

STUDENT	§	BEFORE A SPECIAL EDUCATION
	§	
	§	
V.	§	HEARING OFFICER FOR THE
	§	
CORPUS CHRISTI INDEPENDENT	§	
SCHOOL DISTRICT	§	STATE OF TEXAS

**DECISION OF THE HEARING OFFICER**

**I. Statement of the Case**

Petitioner brings this appeal, pursuant to the Individuals with Disabilities Education Improvement Act 20 U.S.C. § 1400 et seq., (hereinafter referred to as "IDEIA"), against Respondent (hereinafter referred to as "Respondent" or "School District"). Petitioner (hereinafter referred to as "Petitioner" or "Student") filed a written request for a due process hearing which was received by the Texas Education Agency on October 30, 2009. Petitioner was represented by Attorney Christopher Jonas of Corpus Christi, Texas. Respondent was represented by Attorney John J. Janssen, J.D., Ph.D. of Corpus Christi, Texas. A due process hearing was held on Friday, January 8, 2009, in Corpus Christ, Texas. The parties agreed to file post-hearing briefs on or before February 8, 2010.

Petitioner alleges that Student is a seven-year old attending Elementary School in School District. Petitioner is classified as Autistic ("AU") and is Speech Impaired.

1. Petitioner claims that Respondent has failed to provide Petitioner with appropriate Speech Therapy services.
2. Petitioner claims that Respondent has failed to provide an in-home training assessment and has not provided in-home training services.
3. Petitioner claims that Respondent has failed to provide appropriately trained staff regarding Autism and to meet the needs of Petitioner as a student with Autism.
4. Petitioner states that Student is being physically harmed by another special needs student.
5. Petitioner states that as a result of Respondent's failure to implement appropriate behavior interventions and intervention techniques, Student is suffering emotionally, socially, physically, and academically.
6. Petitioner claims that due to the inappropriate educational program implemented for Student at School District, Student is unable to express all of Student's anxiety and fear.
7. Petitioner states that Respondent has failed to provide a \*\*\* to Student to cope with Student's sensory problems.
8. Petitioner claims that Respondent does not have appropriate behavior interventions in place and has not provided adequate training to school staff.

9. Petitioner contends that there is no appropriate transitioning from the school picture system to the home setting and that Respondent has not offered thorough in-home training.
10. Petitioner states that Respondent has failed to provide Student with an appropriately trained, designated, \*\*\* aide.
11. Respondent has notified Petitioner several times that Student's behavior is unacceptable and that Student must leave school on that particular day.
12. Petitioner alleges that Respondent has failed to appropriately identify all of Student's educational needs for special education services. Student has been diagnosed with Autism and Respondent did not provide Student with a continuum of services to satisfy Student's educational needs.
13. Because of such failures by the Respondent, Student has been denied a Free Appropriate Public Education ("FAPE").

As relief in this due process hearing, Petitioner requests that Respondent be ordered to do the following:

1. Provide Student with a FAPE to meet Student's unique and individual needs.
2. Educate Student in the Least Restrictive Environment.
3. Provide appropriate evaluations to Student.
4. Provide appropriately implemented services which are effective, goal oriented, and educationally beneficial.
5. Provide one year of compensatory educational services, or an amount of compensatory services deemed appropriate by the Hearing Officer.

Based upon the evidence and the argument of counsel, the Hearing Officer makes the following findings of fact and conclusions of law.

## **II. Findings of Fact**

1. Student is a \*\*\* year old student who resides within the Corpus Christi School District.
2. The School District is a political subdivision of the State of Texas and a duly incorporated Independent School District responsible for providing Student a free appropriate public education in accordance with the Individuals with Disabilities Education Improvement Act, 20 U.S.C.A. § 1400, *et seq.*, and the rules and regulations promulgated pursuant to IDEIA.
3. Student is eligible for special education placement, programs and services as a student who has Autism ("AI") and a Speech Impairment ("SI").
4. An Admission, Review, Dismissal meeting ("ARD") was convened on the Student's behalf on February 10, 2005. The purpose of the ARD was to perform an initial ARD meeting and an

annual review of the Student's educational program and develop an individualized education program ("IEP") to be implemented until the Student's next annual ARD meeting.

