Student's ARD committee convened on May 18, 2004 and November 16, 2004 to discuss Student's evaluations and establish Student's IEP for the 2005-2006 school year in a PPCD classroom. Student's Occupational Therapy/Physical Therapy ("OT/PT") evaluation conducted on April 23, 2004 showed that Student had difficulties with functional skills within the school environment in the areas of Physical Education and play skills, classroom skills and self care skills. In addition to goals and objectives for speech and language, self help skills, and motor skills, Student was scheduled to receive OT and PT for 60 minutes per week for the next school year.

8. For the 2005-2006 school year, Student attended school in McKinney ISD. During that school year, Student's ARD convened twice, once in February to consider the FIE which was conducted on January 24-25, 2006 and January 30-31, 2006, and again in May to consider Student's program for 2006-2007. Student was again found to meet eligibility for special education services as a student with speech impairment, and the ARD committee

developed for general knowledge and comprehension skills, and fine motor skills. Specific instructional modifications were recommended to address Student's educational needs.

9. Student's ARD committee met five (5) times during the 2006-2007 school year, when Student attended \*\* in Van Alstyne ISD. Among the matters considered were Student's speech therapy goals and objectives, Student's FIE, including an OT/PT evaluation, and Student's classroom placement. By consensus of the ARD committee, Student was placed in a regular \*\* classroom with resource assistance ranging from 30 minutes twice weekly to 60 minutes daily. Additionally, according to the ARD committee, Student's FIE indicated that Student was functioning in the age range of \*\* to \*\* years of age, and that, in addition to speech impairment, Student had mental retardation.

10. Student's FIEs performed in 2006 and 2007 showed Student's IQ as follows:

<b>COMPOSITE SCORES</b>	<b>JANUARY 2006 FIE</b>	<b>MAY 2007 FIE</b>
<i>Non-Verbal IQ</i>	**	**
<i>Verbal IQ</i>	**	**
<i>Full Scale IQ</i>	**	**
<i>Confidence Interval</i>	**	**

11. Throughout Student's attendance in Van Alstyne ISD and McKinney ISD, the ARD committees had reached consensus by unanimous agreement on all aspects of Student's placement, educational programming and services. On May 22, 2007, Student's ARD committee reconvened to discuss appropriate placement for Student based on a review of Student's most current assessments that had been conducted. The ARD ended in disagreement and was reconvened on May 25, 2007 to develop and review Student's IEP. All School District personnel agreed that Student should be placed in Life Skills classroom with maximum amount of "mainstream" interaction with general education students. Student's parent, however, did not agree with Student's placement in the Life Skills classroom.

12. Van Alstyne ISD and Student individually and Student's Parents entered a settlement agreement on July 12, 2007 ("Settlement Agreement"). Under the Settlement Agreement, which would be applicable during the 2007-2008 school year, when Student was in \*\* Grade, Student would continue to be placed in the general education classroom with resource classroom placement for academic support. Additionally, the Settlement Agreement contained several additional terms and conditions, including the following:

- a. Student would have an OT/PT evaluation by August 27, 2008.
- b. Student's teacher would have the assistance of a Certified Behavioral Specialist for the implementation of the current Behavioral Intervention Plan.
- c. An ARD would be held no later than November 2, 2007 to review the appropriateness of Student's IEP and placement.

13. Based on the Settlement Agreement, School District provided the OT and PT evaluations and completed them by the agreed upon date. It was agreed at the next ARD that Student would receive Occupational Therapy with the recommended interventions for 60 minutes for each 4 week period through November then 30 minutes for each 4 week period for the remainder of the school year. Student would receive Speech Therapy for 90 minutes per week and 20 minutes inclusion. Additionally, School District consulted with a behavior specialist and continued to implement Student's behavior plan, and provided extensive commentary on Student's progress in achieving the behavior plan goals. Student remained in the general education classroom with resource room support for core academic subjects.

14. All members of the August 24, 2007 ARD committee following the July 12, 2007 Settlement Agreement agreed with Student's placement, services and IEP, including all School District personnel and Student's parent.

