

BEAUMONT INDEPENDENT SCHOOL DISTRICT, § BEFORE A SPECIAL EDUCATION  
§  
§  
Petitioner and Counter-Respondent, §  
§  
V. § HEARING OFFICER  
§  
STUDENT *b/n/f* §  
PARENT, §  
§  
Respondent and Counter-Petitioner. § FOR THE STATE OF TEXAS

**DECISION OF THE SPECIAL EDUCATION HEARING OFFICER**

**I.  
STATEMENT OF THE CASE**

Petitioner, Beaumont Independent School District (“Petitioner” or “BISD” or “the District”), requested a Due Process Hearing pursuant to the Individuals With Disabilities Education Improvement Act (“IDEIA”), 20 U.S.C. §1400 *et. seq.*, requesting an order from the undersigned Hearing Officer 1) determining that it is appropriate to transfer Respondent, Student *b/n/f* Parent (“Respondent” or “Student”), from a residential setting, Bayes Achievement Center in Huntsville, Texas (“Bayes”), to The Oaks, a non-residential facility located within the District; and 2) setting a timeframe for Student’s return to the District.

Respondent filed counter-claims alleging that BISD committed multiple procedural and substantive violations of IDEIA in the attempted development of Student’s 2007 summer program, his 2007-2008 Individual Education Plan (“IEP”), and his placement at The Oaks:

- a. BISD failed to devise an appropriate Extended Year Services (“EYS”) program for Student based on his individualized needs;
- b. BISD failed to devise an appropriate transition plan for Student from the full-time residential placement to the District;
- c. BISD denied Student’s Mother her right to participate in the development of a reintegration plan;

- d. BISD failed to devise an appropriate plan for Student to receive extended-day services;
- e. BISD failed to devise an IEP that contained present levels of performance;
- f. BISD determined, prior to the July 2, 2007, meeting of Student's Admission Review, and Dismissal Committee ("ARD"), that Student's placement would be changed from a residential placement to a non-residential placement;
- g. BISD denied Student's Mother meaningful participation in the July 2, 2007, ARD Committee meeting when it informed others, but not her, of the plans to change Student's placement;
- h. BISD failed to discuss or devise a post-school transition plan for Student;
- i. BISD failed to discuss or devise a plan to provide in-service training to teachers, staff, and Student's Mother in the implementation of his proposed IEP;
- j. BISD failed to convene a 10-day recess of the July 2, 2007, ARD Committee;
- k. BISD failed to provide Student's Mother with a copy of the proposed IEP at the July 2, 2007, ARD Committee meeting;
- l. BISD did not devise or perform an appropriate functional behavioral assessment or devise an appropriate Behavioral Intervention Plan ("BIP") for Student;
- m. BISD did not devise appropriate and measurable goals and objectives for Student in all his areas of need;
- n. BISD did not appropriately and timely evaluate Student before the recommendation for change in placement was presented to his Mother at the July 2, 2007, ARD Committee meeting;
- o. BISD failed to discuss or devise appropriate accommodations and modifications for Student;

- p. BISD failed to address in the July 2, 2007, ARD Committee meeting the requisite daily schedules reflecting minimal unstructured time, in-home training or viable alternatives; prioritized behavioral objectives; prevocational and vocational needs of students twelve (12) years of age or older; parent training; and suitable staff-to-students ratio;
- q. BISD failed to provide prior written notice to Student's Mother of the proposed change in placement from Bayes to The Oaks, or any of the other proposed changes verbally stated in the July 2, 2007, ARD Committee meeting;
- r. BISD violated Student's confidentiality rights by discussing Student, without signed permission of his Mother, with personnel at the ARC summer camp and other individuals in the community who are not employees of BISD;
- s. The proposed IEP does not offer Student placement in his least restrictive environment ("LRE") and fails to consider a continuum of placements;
- t. BISD failed to implement the ninety-minute per month parent training during 2006-2007;
- u. BISD failed to discuss the length, frequency or duration of the speech and occupational therapy ("OT") services for the Student during the July 2, 2007, ARD Committee meeting;
- v. Student's proposed IEP does not use peer-reviewed, scientifically based methods of instruction for Student;
- w. BISD sent staff and a psychologist to observe Student but failed to inform the parent of these observations in advance;
- x. BISD did not discuss or devise a backup plan for personnel so that Student would have staff trained with regard to his specific needs in place for staff absences, illness, in-service trainings;
- y. BISD informed Student's Mother that she would not get a copy of the proposed IEP until August 2007.

