

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Regional School District No. 10

Appearing on behalf of the Parents: The Parents proceeded *pro se*.

Appearing on behalf of the Board: Attorney Christine L. Chinni
Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103-1919

Appearing before: Attorney Mary Elizabeth Oppenheim
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Whether the home-school collaborative meetings held in October, November and December 2004 were PPT meetings.
2. If so, whether the Board has failed to comply with IDEA and the Regulations of Conn. Agencies in its failure to provide copies of reports and copies of minutes for the October, November and December meetings; its failure to provide notice of scheduled PPT meetings; its failure to specify the purpose and intent of those scheduled PPT meetings; and in that it failed to provide a copy of the procedural safeguards to the Parents at those meetings.
3. Whether the Board has failed to provide access for review of the educational records prior to the due process hearing.
4. Whether the procedural violations resulted in a denial of a free appropriate public education to the Student.
5. Whether the Board has failed to provide a free appropriate program to the Student in its implementation of the Student's IEP from October through December 2004.
6. Whether the Board has failed to report the progress of the Student to the Parents and, if so, whether this constitutes a procedural violation.

SUMMARY:

In September 2004, the ninth grade student was found eligible for special education and related services, and provided with an IEP that included student support center assistance, resource tutorial and counseling on an as-needed basis. In addition, as part of his special education program, the Planning and Placement Team [PPT] agreed that home-school collaborative meetings would be held on a monthly basis to apprise the Parents of the Student's progress and keep the lines of communication open. The Parents requested this hearing to, inter alia, challenge the conduct of the home-school collaborative meetings, to claim procedural violations and assert that the Student's IEP had not been appropriately implemented.

PROCEDURAL HISTORY:

The Parents requested this hearing on January 24, 2005, and a prehearing conference was held on January 28. The mailing date of the decision was extended at the request jointly by the Parents and the Board's attorney so that additional hearing dates could be scheduled, and briefs submitted.

The hearing convened on 5 days in March and April 2005. The parties submitted briefs on May 23.

The Parents' witnesses were the Father; Michael Ridley, Board special education coordinator and school psychologist; Michelle McCard, Board school psychologist; Leslie Vendetti, Board special education teacher and case manager; Monika Kordowski, Board Spanish teacher; Anthony Mitchell, Board environmental science teacher; Cynthia Adajian, Board social studies teacher; Alfred McGunnigle, Board guidance counselor; Peter Bogen, Board high school assistant principal; Lee Bracken, Board math teacher; Jeanne Dowd, Board English teacher; and the Mother.

The Board's witnesses were Leslie Vendetti, Board special education teacher and case manager and Ania Czajkowski, Board director of special services.

To the extent that the procedural history, summary and findings of fact actually represent conclusions of law, they should be so considered, and vice versa. Bonnie Ann F. v. Callallen Independent School Board, 835 F. Supp. 340 (S.D. Tex. 1993)

FINDINGS OF FACT:

1. The Student is in ninth grade and is eligible for special education and related services with the primary disability of Other Health Impaired – ADD/ADHD. [Exhibit B-3]