15. Pursuant to the Settlement Agreement, Student's ARD committee reconvened on November 2, 2007 to review Student's IEP. It was agreed at that time that no further testing was needed, and that Student was making progress with the current IEP in place and was a joy to have in the classroom. ARD committee members, however, thought Student did not seem as motivated as at the beginning of the school year. All ARD committee members were polled regarding Student's placement. All School District ARD committee members agreed that Student should be placed in Life Skills; Student's parent disagreed with the placement and the ARD minutes. Student's parent was dismayed that Student's placement, which had been a primary focus of the July 12, 2007 Settlement Agreement, would be subject to change at that time, especially when both School District personnel implementing Student's IEP and Student's parent agreed that Student was making educational progress under the current IEP.

16. On December 7, 2007 Student's ARD committee reconvened to discuss Student's progress with current IEP and appropriate placement. Student's mother commented on her observation of Life Skills class and her reservations about such a placement for Student. Student's parent felt that Student was making progress in his current setting and did not understand the need to move Student at that time. Student's principal stated that a self contained Life Skills classroom would be the most appropriate placement for Student. The ARD committee was polled again everyone felt that Life Skills would be best for Student except Student's parent. Student's principal stated placement would begin on January 21, 2008 and that transportation would be provided.

17. On December 12, 2007 Student's ARD committee convened to discuss Student's present levels of academic and functional performance, including Student's strengths and needs, including communication and behavioral needs. The ARD committee decided that Student should be removed from his home campus for the remainder of his \*\* Grade year. Student's ARD committee felt that Student the benefits to the student in the centralized Grayson County Special Education Co-Op Life Skills classroom outweighed any potential harmful effects, associated with removal from the home campus.

18. On January 17, 2008 Student's ARD committee convened to discuss placement for Student. It was decided that Student remain in Van Alstyne ISD for the remainder of the 2007-2008 school year while more data was being gathered.

19. Throughout Student's \*\* Grade school year, Student's teachers and service providers implemented his agreed upon IEP and BIP. Student's parent received commentary on Student's progress in the BIP from two (2) of Student's regular education teachers, Student's special education teacher from the Resource Classroom, Student's paraprofessional, and Student's Speech Therapist, and a member of the Co-Op Resource team. These members of Student's special education team provided contemporaneous information on Student's educational progress and targeted behaviors, including:

1. Increased academic independence.
2. Decreased redirection, prompting, cues, etc.
3. Increased time on task/ in seat.
4. Decreased avoidance behavior and refusal to work or follow directions.
5. Increased times of appropriately seeking teacher and peer attention.

20. Additionally, Student's teacher provided inclusion assistance in the general education classroom by developing three (3) lesson plans for the \*\* Grade curriculum lessons: One general education lesson plan, which Student could access, as appropriate, a reduced and revised version of the general education lesson plan which Student might be able to access, and then a significantly modified lesson plan available if either of the other two lesson plans were not appropriate for Student, or if Student was unable to perform the tasks of the other lesson plans. Samples of Student's work showed Student tried a variety of worksheets and lessons, with varying degrees of success. Student's teachers described Student's participation in class, influenced by Student's targeted inappropriate behaviors, including excessive teacher dependence and attention seeking to stay on task.

21. According to all members of Student's ARD committee, Student continued to make educational progress in the regular education classroom with resource support in Van Alstyne ISD. Student received the agreed upon services, including inclusion in the general education classroom for other than core academic subjects. Student's teachers and service providers observed Student, made observations, and reported on Student's progress to Student's parent.

22. On May 12, 2008 Student ARD committee reconvened for an annual review and discussed Student's assessments, progress on current IEP and communication needs. The ARD committee agreed that Student would receive special education services four hour daily, speech therapy 30 minutes twice weekly direct and 15 minutes weekly consult. Student's regular education and resource classroom teachers both stated that Student would benefit from the shared learning experience offered to him Life Skills classroom. It was also stated that Student is a very motivated learner who does best when there is repetition and one-on-one direction. Student's behavior intervention specialist stated that Student had mastered goals on the Behavior Intervention Plan, gaining attention in appropriate manner from peers and teachers. In addition, at this time Student's behaviors do not appear to keep him or others from learning. The behavior specialist recommended that the BIP be dropped for the next IEP period. The ARD committee agreed that a BIP was not needed at that time. The ARD committee was polled regarding Student's placement in Life Skills all agreed except for Student's parents.

23. Student's Parent brought this due process hearing on August 21, 2008 to address concerns regarding Student's placement in the centralized Grayson County Special Education Co-Op Life Skills classroom at Gunter ISD. Student's parent does not want Student removed from his home campus with its opportunities for interaction with non-disabled peers in Student's community.