5. The Student's February 10, 2005 ARDC stated that Student had tantrums when frustrated and such behavior amounts to an issue that affects educational placement and programming. The ARDC concluded that Student's behavioral does not impede Student's learning or that of others. The ARDC cited Adaptive/Social issues as an area in which Student's disability affects involvement or progress in the general curriculum.
6. The Student's February 10, 2005 ARDC determined the following areas in which Student's disability significantly interferes with Student's ability to meet general academic mastery levels: \*\*\* and Social and Behavioral areas.
7. The February 10, 2005 ARDC determined that School District would provide \*\*\* Self-Contained placement, that Student cannot achieve the goals and objectives contained in the IEP even though supplementary aids and services are used, and that Student requires specialized services which cannot reasonably be provided on all campuses and which were not available at the home campus. Student would be educated on a separate campus; transportation was to be provided by School District.
8. The February 10, 2005 ARDC agreed that Student would receive speech services one time a week, and that Student would be evaluated for Autism. It was also determined that Student would receive Assistive Technology for communication and that Occupational Therapy services will be provided for 60 minutes a month.
9. All committee members agreed to all decisions discussed at the February 10, 2005 ARD.
10. On May 9, 2005, a Psychological Evaluation was conducted on Student's behalf by a Licensed Specialist in School Psychology ("LSSP"). It was determined that Student met the diagnostic criteria for Autism, a Severe Speech Impairment, as well as a developmental disorder.
11. The LSSP made the following recommendation in the May 9, 2005 Psychological Evaluation: implement a year round individualized behavior plan and academic program with the assistance of a behavioral specialist, classroom size should be small with plenty of \*\*\* assistance, Student should be provided with a structured, predictable daily routine, teachers and staff members should learn to identify signs of over stimulation and provide student with a safe place to calm down before student becomes overly agitated, anxious, or frustrated.
12. The May 9, 2005 Psychological Evaluation determined that Student would likely benefit from plenty of physical and emotional space, including outdoor play and opportunities for peer cooperative group play.
13. The May 9, 2005 Psychological Evaluation determined that intensive speech therapy is imperative with an emphasis on expressive, receptive, and pragmatic speech to improve Student's ability to verbally express student's needs and to engage in social dialogue. The Evaluation recommended considering teaching and using alternative means of communication such as sign language or picture identification methods so Student can better express needs.

14. The May 9, 2005 Psychological Evaluation recommended that caregivers consider sensory integration therapy to assist in processing sensory information and occupational therapy and/or physical therapy to assist in improving the development of fine and gross motor skills.
15. The May 9, 2005 Psychological Evaluation determined that social skills must be taught in a simplified, broken down, concrete manner, modeled and frequently enforced. Parent may consider providing social skills training through counseling or therapy to improve and increase Student's repertoire of appropriate social behaviors.
16. The May 9, 2005 Psychological Evaluation recommended that caregivers consider participation in a support group for parents of children with severe developmental disorders.
17. An ARD meeting was convened on the Student's behalf on May 23, 2005. The purpose of the ARD was to perform a review of Student's placement and determination of eligibility as a Student who qualifies for special education services for Speech Impairment.
18. The May 23, 2005 ARDC determined that Student would be placed in a \*\*\* Special Education Setting.
19. The May 23, 2005 ARDC recommended Extended School Year Services("ESYS"). The recommendation followed the determination that Student may be expected to show severe or substantial regression and recoupment problems in the areas of communication and socialization skills and self-help skills unless ESYS is provided.
20. The May 23, 2005 ARDC determined that Student would receive services in developmental areas for 3 hours for 4 days a week.
21. The May 23, 2005 ARDC included the Speech evaluation results which determined that Student has developmental delays with receptive and expressive language skills.
22. An ARD meeting was convened on Student's behalf on September 5, 2005. The purpose of the ARD was to perform a review of Student's placement and special education services.
23. The September 5, 2005 ARDC determined that Student met specific TEA and federal eligibility criteria to receive special education services as a Student who has Speech Impairment and Autism.
24. The September 5, 2005 ARDC included a Least Restrictive Environment Supplement that determined that Student would undergo activities to facilitate Student's movement toward general education settings which would include a gradual transition of Student into general education and/or scheduled visits for Student to the general education classroom.
25. The September 5, 2005 ARDC did not find that in-home training or viable alternatives were needed.
26. All present at the September 5, 2005 ARDC were in agreement with the decisions and assessment reached during the ARD meeting.

