

DOCKET NO. 139-SE-0120

STUDENT	§	BEFORE A SPECIAL EDUCATION
b/n/f PARENT	§	
	§	
v.	§	HEARING OFFICER FOR THE
	§	
KIPP TEXAS	§	
PUBLIC SCHOOLS	§	STATE OF TEXAS

**DECISION OF HEARING OFFICER**

Petitioner, \*\*\* (“Student”), by next friend, \*\*\* (“Parent”), filed a complaint requesting an impartial due process hearing pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”). The complaint was received by the Texas Education Agency (“TEA”) January 9, 2020 and re-assigned to this hearing officer June 11, 2020. The Respondent in the complaint is KIPP Texas Public Schools (“KIPP”).

**Procedural History**

Respondent moved for Motion for Partial Dismissal. Petitioner was given time to respond to the motion. Petitioner filed no response to the motion. On March 6, an Order of Partial Dismissal watecartc

## **Issues for Hearing**

Petitioner alleged a failure to provi

evaluation. The LSSP was to communicate with Parent regarding a date on which to review the documents. The meeting ended in disagreement. P-A, pg. 16; R-3, pg. 16, 19

10. The LSSP did not communicate with Parent following the meeting. Parent made no contact with the LSSP about the status of the counseling consent form. Neither did the LSSP communicate with Parent again until the second half of the 2019-2020 school year. T-pg. 118, 135-136
11. The May 2019 ARD committee developed four Adaptive Behavior goals. The committee also developed one ELA and Reading goal and one Mathematics goal. Multiple accommodations were recommended for adaptation of classroom instruction and management of behavior. Student's IEP did not include counseling as a related service. P-A, pg. 5-8; R-3
12. The committee developed a behavior intervention plan ("BIP") that targeted the following behaviors: \*\*\*. P-A, pg. 24-25
13. The ARD committee met September \*\*\*, 2019, Student's \*\*\* grade year. The meeting continued October \*\*\*, and October \*\*\*. One purpose of the meeting was to consider results of an independent occupational therapy ("OT") evaluation. Because the independent OT evaluation was a clinical based evaluation rather than school based, the KIPP committee members did not accept it. KIPP wanted to conduct its own OT evaluation of Student. Parent refused to give consent. The LSSP interpreted Parent's comments regarding refusal to give consent as a refusal to consent to any additional evaluations. Parent did not mention counseling as a related service evaluation at the meeting. The meeting ended in non-consensus. R-4, pg. 3-8; T-pg. 150-152
14. Parent filed the instant action January 9, 2020. (See Notice of Filing of Request for A Special Education Due Process Hearing)
15. On January \*\*\*, 2020, KIPP developed and obtained Parent's consent for a counseling evaluation. R-8, pg. 1-4; T-pg. 119-121
16. KIPP closed from March 23, 2020 until the end of the academic school year due to the Covid-19 Pandemic, interrupting Student's counseling evaluation. R-5, pg. 21; T-pg. 120, 125



31. On November\*\*\*

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Parents have the right to inspect and review any education records relating to their children that are collected, maintained, or used by the child's school or district. A school or district must comply with a parental request without unnecessary delay and before any meeting regarding an IEP, or any due process hearing, manifestations review procedures or resolution sess

delay in obtaining consent. This hearing officer makes no ruling on an issue not presented by the pleadings or the parties. 20 U.S.C. § 1415(f)(3)(B) (Bago Vista Indep. Sch. Dist. v. S. F. b/n/f Steven and Carol F., 50 IDELR 104 (W. D. Tex., 2007)).

### Student's Progress

The evidence supports a finding that the ARD committee considered Student's strengths and weaknesses shown in Student's current assessments and Student's performance. The committee considered Student's behavioral needs. Student's BIP addressed Student's targeted behaviors. Student received \*\*\* instruction in the special education setting. Student received Student's remaining instruction in the general education setting with in-class supports.

Students with disabilities must be educated with students without disabilities to the fullest extent possible, and consideration of a student's least restrictive environment includes an examination of the degree of benefit the student will obtain from an inclusive education. Daniel R.R. v. State Bd. of Educ., 874 F.2d 1036, 1049 (5th Cir. 1989). Student's placement was not in dispute.

Parent attended Student's ARD meetings, asked questions, made requests, and was an active participant in the decision-making. The ARD committee considered Parent's input. KIPP took time to explain subjects that were confusing such as the difference between a clinical evaluation and a school-based evaluation. KIPP explained Parent's rights to request an IEE following a disagreement with an evaluation done by KIPP. When Parent expressed concern about ensuring additional services to help Student take the STAAR, KIPP staff offered to

3. Student was provided a FAPE during the relevant time period. Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley, 458 U.S. 176 (1982); Endrew F. v. Douglas Cnty. Sch. Dist., 137 S. Ct. 988 (2017).

#### Orders

Based upon the foregoing findings of fact and conclusions of law, IT IS ORDERED that the Respondent shall comply with the provisions of ORa-3.9 (u.7 (C)4 (e) up) (a-3.1

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