24. Student remained in the general education classroom placement pending the outcome of this due process hearing. Student is placed in the general education classroom for 3 hours per day, with four hours per day in the Resource Classroom with a special education teacher implementing the Life Skills program. Student's teachers and service providers continued to monitor Student's activities and behaviors in half hour increments for this 2008-2009 school year, and the report supported School District's contention that a behavior plan was not needed, as the ARD committee had agreed previously.

25. Other than Student's problem behaviors, identified in the undisclosed monitoring sheets, Student's parent did not identify any services or inadequacies associated with the implementation of Student's IEP, including Speech Therapy, Resource classroom, and inclusion services which would contradict the earlier statements in praise of Student's special education program team members and their implementation of Student's IEP.

26. Student's performance in the general education classroom with resource assistance is appropriate, needing redirection in the same manner as some other students, but not depriving other students of appropriate teacher attention and consultation. Even though Student's behavior plan was discontinued as no longer being needed, Student continues to need assistance in remaining on task and working independently, as noted in the monitoring notes of Student's teachers this school year.

27. School District agrees that Student's previously agreed upon special education program is appropriate and has allowed Student to make educational progress, but believe that placement in the centralized Life Skills classroom in Gunter ISD operated by the Co-Op would provide additional opportunities for interaction with disabled peers, including the potential for leadership among the disabled peers, which is not available in the Resource classroom. The Co-Op classroom is a self contained classroom with a small group – under ten (10) students at this time.

28. Students in the centralized self-contained Life Skills program would have the opportunity to interact with non-disabled peers only as deemed appropriate by staff for non-academic subjects, and during recess and lunch. This placement is more restrictive, because it removes Student from contact with non-disabled peers from the home school community. Additionally, by virtue of Student's placement in the self-contained Life Skills classroom, Student would not be a member of any general education classroom as he is at Van Alstyne Elementary, such that Student's interaction with non-disabled peers is reduced in quantity and quality.

### III. Discussion

Although Petitioner argued, initially, that School District had not provided Student a free, appropriate public education by failing to provide appropriate lessons and implementation of Student's IEP, the testimony of both Petitioner and Respondent showed that Respondent had provided Student a free appropriate public education at all times. For the most part, Parent agreed that Student was receiving a FAPE, so much so that this appeal was brought to ensure that Student continued to receive the FAPE under the terms and conditions of the last agreed upon IEP. The only matter at issue between the agreed upon IEP which Petitioner seeks to continue, and the IEP which Respondent proposes to implement over Petitioner's objection, is placement in the centralized, self contained Life Skills classroom located at Gunter ISD, which is not Student's home campus. This is not simply a location issue, but a placement issue: Should Student continue his placement in the general education campus with Resource Classroom support for Life Skills academics; or should Student be placed in a self-contained Life Skills classroom with disabled peers and opportunities for interaction with non-disabled peers in non-academic activities under the direction of the Life Skills teacher.

Least Restrictive Environment is addressed in IDEIA and its implementing regulations. Specifically, IDEIA provides that in order to be eligible for assistance, States must ensure that all children with disabilities are provided a free appropriate public education, including education in the least restrictive environment, with policies and procedures as stated at 1412(a)(5):

Least Restrictive Environment. (A) In general. To the maximum extent appropriate, children with disabilities, . . . are educated with children who are not

disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular education environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The Fifth Circuit focused on the duty of local educational agencies to offer students a FAPE in the least restrictive environment stating:

Being a local educational agency responsible for complying with IDEA as a condition of the State of Texas' receipt of federal education funding, Cy-Fair ISD must (1) provide each disabled child within its jurisdictional boundaries with a "free appropriate public education" tailored to his unique needs, and (2) to ensure that such education is offered, to the greatest extent possible, in the educational "mainstream," that is, **side by side with non-disabled children**, in the least restrictive environment consistent with the disabled student's needs. *See, Cypress-Fairbanks Independent School District v. Michael F.*, 118 F. 3d 245, 247 (5<sup>th</sup> Cir. 1997). [Emphasis supplied.]