Student seeks the following relief: 1) BISD must provide Student with an appropriate IEP; 2) BISD must educate Student at Bayes through school year 2008-2009 and thereafter until Student's ARD Committee mutually agrees on an appropriate change in placement; 3) BISD must provide intensive parent training and intensive in-service training to teachers and staff members on all issues raised in this proceeding; and 4)

BISD must provide compensatory services for the amount of in-home parent training it failed to provide during 2006-2007.

## I. PROCEDURAL HISTORY

On July 5, 2007, the Texas Education Agency (“TEA”) received the Request for Due Process Hearing filed by BISD against Student and assigned the case Docket No. 301-SE-0707. TEA transmitted the case to the undersigned on July 6, 2007.

On July 6, 2007, the undersigned Hearing Officer issued the Initial Scheduling Order, setting forth all relevant deadlines pursuant to IDEIA: the pre-hearing telephone conference was set for July 26, 2007; the Due Process Hearing was set for August 1, 2007; and the Decision deadline was set for August 19, 2007. Due to conflicting schedules the pre-hearing telephone conference was re-scheduled to July 27, 2007.<sup>1</sup>

On July 12, 2007, Student filed a Response to Request for Due Process Hearing and Counter-Complaint. On July 17, 2007, Student filed a Motion for Continuance. BISD filed no objection to this continuance request. Also on July 17, 2007, Student filed a Motion for Specificity and Prior Written Notice Under IDEIA. BISD served its response letter on August 1, 2007, notifying Student that the District intended to change his placement from Bayes to The Oaks.

On July 27, 2007, the parties convened for the first pre-hearing telephone conference. In attendance were the following: 1) Ms. Melody G. Chappell, counsel for BISD; 2) Ms. Dorene J. Philpot, counsel for Student; 3) Ms. Stacey Mathews, co-counsel for Student; 4) Student’s Mother; 5) the court reporter, who made a record of the telephone conference; and 6) the undersigned Hearing Officer. During this telephone conference the parties discussed the issues and, based upon a finding of good cause, re-scheduled the Due Process Hearing to October 15-18, 2007, with Disclosures due October 8, 2007, and the Decision deadline extended to November 5, 2007.

On August 28, 2007, Student filed a Motion in Limine, seeking the preclusion of any of BISD’s evidence that exceeds the borders of the District’s August 1, 2007, change-of-placement notice. Also on August 28, 2007, Student filed a Motion for Production of Documents and a Motion to Shorten Time for Production.

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<sup>1</sup> Student’s Request for Due Process Hearing was filed with an identical Request for Due Process Hearing related to Student’s twin brother. TEA assigned the twin’s case Docket No. 300-SE-0707 and also assigned that case to the undersigned Hearing Officer. It was unclear to the undersigned at the time that two (2) separate Requests had been filed. The July 6, 2007, Initial Scheduling Order was issued under Docket No. 300-SE-0707. Upon discovery that there were actually two (2) separate cases, the parties agreed to conduct both pre-hearing telephone conferences on the same day.

On September 11, 2007, the parties convened for another pre-hearing telephone conference to discuss a continuance request by Student. In attendance were the following: 1) Ms. Chappell, counsel for BISD; 2) Ms. Philpot, counsel for Student; 3) the court reporter, who made a record of the telephone conference; and 4) the undersigned Hearing Officer. During this telephone conference the parties discussed the Request for Production, Motion to Shorten Time, Motion for Continuance, and Motion in Limine. The parties agreed on production deadlines and the continuance request, which was sought to allow the parties time to complete evaluations. Finding good cause, the continuance was granted. The Due Process Hearing was re-scheduled for December 10-13, 2007, with Disclosures due December 3, 2007, and the Decision deadline extended to December 31, 2007. The undersigned denied Student's Motion in Limine.

