

ISSUES:

1. Are the Parents entitled to reimbursement for certain expenses connected with extended school year services during the summer of 1999 for Student?
2. Shall another Planning and Placement Team (PPT) meeting be ordered concerning an Individualized Education Program (IEP) for the 1999-2000 school year for Student?
3. Is Student still entitled to the services of an individual aide in the integrated classroom program, as a "stay put" requirement pending the completion of this hearing?
4. Are the Parents entitled to reimbursement for home-based Applied Behavior Analysis (ABA) services pending the completion of this hearing?

SUMMARY OF PROCEDURAL HISTORY TO DATE:

This hearing was requested on November 23, 1998. Hearing sessions have been held on February 24, 1999, March 23, 1999, April 23, 1999, May 10, 1999, June 14, 1999, June 21, 1999 and September 14, 1999. Many other hearing dates have been postponed: while each request for postponement appears to be reasonable on its face, the net result has been excessive delay of this hearing. Additional dates are now scheduled for September 24 and October 14, 1999.

Prior Interim Orders have been issued on April 6 and June 21, 1999.

FINDINGS OF FACT:

1. Student entered the Board's school on August 31, 1998. A PPT meeting held on August 27, 1998, used records from his prior diagnosis of autism and prior educational programs in the United Kingdom to determine eligibility for special education. The PPT recommended actions were given in the record of the August 27, 1998, meeting:

Eligibility was decided given a diagnosis of Autism.

The team agreed to write a general IEP for now and meet again in 6 weeks with a more comprehensive IEP including related services.

Full day, 5 hour program 3 hours ISC, 2 hours integrated classroom. Speech 3 x 30 minutes to start the school year, the therapist will evaluate this time.

Student's Parent consented to placement in special education at this PPT meeting.
(Exhibits B-1, B-2, B-3, B-4)

2. The ISC program was described as including ABA therapy. (Testimony of Dr. Smith, Testimony of Ms. Gruber, Testimony of Mother)
3. The goals provided with the record of the August 27, 1998, PPT meeting were:

To improve expressive communication

To improve receptive language skills (Exhibit B-3 pages 5 and 6)
4. Another PPT meeting, held on October 29, 1998, discussed IEP revisions and extended Student's school day as follows:

ISC teacher/aides	10 hours per week
Integrated Pre-K [classroom]	18.5 hours per week
Speech/language	3 hours per week
Total, 30 hours per week. (Exhibit B-8, page 16)	

5. The Parents expressed doubts about Student's ISC program at the October 29, 1998, and subsequently removed him from that element of the Board's program. The report of the October 29, 1998, PPT meeting includes a note that the IEP will be reconsidered and that the Parents "desire additional time to consider these recommendations". (Exhibit 8, page 3)
6. The Board's PPT met on March 9, 1999, to discuss extended school year (ESY) services for Student. The record of this meeting shows the following related to ESY:

Information presented for consideration ...

Since Student has demonstrated significant regression on several of his IEP objectives (after breaks in service), the team determined him to be eligible [for ESY services].

Dr. Smith shared information on several ESY options (preschool, summer camp/inclusion, and the academic summer school program). Parent expressed interest in finding out more information on the summer camp/inclusion program. Dr. Smith will set-up an appointment with ARC (agency assisting with summer camp) to explore this option further. A final decision will be deferred until after this meeting.

Action(s) recommended by this PPT and the reason(s) for these recommendations:

The team determined the Student to be eligible for ESY. The specific program will be determined after Parent gains further information on the options.

Other options considered and the reasons for not recommending them at this time included:

Several ESY options were considered (preschool, summer camp/inclusion, and the academic summer school program), but a final decision was deferred so that the Parent can be provided with more information on the various options.

The record of this meeting includes a check mark adjacent to the following statement: Parent is in agreement with PPT recommendations and requests immediate implementation. It is not clear whether this notation applies to one, two, or all three of the "Actions recommended". (Exhibit B-23, pages 2 and 3)

7. An IEP form dated October 29, 1998 was revised at the March 9, 1999, PPT meeting to show that Student was eligible for an extended school year. Student's October 29, 1998 IEP goals, identified as September, 1998 – June, 1999, June 29, 1999 – July 30, 1999 and September 1, 1999 – October 31, 1999, were given as:

To increase appropriate social behavior

To increase appropriate play/academic skills

To increase receptive and expressive communication

However, this IEP had been scheduled for revision at the October 29, 1998, PPT meeting, and was never finalized. (Exhibit B-8, pages 12-15)

8. The Board's PPT met on May 18, 1999, to discuss ESY services for Student. The record of this meeting shows the following related to ESY services:

Information presented for consideration, ...

Parent stated that she had enrolled Student at St. Paul's camp, but the schedule is a week earlier than the public school summer schedule. She requested that services begin when Student begins camp. Dr. Smith stated he would discuss the request with Mrs. Ford, Director of Pupil Personnel Services.

Dr. Horn asked about the training and accreditation of the staff who will be working with Student of over the summer. Dr. Smith will try to facilitate a sharing of information between the summer school staff and preschool staff.

Action(s) recommended by this PPT and the reason(s) for these recommendations included:

Parents chose to enroll Student in a summer camp program and the team agreed that his services and supports could be satisfactorily implemented in that setting.