In fact, under 1412(a)(5)(B), States may not use a funding mechanism which allocates funding on the basis of placement, so that a child's IEP is not implemented in the least restrictive environment. An argument that centralized services are necessary because of funding issues will generally not be sustained, unless it can be shown that a statewide condition exists where services cannot be provided because service providers are not available locally, or at any reasonable cost. Moreover, Federal implementing regulations both mirror the IDEIA statutory requirements [*See*, 34 CFR 300.114, LRE Requirements], impose a requirement for a continuum of alternative placements [*See*, 34 CFR 300.115], provide for LRE in nonacademic settings [*See*, 34 CFR 300.117], and further clarify the meaning of least restrictive environment, stating at 34 C.F.R. §300.116(a)(2) that the child's placement must be "as close as possible to the child's home" and:

(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;

(d) In selecting LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and

(e) A child with a disability is not removed from education in age-appropriate classrooms solely because of needed modifications in the general education classroom.

Respondent cites case law precedent on the issue of least restrictive environment:

. . . In *Daniel R.R. v. State Board of Education*, the Fifth Circuit developed a two part test to determine whether [IDEIA] Section 1412 has been complied with:

First, we ask whether education in the regular classroom, with the use of supplemental aids and services, can be achieved satisfactorily for a given child. See [20 U.S.C.] §1412(a)(5)( B). **If it cannot** and the school intends to provide special education or to remove the child from regular

education, we ask, second, whether the school has mainstreamed the child to the maximum extent appropriate. 874 F.2d 1036 1048 (5<sup>th</sup> Cir. 1989). Emphasis supplied.

In light of the fact that the evidence established clearly that Student was provided a FAPE in the general education with Resource classroom support for Life Skills academics, it is impossible for this Hearing Officer to find that Student must be removed from his home school to a self-contained Life Skills classroom. The Life Skills classroom at the Gunter elementary is simply not a necessary placement to implement Student's IEP. Apart from increased interaction with disabled peers, Respondent did not offer any reason the centralized self-contained Life Skills classroom was an appropriate placement for Student. Respondent cited no services, specially trained teachers and/or materials which were not available at Van Alstyne Elementary, the absence of which would demonstrate that centralized services were necessary to provide Student a FAPE. The Fifth Circuit also considered least restrictive environment in a recent decision, *Adam J. v. Keller ISD*, 328 F. 3d 804 (5<sup>th</sup> Cir. 2003). In *Adam J.*, a parent sought to remove a student to a private "Vanguard School", citing the school district's failure to implement an appropriate IEP, based on Student's continuing behavioral difficulties. The Fifth Circuit Court stated:

According to Adam, the district court's decision [that Petitioner did not demonstrate that private place at the Vanguard School would be appropriate] . . . was based on the fact that Adam would not be able to interact with non-disabled peers at Vanguard; and thus, that the private school would not provide the "least restrictive environment" for Adam. [Appellant] points out that the presumption in favor of "mainstreaming" is overcome when a regular classroom cannot fit the needs of a disabled child.

This argument is unpersuasive. First, **because the district court concluded that the District had provided Adam with a FAPE, any ruling on private placement was merely dicta.**

Accordingly, where IDEIA's implementing regulations state that a student should be educated as close to home as possible and in the school he or she would attend if not disabled, there seems to be no basis for going further to require removal to self-contained special education classroom, any more than it would be appropriate to require removal to a private setting for disabled students which could perhaps offer unquestionably better services and educational programming. Where FAPE is provided on student's home campus, considerations of LRE do not support removal.

It is significant that Respondent's position in this case is more often the position of Petitioners who desire placement in specialized schools at public expense. This type of placement appears to be exactly what IDEIA intends to avoid with its funding limitations tied to least restrictive environment. To agree with Respondent would be to deprive the concept of Least Restrictive Environment of all meaning, and to simply allow a return, for convenience purposes, centralization of classes for students with disabilities, even when no specialized

services, such as when interpreters for the deaf are involved. Finally, if school districts can require students to be removed from their home campuses and transported elsewhere for centralization of life skills classes, why not also allow parents to move their children to specialized schools at public expense, where they may have increased interaction with disabled peers and opportunities for leadership in that restrictive setting? Where, in this case, we have a young student, whose work samples show participation in the general education curriculum at his home campus, implementation of the IEP and provision of FAPE, there can be no legal justification for removal.<sup>1</sup>

#### IV. Conclusions of Law

1. Petitioner is a student in Van Alstyne ISD who is eligible for special education services as a child with mental retardation and speech impairment. 20 U.S.C.A. § 1401(3); 34 C. F. R. § 300.7; 19 Tex. Admin. Code, § 89.1040.