On November 11, 2007, the parties convened another pre-hearing telephone conference to discuss the status of the evaluations. Because they were not complete, the parties agreed to continue the Hearing to January 29 - February 1, 2008, with Disclosures due January 22, 2008, and the Decision deadline extended to February 19, 2008.

On January 14, 2008, Student filed a continuance motion, which was unopposed by BISD. The basis for the continuance was the problem completing the evaluation. Finding good cause, the undersigned Hearing Officer granted the continuance, obtained dates from the parties, and re-scheduled the Due Process Hearing for April 14-17, 2008, with Disclosures due April 7, 2008, and the Decision deadline extended to May 5, 2008.

The Due Process Hearing convened on April 14, 2008, at the administration building of BISD. BISD introduced twenty-nine (29) exhibits. Student offered eleven (11) separate tabbed documents, most of which contained multiple pages. Student's TAB 7, a transcript of the July 2, 2007, ARD Committee meeting prepared by Student's Mother, was not admitted into evidence but was admitted as an Offer of Proof for appellate purposes. Likewise, Student's TAB 10, pp. 490-491, an affidavit prepared by Student's Mother in support of the transcript, was not admitted into evidence but was admitted as an Offer of Proof.

The Hearing proceeded for three (3) days, concluding on April 16, 2008, and was open to the public pursuant to Student's request. BISD called six (6) witnesses; Student called four (4).<sup>2</sup> At the conclusion of the Hearing, the parties and Hearing Officer agreed to a post-hearing briefing schedule. This schedule was continued by agreement several times due to settlement discussions. When the case failed to settle, the post-hearing schedule was agreed as follows: the deadline for the parties' closing arguments was extended to June 20, 2008; the Decision deadline was extended to July 2, 2008. The parties filed their closing arguments on June 20, 2008.

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<sup>2</sup> The parties agreed to incorporate in full the testimony of two (2) additional witnesses called by Student who had testified in the prior Due Process Hearing involving Student's twin. The testimony of these two (2) witnesses in Docket No. 300-SE-0707 is set forth in Volume III of the Transcript in this proceeding.

### III. FINDINGS OF FACT

1. Student is a \*\*-year old male who currently resides at Bayes in Huntsville, Texas. Bayes is a residential setting that includes a highly structured school environment and a teaching home. Student qualifies for special education services under the classifications of Autistic Disorder and Speech Impairment (“SI”). Student also has Attention Deficit, Hyperactive Disorder (ADHD), Mental Retardation (“MR”), and, unlike his twin, Student has a seizure disorder.
2. Student’s Mother resides within the jurisdictional limits of BISD. BISD is a political subdivision of the State of Texas and a duly incorporated independent school district.
3. Student has resided at Bayes, along with his twin brother, since 2002. Student’s ARD Committee placed him there due to maladaptive behaviors that significantly interfered with his ability to be educated. Student has a structured daily schedule for school events as well as schedules for academic and non-academic activities. Bayes is year-round, providing EYS for its residents. Student also receives supplemental services through home and community-based programs administered by Spindletop Mental Health/Mental Retardation (“Spindletop”), such as attendant care during home visits, transportation between Bayes and Student’s home, and training and therapy for use in the home.
4. Student has significant deficits in self-help, social, and self-management skills. Student does not generalize skills across settings. Student does not attempt to interact with peers and is often unaware of his surroundings. He does not manifest joint attention or social referencing; he makes no attempts at social coordination or reciprocal social interaction. Student uses mostly stereotyped utterances without responding with appropriate gestures, smiles, eye contact, or facial expression.
5. Student’s maladaptive social behaviors are significantly more serious and pervasive than those of his twin. As he has reached puberty, Student exhibits aggression, elopement, self-injurious behaviors, self-stimulation, and sexually inappropriate behaviors. These behaviors tend to escalate when Student has unstructured time and when Student is transitioning from one activity to another. Student requires an intense level of care to prevent him from harming himself and others. Specifically, it is a constant fear that Student will assault, bite, kick, or hit fellow students or staff, with a plausible concern that Student will engage in sexually inappropriate behavior that could be deemed an illegal physical assault.
6. Student and his twin tend to antagonize each other, which escalates their aggressions and other negative behaviors. As such, Student and his twin do not