2. The Planning and Placement Team [PPT] met on March 31, 2004, and referred the Student for psychiatric and educational evaluations which were completed in May 2004. [Exhibits B-1, B-2]
3. The Board members of the PPT attempted to hold a PPT to discuss these evaluations in June, July and August 2004, but the Parents were not available. As a result of these scheduling problems, the PPT meeting could not be held until September 21, 2004. [Testimony Ms. Czajkowski, Exhibit B3]
4. At the September 21, 2004 PPT meeting, the Student was found to be eligible for special education and related services, with the primary disability of Other Health Impaired [OHI] – ADD/ADHD. The PPT members agreed that the Student's Individual Educational Program would include the following special education and related services: Student Support Center assistance of 0.5 hours per week, Resource Tutorial in the resource room for 3.7 hours per week, counseling with the school psychologist through the Student Support Center on an as-needed basis, and home-school collaborative meetings once per month. The Student's goals included: (1) the Student will utilize the Student Support Center in order to positively participate in the school community [which goal included 3 objectives] and (2) the Student will participate in resource in order to maintain passing grades [which also included 3 objectives]. The Parents agreed to this program, and signed their consent for the Student's initial placement in special education. [Exhibit B-3]
5. The purpose of the home-school collaborative meetings was discussed and described at the September 21 PPT meeting. [Testimony Ms. Vendetti] The home-school collaborative meetings facilitate communication between the home and the school. This informal process differs from a PPT, where educational decisions and changes are made to the Student's IEP. The progress of the Student is discussed at both PPTs and at home-school collaborative meetings. [Testimony Mr. Ridley] Home-school collaborative meetings are a way to communicate to the school when the Student receives student support center services. [Ms. McCard] The Student's grades would be discussed at home-school collaborative meetings. [Testimony Ms. Vendetti]
6. The home-school collaborative meetings for the Student were held on October 14, November 4, November 23, and December 14. [Exhibit B-13] The Student's special education teacher, the school psychologist and the Father attended all of these meetings. The Mother attended one of the meetings, and the guidance counselor and the special education coordinator attended at least one of the meetings. [Testimony Ms. McCard, Ms. Vendetti, Mr. Ridley and Father]
7. The Student's special education teacher, who served as the Student's case manager, obtained updates on the Student's academic progress from each of his teachers more than once per month. [Testimony Ms. Vendetti, Ms. Kordowski, Mr. Mitchell, Ms. Adajian, Mr. Bracken, Ms. Dowd] The case manager reported

- the Student's progress at each of the home-school collaborative meetings.
[Testimony Ms. Vendetti]
8. A home-school collaborative meeting was scheduled in January of 2005. This meeting was rescheduled because the Student could not attend, and later was cancelled because the Parents refused to attend further home-school collaborative meetings. [Testimony Ms. McCard, Exhibits B-4, B-5]
 9. On January 21, 2005, the case manager called the Mother to attempt to reschedule the January home-school collaborative meeting and to explain the difference between a home-school collaborative meeting and a PPT meeting, in response to an email she had received from the Mother. In response to the case manager's explanation of the differences between a home-school collaborative meeting and a PPT meeting, the Mother called the teacher "retarded" and then hung up the phone. [Testimony Ms. Vendetti, Exhibit B-5]
 10. On January 24, 2005, the Parents filed this request for due process, alleging that the home-school collaborative meetings were PPT meetings and that the Board had not followed the procedural rules which pertain to PPT meetings when the HSC meetings were conducted. The Parents also requested copies of the Student's records. [Exhibit B-6] The Parents had previously received copies of the Student's special education records in October 2004. [Testimony Ms. Czajkowski, Exhibit B-7]
 11. Both Ania Czajkowski, the Director of Special Services, and Jill Dymczyk, Supervisor of Special Services, were out sick on January 24, the day the Parents' letter requesting due process was received at the Board offices. [Testimony Ms. Czajkowski]
 12. On January 25, the Director responded to the Parents' letter, explaining again that the home-school collaborative meetings are not PPT meetings and that the regulations pertaining to PPT meetings did not apply to these meetings. [Testimony Ms. Czajkowski, Exhibit B-7]
 13. January 26 was a snow-day and all schools operated by the Board were closed. Because of the snow day and the fact that both Ms. Czajkowski and Ms. Dymczyk were out sick on the day the Parents' letter arrived at the Board office, the records were mailed on January 27. [Testimony Ms. Czajkowski]
 14. On January 28, the Parents received the copies of the Student's records that were requested in the January 24 letter. [Testimony Ms. Czajkowski, Exhibit B-9]
 15. Prior to February 2005, the Board provided report cards to the Student pursuant to the Board's standard procedure. [Testimony Ms. Vendetti]

