

New Hampshire Department of Education

Student/Rollinsford School District

IDPH FY 11-10-012

**Due Process Hearing Order**

**Overview**

This case is very much a tale of two different stories. The guardian's evidence was that the student did not like going to Somersworth High School, had social and emotional issues that were not met, and struggled academically. The school painted a different picture of the student and established that the student made progress at school socially, emotionally, and academically.

The evidence established that the guardian has done an admirable job taking care of her sister and advocating for her in the special education process. As much as I would like to rule in the guardian's favor to help ease the burdens that have been placed on her in this special education process, I am unable to do so given the evidence presented and the legal standards that I must follow.

The guardian's evidence was mainly that the student has social and emotional issues that were not met by the school because the school did not include special education services in the IEP to address those issues. However, the school's evidence established that the student's social and emotional issues were addressed at school. The student had time everyday with a school staff member that helped address issues and provided scripts that helped the student. The student participated in a social skills group and she made progress in that group. Numerous school district witnesses testified about how the student had grown socially and emotionally during her time at school, that she had friends at school, and that she participated in school events with other students.

The guardian also noted academic difficulties, but the school's evidence established that the student made more than minimal progress academically. The student's grades are mostly A's and B's for the time period in question. The school witnesses all testified that these grades were not modified. The student's academic testing over the years (MAP/NWEA) does show some ups and downs overall, but with improvement ultimately in Math. Additionally, in reviewing the documentary evidence about those tests it looks like they assess slightly different areas from one year to the next and without testimony explaining exactly what the scores mean and whether they can be compared equally from one year to the next, I am unable to find that they establish a lack of progress from one school year to the next. There really is not any special education achievement testing that can be compared over a period of time to show a lack of progress or growth in any area.

Additionally, there was no evidence that the student could have made more progress or had better results in any area had she received other services that were not provided. In other words, in looking at what the student achieved, there was no evidence that it was not sufficient given the student's abilities. There was evidence about her low functioning skills in some areas and low percentile scores on some

tests, but no testimony that these results could be improved upon with additional services. There also was not much evidence about what other services should have been provided that were not provided during the relevant time period. Dr. Doiron's report noted some issues and made some recommendations, but the school testified that it met those recommendations. Additionally, I did not interpret or understand Dr. Doiron's testimony to be that the Somersworth High School did not provide the student with FAPE and he likely did not have enough information to offer such an opinion given his lack of familiarity with what the school was providing or not providing to the student.

### **Order**

As a result, I am unable to find that the guardian met the burden of establishing that the school district did not provide the student with FAPE during the time periods noted in the complaint. Therefore, I cannot order the remedies that she seeks.

### **Guardian's Proposed Findings of Fact**

#### **Granted**

1-17, 19-24, 27, 28-33, 35-43, 45, 48-56, 58, 60, 63, 67, 70-73, 75, 76, 81-89, 91-92, 97, 98, 100, 102 - 103, 105, 107, 110-111

**Neither Granted nor Denied** because the request has numerous sentences in one request and has some part of the request that I do not agree was established as a fact while other parts may have been, or is worded in a way that is unclear to me, or interprets the fact in a certain way as opposed to simply stating the fact.

18, 25, 26, 34, 44, 46, 47, 57, 59, 61, 62, 64, 65, 66, 68, 69, 74, 77, 78-80, 90, 93-96, 99, 101, 104, 106, 108, 109, 112

#### **Denied**

### **Guardian's Requested Rulings of Law**

#### **Granted**

5, 6, 7,

#### **Denied**

1-4, 8,9,10

### **School District's Proposed Findings of Fact**

#### **Granted**

1-5, 7-19, 21-22, 24-74

#### **Denied**

6, 20, 23

**School District's Proposed Rulings of Law**

**Granted**

2-7, 9-13, 15, 17, 20, 21, 23

**Denied**

1, 8, 14, 16, 18, 19, 22, 24, 25, 26, 27

So, ordered

---

Date

---

Scott F. Johnson