visit their Mother at her home together anymore. Likewise, the Bayes staff has separated the boys.

7. In June 2006, Student's ARD Committee met and discussed the possibility of transitioning Student to BISD's non-residential facility, The Oaks. Student's Mother attended this meeting. It was agreed that due to Student's more serious maladaptive social behaviors, he would not be considered for transitioning to The Oaks at that time.
8. Although Student's ARD Committee was not recommending his transition to The Oaks at that time, Student's Mother and a representative from Spindletop toured The Oaks because BISD was planning to transition Student's twin. Spindletop had concerns about the safety of the physically disabled children attending The Oaks and the twin's propensity for aggression. Because Student's maladaptive behaviors were so much more intense and pervasive, there was no discussion of transitioning Student to The Oaks along with his twin at that time.
9. In spring 2007, Student's aggression increased, requiring numerous incidents of physical restraint by Bayes staff. Likewise, Student exhibited moderate-to-significant regression in such targeted behaviors as noncompliance, self-injurious behavior, excessive self-stimulatory behavior, inappropriate vocalizations (screaming and repetitive speech), and leaving assigned areas.
10. On June 19, 2007, a representative of Spindletop attended a planning meeting for summer camp to be held by the ARC of Greater Beaumont. Student and his twin were listed as attendees, which indicated that they were going to be removed from Bayes shortly and would need EYS from another provider. The information provided to the ARC was done so without the permission of Student's Mother and violates Student's confidentiality rights.
11. Student's Mother learned of the summer placement and realized that the District was moving her children back to the District very soon. However, the evidence established that BISD failed to provide Student's Mother with written notice of its intent to move Student back to BISD.
12. There were scheduling difficulties but Student's ARD Committee finally convened on July 2, 2007. The evidence established that Student's Mother had actual notice of BISD's intent to discuss Student's removal from Bayes at this ARD Committee meeting.
13. As of the July 2, 2007, ARD Committee meeting, there was no written plan for the proposed transition and reintegration of Student. Further, Student's assessments were out of date. Student's Mother requested assessments in all areas of need prior to any removal from Bayes.

14. The ARD Committee noted that Student was showing no mastery of the IEPs developed in June 2006. The Committee lowered the percentages Student was required to reach to demonstrate mastery of his goals and objectives.
15. The ARD Committee included approximately thirty (30) individuals who have worked with Student at Bayes, who have provided training, as well as representatives from The Oaks and other BISD personnel. Student's Mother attended with her attorney. BISD's attorney attended this ARD Committee meeting as well. The Committee did not reach consensus related to Student's change in placement or IEPs to be implemented at The Oaks. At the conclusion of this ARD Committee meeting, Student's Mother requested that the ARD reconvene within ten (10) school days. No date was determined at that time for reconvening this ARD Committee meeting.
16. The evidence supports the conclusion that prior to the July 2, 2007, ARD Committee meeting, BISD had made the decision to transfer Student from Bayes to The Oaks and that such transition was to occur immediately. Student was to be withdrawn from Bayes in August 2007 and was expected to transition before his twin.
17. The evidence supports the conclusion that BISD did not offer Student's Mother a ten-day recess of the July 2, 2007, ARD. Instead, BISD filed its Request for Due Process Hearing on July 5, 2007.
18. With consent from Student's Mother, BISD performed a psycho-educational evaluation of Student in August 2007. The assessor, Dr. \*\*\* observed Student and his twin as part of the assessment. Such observation without notice to Student's Mother did not constitute a procedural violation of IDEIA.
19. Dr. \*\*'s report was not as substantive or probative as the subsequent Independent Educational Evaluation ("IEE") performed by Dr. \*\*\* in January 2008.
20. BISD did not perform other requested assessments in speech and language, assistive technology, physical therapy, and adaptive P.E. Additionally, BISD failed to assess Student's seizure disorder.
21. BISD provided Student's Mother with written IEPs in August 2007. These IEPs are inappropriate and do not support Student's removal from Bayes, at this point, in the following particulars:
  - a. these IEPs were drafted prior to the completion of important assessments, some of which still have not been done;