2. Respondent Van Alstyne ISD has a responsibility to provide Student with a free appropriate public education. 20 U.S.C.A. § 1414; 34 C. F. R. §300.300; 19 Tex. Admin. Code, § 89.1001.

3. Petitioner proved that Student's IEP can be implemented in the regular education classroom with supplementary aids and services, including Resource classroom support at Student's home campus at Van Alstyne ISD, which would allow student to attend school in the Least Restrictive Environment. 20 U.S.C. §1412(a)(5); 34 C.F.R. §§ 300.114 – 300.117; 19 Tex. Admin. Code, §89.1050(a)(6); §89.1055. *Hendrik Hudson Bd. of Educ. v. Rowley*, 458 U.S. 176, 207 (1982); *Cypress-Fairbanks ISD v. Michael F.* 118 F.3d 245, 252 (5<sup>th</sup> Cir. 1997); *Tatro v. State of Texas*, 703 F.3d 823, 830 (5<sup>th</sup> Cir. 1983); *Adam J. v. Keller Indep. Sch.*, 328 F.3d 804 (5<sup>th</sup> Cir. 2003); 19 T.A.C. §89.1050(a)(6); §89.1055.

4. Petitioner proved that Student's removal from the home Elementary School campus to a centralized, self contained special education classroom in another elementary school was not necessary for Student to obtain a FAPE. 20 U.S.C. §1412(a)(5); §§ 300.114 – 300.117; 19 Tex. Admin. Code, §89.1050(a)(6); §89.1055; *Hendrik Hudson Bd. of Educ. v. Rowley*, 458 U.S. 176, 207 (1982); *Cypress-Fairbanks ISD v. Michael F.* 118 F.3d 245, 252 (5<sup>th</sup> Cir. 1997); *Tatro v.*

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<sup>1</sup>Testimony was that Student's parent would consider a self contained Life Skills classroom in the future, and that may be appropriate as Student's ability to participate in the regular education curriculum decreases substantially. *See*, Decision of the Hearing Officer in TEA Docket No. 050-SE-1001, *Student vs. Northside Independent School District*.

*State of Texas*, 703 F.3d 823, 830 (5<sup>th</sup> Cir. 1983); *Adam J. v. Keller Indep. Sch.*, 328 F.3d 804 (5<sup>th</sup> Cir. 2003).

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 GRANTED IN PART.

Respondent is ordered to continue to implement the agreed upon IEP for Student with placement in the regular education classroom at Van Alstyne Elementary School, with Resource classroom support, and not to remove Student to the centralized self-contained Life Skills classroom in Gunter ISD.

All other relief requested by Petitioner and not granted herein is hereby DENIED.

SIGNED this 24<sup>th</sup> day of November, 2008.

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Gwendolyn Hill Webb  
Special Education Hearing Officer

DOCKET NO. 288-SE-0808

STUDENT	§	BEFORE A SPECIAL EDUCATION
	§	
V.	§	HEARING OFFICER FOR THE
	§	
VAN ALSTYNE INDEPENDENT	§	
SCHOOL DISTRICT	§	STATE OF TEXAS

**SYNOPSIS**

**Issue:** Should Student be removed to a self-contained Life Skills classroom in another school district, when it was shown that Student received a FAPE at the home elementary school campus in a general education classroom with extensive resource classroom support?

**Federal Citation:** 20 U.S.C.A. §§ 1401(3); 1412(a)(5); 1414; 34 C.F.R. §§ 300.7; 300.114-300.117; 34 C.F.R. §300.300; *Hendrik Hudson Bd. of Educ. v. Rowley*, 458 U.S. 176, 207 (1982); *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F.* 118 F.3d 245, 252 (5<sup>th</sup> Cir. 1997); *Tatro v. Texas*, 703 F.3d 823, 830 (5<sup>th</sup> Cir. 1983); *Adam J. v. Keller ISD*, 328 F.3d 804 (5<sup>th</sup> Cir. 2003).

**Texas Citation:** 19 T.A.C. §§ 89.1001.; 19 Tex. Admin.Code, §89.1050(a)(6); §89.1055.

**Held:** For Petitioner. Where evidence established that Student received a FAPE at the home elementary school campus, there was no justification for removal to a centralized self-contained Life Skills classroom in another school district.