16. At all times relevant to this matter, the following describes the Board's standard procedure for issuing report cards to students at the high school. The Board provides information about student progress eight times during the year. The Board issues four quarterly reports and four more progress reports in the middle of each quarter. The report cards and progress notes are placed in different locations throughout the school building depending on the student's last name. Each student picks up his/her report card or progress note at the end of the day and takes it home. [Testimony Mr. McGunnigle]
17. Report cards are issued on pre-designated dates. The dates that report cards are scheduled to be issued are listed in the Student Agenda Book, which is provided to each student at the beginning of the school year, and in Guidance Updates, which are mailed to each student's home periodically throughout the school year. [Testimony Mr. McGunnigle, Exhibits B-14, B-15]
18. The Mother and the Student signed the Agenda Book signature page acknowledging that they understood the Board's system for issuing report cards and knew when report cards would be issued. [Testimony Mr. McGunnigle, Exhibit B-15]
19. At the end of January, the Mother told the special education teacher and the Board director that she wasn't receiving progress reports for the Student. [Testimony Ms. Vendetti]
20. After the PPT meeting held on February 9, 2005, the guidance counselor placed the Student's name on a mailing list so that all report cards would be mailed to the Parents from that point forward. [Testimony Mr. McGunnigle]
21. The Board case manager has mailed the IEP marked progress reports to the Parents at each of the dates specified on the IEP for a total of four or five times so far this year. [Testimony Ms. Vendetti]
22. The letters mailed to the Parents by the Board case manager which included the IEP marked with the Student's progress were never returned to the high school as undeliverable in the mail. [Testimony Ms. Vendetti]
23. The Parents have never requested that any substantive changes be made to the IEP. [Testimony Ms. Vendetti]
24. The Parents have never informed any member of the Board staff that the services described in the IEP were not being implemented. [Testimony Ms. Czajkowski]

CONCLUSIONS OF LAW:

It is undisputed that the Student is eligible for special education and related services as set forth in the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401, et seq.

The meetings regarding the Student which were held in October through December 2004 were not PPT meetings. Federal regulations, which identify the PPT meetings as an "IEP meeting," provide that "[e]ach public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing and revising the IEP of a child with a disability." 34 C.F.R. Sec. 300.343(a) The Regulations of Connecticut Agencies provide that the planning and placement team hold meetings [PPT meetings] to develop the individualized education program in the event of a determination that a child is eligible for special education and related services, and meeting to review or revise the individualized education program. Regs. Conn. Agencies Sec. 10-76h-10 The purpose of these meetings was not to develop, review or revise the Student's IEP. The purpose of these home-school collaborative meetings was to communicate with the Parents regarding the Student's progress.

While there is always caution that one does not want a board to circumvent the procedural safeguards by renaming a PPT meeting a home-school collaborative meeting, or some other title, that is not the case here. These meetings were contemplated at the time of the PPT meeting in which the Student was found eligible for special education, as it was noted in the PPT recommendations that the home-school collaborative meetings would be held once monthly. Furthermore, the Parents were informed that the purpose of the meetings was to keep the lines of communication open, and apprise the Parents of the Student's progress. No educational decisions were made at the home-school collaborative meetings. The meetings did not generate any alterations to the Student's IEP. On more than one occasion, the Board staff reiterated to the Parents that the home-school collaborative meetings were not PPT meetings.

Home-school collaborative meetings can be an effective way for the parents and school staff to share communication regarding the student's progress, and boards should not be deterred from holding these meetings for fear that they will be inappropriately characterized as PPT meetings. The Board scheduled and held home-school collaborative meetings regarding the Student who is the subject of this hearing, which were attended by at least one Parent on each occasion. These meetings were not PPT meetings.

As the home-school collaborative meetings held in October, November and December 2004 were not PPT meetings, the Board has not failed in the manner in which the meetings were held, in any way. The Board was not required to provide copies of reports and minutes for the meetings, nor was it required to provide written notice of those meetings. It was clearly communicated that the purpose of the home-school collaborative meetings was to keep the lines of communication open and to discuss the Student's progress. The Board did not formally specify the purpose or intent of the

meetings, as there was no requirement that the Board specify the purpose or intent as these were not PPT meetings. The Board also did not fail to provide the Parents with a copy of the procedural safeguards at those meetings, as it was not required to do so, since these meetings were home-school collaborative meetings, not PPT meetings.

The Parents' third issue relates to the allegation that the Board failed to provide access for review of the Students' educational records prior to the due process hearing. The access rights to records provision of the Regulations of Connecticut Agencies provides that "the board of education shall comply with such request within ten days of such request, or within three days of such request if the request is in order to prepare for a meeting regarding an individualized education program or any due process proceeding." Regs. Conn. Agencies Sec. 10-76h-18(b)(1) "Days" means school days, in accordance with the regulations. Regs. Conn. Agencies Sec. 10-76h-18(b)(1) Therefore, the Parents received the records within three school days of their request, as the schools were officially closed in one of the intervening days.