- b. the goals and objectives are written for implementation at Bayes and not at a non-residential setting;
  - c. there were no IEPs related to post-secondary school transition.
  - d. the IEPs contained no specifics related to
    - (1) Student's transition from the highly-structured environment at Bayes into The Oaks and reintegration back into the family home (particularly when Student's twin is also in the home);
    - (2) requisite in-home training as well as training for Student's teachers/staff;
    - (3) extended day and year services;
    - (4) behavioral interventions (via a BIP);
    - (5) transportation;
    - (6) crisis management;
    - (7) elopement; or
    - (8) sexually inappropriate behaviors.
22. Student's in-home training assessment was completed in September 2007.
23. The evidence established that BISD did not provide all of the in-home training set forth in Student's IEP in effect in 2006-2007. However, the evidence is insufficient to establish how much in-home training BISD failed to provide Student prior to July 2007.
24. The evidence is insufficient to establish that Student's Mother would not cooperate in either discussing Student's transition from Bayes to The Oaks or developing an appropriate IEP.
25. The evidence established that BISD prevented Student's Mother from meaningful participation in developing his IEPs and placement determination.
26. In January 2008, Dr. \*\*\* completed an IEE of the twins. His report of Student's performance, and other evidence at Hearing, established that Student is not ready to transition from a residential to a non-residential placement.
27. The evidence proved that Student's current LRE is at Bayes.

## IV. DISCUSSION

IDEIA mandates that all state school districts receiving federal funding must provide all handicapped children a free, appropriate, public education. The United States Supreme Court, in *Hendrick Hudson Central School District v. Rowley*, 458 U.S. 175 (1982), established a two-part test for determining whether a school district has provided a student FAPE: 1) the school district must comply with the procedural requirements of IDEIA, and 2) the school district must design and implement a program "... reasonably calculated to enable the child to receive educational benefits." An educational benefit must be meaningful and provide the "basic floor of opportunity, or access to specialized instruction and related services, which are individually designed to provide educational benefit to the handicapped child." *Rowley*, 458 U.S. at 200-01. In determining whether a child is receiving FAPE, the *Rowley* Court insisted that the reviewing court must not substitute its concept of sound educational policy for that of the school authorities. *Id.*, 458 U.S. at 206. Although the school district need only provide "some educational benefit," the educational program must be meaningful. *Cypress-Fairbanks Independent School District v. Michael F.*, 118 F.3d 245 (5th Cir. 1997). The educational benefit cannot be a mere modicum or *de minimis*. It must be likely to produce progress, not regression or trivial educational advancement. *Houston Independent School District v. Bobby R. and Caius R.*, 200 F.3d 341, 347 (5<sup>th</sup> Cir. 2000).

In *Cypress-Fairbanks Independent School District v. Michael F.*, the Court set forth four factors that aid in evaluating whether a student is receiving the "basic floor of opportunity, or access to specialized instruction and related services, which are individually designed to provide educational benefit" to that student: 1) whether there is an individualized program based on the student's assessment and performance; 2) whether the individualized program is administered in the least restrictive environment ("LRE"); 3) whether the services are provided in a coordinated and collaborative manner by the key stakeholders; and 4) whether positive benefits are demonstrated both academically and non-academically.