Other options considered and the reasons for not recommending them at this time included:

Placement in the preschool summer program was not recommended because the Parents felt Student would benefit more from a camp/type program. The team felt Student's program could be implemented in such a setting.

The record of this meeting includes a check mark adjacent to the following statement: Parent is in agreement with PPT recommendations and requests immediate implementation. (Exhibit B-24, page 3)

9. An Interim Order dated June 21, 1999, included the following Finding of Fact:

It was reported at today's hearing session that there had been a PPT meeting concerning summer programming for Student, and that the Parents had rejected the Board's proposed program. (June 21, 1999, Interim Order II)

10. Student's Parent reported that in conversations with Dr. Smith she had been assured that the St. Paul's camp was considered an appropriate summer program for Student. She was informed that the first week of St. Paul's camp did not conform to the Board's summer program schedule, and therefore the Board would not fund the first week of support services; she was also informed that the cost of the camp itself would not be funded by the Board. (Testimony of Mother)
11. The Board's PPT supports ESY camp programs because this is more like what children without disabilities do in the summer. The Board works with ARC to help parents select an appropriate camp. Parents are expected to fund the camp, and the Board provides support services as determined by the PPT. (Testimony of Dr. Smith)
12. Student's summer services provided by the board were not documented in the PPT record. The Board provided a full time aide, an inclusion specialist and a special education teacher. (Testimony of Dr. Smith)
13. The Parents funded the services of an aide for the first week of the summer program because the Board funding did not begin until the next week. The aide was with Student for four weeks, but was not available (due to personal commitments) for the last two weeks of the program. The Parents felt that Student was comfortable in the program, and felt that Student would do better without an aide than with a new aide. Therefore, the Board did not provide an aide for the last two weeks of the program. (Testimony of Mother)
14. By an Interim Order dated June 21, 1999, the Board's PPT was to meet and develop an IEP for Student for the 1999-2000 school year. The parties presented differing

understandings of the role of CARD in developing an IEP for Student for the 1999-2000 school year. Student's Parent felt that written input concerning goals and objectives would be sufficient, because she did not wish to fund the presence of a CARD representative at the Board's PPT meeting. Dr. Smith understood that the Parents expected CARD to send a representative to the PPT meeting, which the Board would fund. Due to this misunderstanding, the June 24, 1999 PPT meeting's second session, to finalize the 1999-2000 IEP, had not been held prior to the September 14, 1999, session of the hearing. (Exhibit B-25, Testimony of Mother, Testimony of Dr. Smith)

15. By an Interim Order dated April 6, 1999, an aide was to be provided for Student in the integrated classroom pending the final decision or settlement of this case. (Interim Order I, April 6, 1999)
16. Due to Board staff changes for the 1999-2000 school year, it was not possible to determine the status of Student's aide in the integrated classroom as of the September 14, 1999, session of the hearing. (Testimony of Mother, Testimony of Dr. Smith)

CONCLUSIONS OF LAW:

1. Pursuant to Section 10-76a-1, Regulations of Connecticut State Agencies (R.C.S.A.) and 34 C.F.R. Section 300.13(a), special education and related services are provided to student with disabilities without charge to parents.
2. Pursuant to Section 10-76d-3, R.C.S.A., the PPT may determine that an individual student who is eligible for special education and related services requires an extended school year because of that student's individual special education needs.
3. Pursuant to Section 10-76d-16, R.C.S.A. and 34 C.F.R. Section 300.343, the PPT's decision regarding special education and related services commits the Board to provide those services. Deferral of decisions pending administrative consultation, followed by presumed telephoned notice of administrative decisions to the Parent, without PPT participation and a written record, violates state and federal procedural requirements.
4. Pursuant to 20 U.S.C. Section 1415(j), pending the completion of a special education hearing the student remains in the "then-current educational placement," unless the State or local education agency and the parents otherwise agree.
5. While the Board may consider providing support services in a parent-funded placement pursuant to 34 C.F.R. Section 300.452, in this case the PPT determined that Student was eligible for extended school year services and offered three options, including "summer camp/inclusion". Nothing in the PPT record of the two meetings indicates that the ESY program would not be fully funded by the Board. Approval of the camp program must include the calendar of the camp program. The Board's

interpretation, that Student would start camp a week after the program began, is not consistent with Student's strengths and needs.

6. While there has been commendable informal communication between the parties concerning Student's needs, there is disagreement as to what has been agreed to by the Board and indeed on whether agreement has been reached. This Hearing Officer is reluctant to appear to disapprove of informal communication; however, both Parents and Board should be reminded that the IEP and the PPT record are the "official" documentation of special education and related services to be provided.

INTERIM DECISION AND ORDER:

1. Upon presentation of appropriate supporting documentation, the Parents shall be reimbursed by the Board for extended year services for Student provided at St. Paul's camp, including but not limited to: transportation, aide for Student, and camp fees for the six-week camp session.
2. If the PPT has not yet met to complete Student's IEP for the 1999-2000 school year, as previously ordered in Interim Order II, the PPT shall conclude its deliberations and provide an IEP for Student for the 1999-2000 school year.
3. If an aide is not currently being provided for Student in the integrated classroom, as previously ordered in Interim Order I, this support service shall be provided by the Board immediately.
4. Since the issue of funding for ABA services provided to Student at home is a fundamental issue of this hearing, no decision can be reached concerning such funding prior to the completion of the hearing.