

New Hampshire Department of Education

Student/Bedford Sch. Dist.

IDPH FY 10-05-044 & 10-05-046

**Due Process Decision**

This matter involves two separate cases. One brought by the school district regarding the student's IEP and placement for the 2010-2011 school year. The other brought by the parent alleging failure to provide FAPE for previous years. I find that the last proposed IEP and placement by the school district (dated 6/28/10) with school district exhibit numbers 6618-6633 is appropriate with the caveats noted in this order. I also find that the school district did provide the student FAPE in prior school years. The parent did raise some legitimate issues that I address as part of the caveats to the IEP and placement for the current school year (2010-2011).

**IEP and Placement**

The school district proposed a revised IEP as part of the due process hearing that is based on a meeting that several school officials had with the parent. The proposed IEP is dated 6/28/10 with a start date of 8/25/10 and is labeled in the school district exhibits as SD Doc 6618-6633. It was offered to the parent on July 7, 2010.

In reviewing the evidence and the IEP, I find that the proposed IEP is appropriate under the law with the following caveats/comments.

1. The parent presented evidence regarding homework and the excessive amount of time it took the student to complete ... homework. The IEP has a specific provision regarding homework on page 11 that adequately addresses these concerns on paper and needs to be implemented in a way to ensure that the student is not spending excessive time on homework. The student, parent, teachers, and case manager will all need to communicate with each other to make it work.
2. The parent presented evidence regarding the student's inability to complete h.. classwork and assignments and that the student was removed from other classes and lunch in order to complete h.. work. The IEP has a specific provision regarding this issue on page 11. The provision is appropriate as long as the student is not removed from other classes, extra-curricular activities or lunch in order to complete h.. work. It appears that the idea is to have the student do some of this work during h.. skills time which seems appropriate.

If the student is not able to complete h.. class work/assignments during school hours without being removed from some other class or lunch or activity, then the school needs to provide the student with extended year services before or after school in order to assist the student in completing h.. work. If necessary, the school must provide transportation to and from school so that the student can receive those services.

3. There was evidence presented regarding the student's skills class time. As I understand it, the gist of the parent's concern is that she does not want her child spending time in a skills class learning skills that the student does not need help with. That concern is valid. The student's skills time should be spent working on skills that the student needs to address based on his unique needs and his IEP goals and objectives. This could certainly include classwork, assignments, and homework. The IEP notes that the student will audit the skills class and not participate in the skills curriculum and this should be implemented in a way that results in the student's skills time being spent addressing the student's issues.

4. The parent presented evidence regarding the student having anxiety about attending school and that the school did not offer the student counseling or any services to address this issue. Counseling does not appear to be included in the IEP. To the extent the student has any similar issues this school year (2010-2011), the parent should notify the case manager and appropriate services must be provided by the school to address the issue.

The proposed placement is the Bedford High School and I find that the evidence presented demonstrates that the IEP can be implemented at the high school and it is an appropriate placement for the student.

#### **Parent's claims**

The parent brings a variety of claims that all revolve around whether or not the school provided FAPE to the student during the past two school years. I find that FAPE was provided during the past two school years.

The student's test scores, grades, and the testimony and affidavits of the teachers and specialists demonstrate that the student made adequate progress over the past two school years. Overall, the student appears to be achieving commensurate with his ability and perhaps beyond that in some cases. As noted above, the parent did raise some legitimate concerns that need to be addressed going forward, but the evidence did not establish that these concerns deprived the student of FAPE, nor justify the parent's requested relief.

Part of the parent's requested relief was for an independent evaluation and for reimbursement for various services that were provided to the student by private specialists. I decline to award this relief based on the evidence presented.

#### **Findings and rulings**

The school district submitted Findings of Fact and Rulings of law. I rule on those as follows:

#### **Granted:**

1, 3, 5, 6,7,8,9,10, 12, 14, 15, 18,19,20,22,23,24, 27,29,30,31,32,34,35,36,37,38,39 (first sentence only),40,41,42,43,44,45,46,47,48,49,50,52,58

**Neither granted nor denied** as containing/merging statements that I would not grant along with statements that I would grant, or they are beyond the scope of my ruling or unnecessary to rule on given the issues and my ruling.

4, 13, 16, 17,21, 25, 26, 28, 33,51,54,57,59,60

**Denied:**

2, 11, 53,55,56

So Ordered.

\_\_9/2/2010\_\_\_\_\_

Date

\_\_\_\_\_

Scott F. Johnson