If the IEP is deemed appropriate under the above-stated standards, then it serves as a basis for decisions related to the student's placement for receipt of special education services. In determining the student's physical placement, the school district must ensure 1) that the placement decisions are made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and 2) that the placement is determined at least annually, that it is based on the student's IEP, and that it is as close as possible to the child's home. 34 C.F.R. §300.116(a) & (b).

### **A. BISSD's Substantive Violations Of IDEIA**

In the instant case, BISD asks the undersigned Hearing Officer to approve its decision to remove Student from a residential placement at Bayes and to transfer him to a non-residential placement at The Oaks. In light of the evidence presented in the Due Process Hearing, such request is patently premature and legally infirm.

As acknowledged by BISD during the Hearing, there was no IEP developed for Student *prior* to BISD's convening the July 2, 2007, ARD Committee meeting and suggesting this major change in Student's placement. Notwithstanding that fact, BISD proceeded to file a Request for Due Process Hearing three (3) days later in which it clearly seeks Student's change in placement from Bayes to The Oaks. This means that BISD was asking Student's ARD Committee, including his Mother, and the undersigned to approve this critical placement decision a) *in the absence of* necessary, over-due assessments; b) *in the absence of* any consideration of Student's pervasive service needs related to transition, transportation, reintegration, escalating aggression, and sexually inappropriate behaviors; c) *in the absence of* any plausible basis for the imminent timing of Student's transition; d) *in the absence of* any information related to the impact this would have on Student's family at home, especially if Student's twin was transitioned also, and e) *in the absence of* any input from Student's mother. In short, there is absolutely no basis in law or fact to support the relief requested by BISD in its Request for Due Process Hearing.

Further, and unlike Student's twin, the record of this proceeding established that not only was the July 2, 2007, recommended change in placement patently premature, no change in Student's placement is appropriate at this time. Dr. \*\*\*'s subsequent IEE eviscerates any basis for Student's transition from a residential placement to a non-residential placement.: ... "[Student] is not ready to attempt a transition from a residential to a non-residential placement. He clearly requires a higher level of care than what can be obtained in an outpatient setting. Since his last review, he reportedly has had a medication change, a seizure, and a large increase in dangerous behavior. **He is an active danger to himself and others, and his ability to be instructed remains severely compromised.** The concern is that transition at this point may result in regression as well as an increase in dangerous behavior." (Dr. \*\*\*'s January 7, 2008, report – Respondent's TAB 9, p. 421) (Emphasis added.)

#### **B. BISD's Procedural Violations Of IDEIA**

Student presented numerous incidents of procedural violations committed by BISD in its zest for effecting Student's removal from Bayes by the beginning of school year 2007-2008. Taken as a group, these incidents prevented Student's Mother from meaningfully participating in the development of Student's IEP and the determination of where that IEP could be implemented:

1. BISD pre-determined that Student would be removed from The Oaks before the July 2, 2007, ARD Committee meeting, thereby precluding Student's

Mother from participating in the decision related to Student's educational placement, a violation of 34 C.F.R. §300.116(a)(1);

2. BISD failed to provide Student's Mother with prior written notice of Student's change in placement, a violation of 20 U.S.C. §1415(b)(3)(A); 34 C.F.R. §300.503; and
3. BISD failed to offer Student's Mother the ten-day recess prior to filing its Request for Due Process Hearing, a violation of 19 Tex. Admin. Code §89.1050(h)(1).

These actions constitute a denial of FAPE. 20 U.S.C. §1415(f)(3)(E)(II); 34 C.F.R. §300.513(a)(2)(ii).