Even if it were found that the Board was a day or two late in the compliance with this request, that minimal delay would not rise to the level of a procedural violation which resulted in a denial of a free appropriate public education [FAPE] to the Student. The Parents have not established that there was a denial of FAPE to the Student based on the allegations of the failure to have access to documents, in their allegations that a document was not redacted appropriately, or any other alleged procedural violation. The Student's right to an appropriate education has not been compromised, the Parents have received the appropriate documents in accordance with their requests, and there has been no deprivation of education benefits. *See, e.g. Roland M. v. Concord School Committee*, 910 F.2d 983 (1st Cir. 1990) Therefore, the Board has not committed procedural violations which have resulted in a denial of a free appropriate public education.

The Parents assert in their brief their claim that the Board has inappropriately altered documents. In their brief, the Parents attempted to add additional information through a document appended to their Final Argument/Parent Position about this claim. The Parents cannot now, after the close of evidence, insert additional exhibits or testimony in support of their claim. Nevertheless, it is found that there was no inappropriate alteration of any documents regarding the Student. Therefore, as to this allegation, the Board has also not committed any procedural violation which has resulted in a denial of a free appropriate public education.

The Parents allege in issue number 5 that the Board has failed to implement the Student's IEP from October through December 2004. The Board appropriately implemented the IEP. The teachers who testified all supported the conclusion that the Board provided all services, modifications and adaptations set forth in the Student's IEP of September 21. These services were appropriately provided in accordance with the Student's goal and objectives, which were drafted after review of the psychiatric and educational evaluation.

The Parents' final allegation is that the Board failed to report the Student's progress, which constitutes a procedural violation. This claim also fails, as the Board provided the Parents with frequent reports of the Student's progress. The Parents were fully apprised of the Student's progress in the home-school collaborative meetings, which were attended by at least one Parent at each of these meetings.

The Board provided access to progress at all times. One of the Board teachers provided a website with a confidential manner in which the students and their parents could be apprised of the progress. The Parents did not avail themselves of that information. The teachers provided an opportunity for the Parents to be further apprised of the Student's progress in the parent-teacher conferences. The Parents simply chose not to attend these conferences.

The Board provided report cards to the Student in accordance with the Board's procedure for issuing report cards. These report cards were distributed to all students through the Board's procedure. Moreover, the Parents were fully informed through the student handbook, which was signed by the Parent, the schedule of when the report cards were issued. Even if, *arguendo*, the Parents did not receive the report cards, they had notice of the date when report cards are issued, and could have contacted the school regarding their claim that the report card was not received. The Parents' claim of non-receipt of the progress reports is simply not credible; the Board provided report cards in accordance with their policy, and also forwarded the IEP marked progress to the Parents on at least four occasions.

The IDEA requires that "the child's parents will be regularly informed (through such means as periodic report cards) at least as often as parents are informed of the non-disabled children's progress" and that the parents be informed of "their child's progress toward the annual goals." 34 C.F.R. Sec. 300.347(7)(ii) The Board has met and exceeded these requirements. Therefore, the Parents' final claim fails.

FINAL DECISION AND ORDER:

1. The home-school collaborative meetings held in October, November and December 2004 were not PPT meetings.
2. The Board did not fail to comply with IDEA and the Regulations of Connecticut Agencies in its conduct of the home-school collaborative meetings. The Board had no obligation to provide copies of reports, minutes, written notice or procedural safeguards, nor was it obligated to specify the purpose and intent of those meetings.
3. The Board appropriately provided access for review of the education records prior to the due process hearing.
4. No procedural violations resulted in a denial of a free appropriate public education to the Student.

5. The Board appropriately implemented the Student's IEP from October through December 2004, and provided the Student a free appropriate public education.
6. The Board appropriately reported the Student's progress to the Parents, and the manner and frequency of the reports of progress did not constitute a procedural violation.

COMMENT ON THE CONDUCT OF THE PROCEEDINGS:

The Parents have an acrimonious relationship with the Board staff, marked by emotional exchanges and unsupported allegations. The Parents filed a state Department of Children and Families complaint against the Board alleging physical neglect, which was found to be unsubstantiated. [Exhibit B-19] In their brief, the Parents have now made weighty allegations against the Board director of special services, claiming that she perjured herself in her testimony. Nothing in the record supports the Parents' claim that the Board director perjured herself in her testimony.