## **V. CONCLUSIONS OF LAW**

1. Student is eligible for special education services, based upon his Autism Disorder, Speech Impairment, Attention Deficit, Hyperactivity Disorder, Mental Retardation, and seizure disorder. 20 U.S.C. §1401(3)(i) & (ii); 34 C.F.R. §300.8(a)(1).
2. BISD is required to provide Student FAPE. 20 U.S.C. §1401(9); 34 C.F.R. §300.17.
3. Student's removal from Bayes to The Oaks is inappropriate at this time because there are no appropriate IEPs developed upon which a change in placement can be determined. 34 C.F.R. §300.116(a)(1).
4. Student's removal from Bayes to The Oaks is inappropriate at this time because appropriate IEPs cannot be delivered at The Oaks. The Oaks is not Student's LRE. 34 C.F.R. §300.114 & 118.
5. BISD committed procedural violations that denied Student's Mother meaningful participation in making educational decisions. These violations constitute a denial of FAPE. 34 C.F.R. §300.116(a)(1); 20 U.S.C. §1415(b)(3)(A); 34 C.F.R. §300.503; 19 Tex. Admin. Code §89.1050(h)(1); 20 U.S.C. §1415(f)(3)(E)(II); 34 C.F.R. §300.513(a)(2)(ii).

## **VI. ORDER**

Based upon the record of this proceeding and the foregoing Findings Of Fact and Conclusions Of Law, it is ORDERED that the relief requested by BISD is DENIED. It is further

ORDERED that the relief requested by Student is GRANTED, in part, and DENIED, in part. It is further

ORDERED that within ten (10) school days, Student's ARD Committee shall convene to begin development of an IEP for Student's continued education at Bayes during school year 2008-2009. The Committee shall first determine whether additional assessments are needed. Once these are completed, then the Committee shall convene within ten (10) school days of the completion of these assessments to develop Student's IEP for delivery at Bayes:

1. The ARD Committee shall utilize the suggestions of Dr. \*\*\*, as well as input from staff from Spindletop, Bayes, and any others who have knowledge or special expertise regarding Student;
2. The IEPs shall be detailed and contain measurable goals and objectives addressing all of Student's current levels of need and performance, including behavioral problems that have escalated since BISS filed the Request for Due Process Hearing;
4. The IEPs shall contain all components set forth in the autism supplement effective November 11, 2007 (Tex. Adm. Code §89.1055);
5. The IEPs shall address post-secondary/vocational transition planning;
6. The ARD Committee shall establish a timeframe during school year 2008-2009 for reconvening to discuss the possible transfer of Student from Bayes to The Oaks during school year 2009-2010, or at an earlier date if the ARD Committee mutually agrees upon such transfer. In such case, the Committee should solicit a transition plan, preferably prepared by Dr. \*\*\*, to slowly transition Student from Bayes to The Oaks, or any other facility deemed appropriate. At any time that the ARD Committee mutually determines to move Student from Bayes to The Oaks, or another such facility, Student shall remain enrolled at Bayes until Student successfully completes his transition period.

All other relief requested is DENIED.

Finding that the public welfare requires the immediate effect of this Decision, the Special Education Hearing Officer makes it effective immediately.

The District shall timely implement this Decision within ten (10) school days in accordance with 19 Tex. Admin. Code §89.1185(q) and 34 C.F.R. §300.514. The following must be provided to the Division of Special Education Programs and Complaints at the Texas Education Agency and copied to the Student within fifteen (15) school days

from the date of this Decision: 1) documentation demonstrating that the Decision has been implemented; or 2) if the timeline set by the Hearing Officer for implementing certain aspects of the Decision is longer than ten (10) school days, the District's plan for implementing the Decision within the prescribed timeline, and a signed assurance from the Superintendent that the Decision will be implemented.

SIGNED this 2<sup>nd</sup> day of July 2008.

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*Deborah Heaton McElvaney*  
Special Education Hearing Officer

COPIES SENT TO:

Ms. Melody G. Chappell  
Wells, Peyton, Greenberg & Hunt, L.L.P.  
P.O. Box 3708  
Beaumont, Texas 77704-3709  
*Petitioner's Counsel*

Ms. Dorene J. Philpot  
Philpot Law Office, P.C.  
7820 Seawall Blvd., #232  
Galveston, Texas 77551

AND

Ms. Elizabeth A. Russell  
104 Williamsburg Court  
Colleyville, Texas 76034  
*Respondent's Counsel*

DHM:cgc  
07694/Decision