27. An ARD meeting was convened on Student's behalf on October 27, 2005. The purpose of the ARD was to perform a review of Student's placement and special education services.
28. The October 27, 2005 ARDC determined behavioral strategies, including positive interventions and supports, are to be included in the classroom modifications for Student.
29. The October 27, 2005 ARDC determined that Parent Training, designed to provide the Parent with the skills/techniques needed in order to help the child carry out mastered skills in the home setting, would be provided to Parent. The training determined 2 objectives: that Student will use a daily object schedule at home with 30% mastery, and that Student will use a \*\*\* schedule with 30% mastery. The ARDC determined that there would be 3, 60 to 90 minutes sessions for a total amount of 3 to 4 ½ hours.
30. Parent requested in-home training at the October 27, 2005 ARD meeting. Subsequently, the committee determined that Student would receive In-home training, provided by an in-home Trainer, 4 times a year. in-home training was determined to be necessary to assist Parent in recognizing, accepting, and successfully coping with Student's autism spectrum disorder and to help facilitate communication. In-home training was to provide for daily scheduling, including toileting time. Three sessions at 60 to 90 minutes were recommended. The Parent requested that the in-home training be postponed until the \*\*\*.
31. The October 27, 2005 ARD meeting ended with all participants in agreement with the determinations of the committee.
32. An ARD meeting was convened on Student's behalf on February 10, 2006. The purpose of the ARD was to perform a review of Student's placement and special education services.
33. The February 10, 2006 ARDC determined that a Complete Communication Needs Supplement for Students with AI was to be provided to Student.
34. The February 10, 2006 ARDC determined that in-home training would be provided when Parent contacted teacher when assistance is needed. In the circumstance that Parent contacts teacher, an ARD will be scheduled to determine In-home services and goals.
35. The February 10, 2006 ARDC determined that parent training was needed. The ARDC described parent training as "[d]esigned to assist the parent in understanding their child's autism spectrum disorder. The ARDC stated that Parent may contact the Education Service Center, Office of Special Education, and/or Driscoll's Children's Hospital for information on workshops, area resources, support groups, and Autism State Conferences.
36. The February 10, 2006 ARD ended with all participants in agreement with the determinations.
37. An ARD meeting was convened on Student's behalf on September 6, 2006. The purpose of the ARD was to perform a review of Student's placement and special education services, and to propose inclusion into a \*\*\* setting. The ARDC proposed inclusion into a regular education \*\*\* class for a minimum of thirty minutes per day. Student will be accompanied by a special education staff member while in this setting.

38. The September 6, 2006 ARD adjourned with all participants in agreement with the determinations.
39. An annual ARD meeting was convened on Student's behalf on February 8, 2007. The purpose of the ARD was to perform a review of Student's placement and special education services.
40. The February 8, 2007 ARDC determined that in-home training was no longer needed.
41. The February 8, 2007 ARDC observed that Student continues to require visual aids and an object schedule to help minimize confusion. Also, the ARDC observed that these aids are designed to clarify expectations and to reduce frustration and anxiety.
42. The February 8, 2007 ARD adjourned with all participants in agreement with the determinations.
43. An ARD meeting was convened on Student's behalf on August 24, 2007. The purpose of the ARD was to perform a review of Student's placement and special education services.
44. The August 24, 2007 ARDC determined that Student will be provided time in a general education environment with modifications in pacing, methods, or materials. Student would continue to be provided a self-contained class and transportation to an alternative school campus.
45. At the August 24, 2007 ARD, Parent requested that Student attend student's home campus for the 2007-2008 school year. It was subsequently determined that the \*\*\* classroom at Student's home campus is an appropriate placement and that Student's Individual Education Plan can be met.
46. The August 24, 2007 ARD was adjourned with all present in agreement with the determinations.
47. An annual ARD meeting was convened on February 5, 2008. The purpose of the ARD was to perform the \*\*\*-Year Review of Student's placement and special education services. Student continued to qualify for special education services as a Student who has Autism and Speech Impairment.
48. The February 5, 2008 ARD meeting included a review of the Gilliam Autism Rating that gave Student a \*\*\*, or Above Average probability of Autism, and the Childhood Autism Rating Scale, in which Student scored a \*\*\*, within the \*\*\* range of autistic-like behaviors.
49. The February 5, 2008 ARDC noted that Student has sensory issues with \*\*\* Student was also taking the following medications at the time; \*\*\*.
50. The February 5, 2008 ARDC observed that while Student continues to qualify for SI, Student has met a goal this past year in using \*\*\* to verbalize and communicate. Progress has been noted, and Student continues to receive services in this area for 30 minutes per week.
51. The February 5, 2008 ARDC determined that Student continues to need ESY services, and requires positive behavioral support strategies. The ARDC further determined that parent/family training and support was needed, provided by qualified personnel with experience in Autism Spectrum Disorder ("ASD"). Such training is intended to provide a family with skills

necessary for a child to succeed in the home/community setting, includes information regarding resources, and facilitates parental carryover of in-home training.

52. The February 5 2008 ARDC further determined that Student required Communication interventions; Social skills supports and strategies based on social skills assessment/curriculum; professional educator/staff support; and teaching strategies based on peer reviewed, research-based practices for students with ASD.
53. The February 5, 2008 ARDC noted that regression in Student progress occurs over holidays and time away from school setting.
54. The February 5, 2008 ARD adjourned with all present in agreement with the deliberations.
55. An ARD meeting was convened on March 25, 2008 on Student's behalf. The purpose of the ARD was to perform a review of Student's placement and special education services. The ARDC determined that Speech Services and Occupational Training Services would continue for Student. The ARDC further determined that Student would receive ESYS in the summer of 2008. The ARDC noted that Student is working on the process of \*\*\*.
56. The March 25, 2008 ARD adjourned with all participants in agreement with the determinations.
57. An annual ARD meeting was held on January 7, 2009 on Student's behalf. The purpose of the ARD was to perform a review of Student's placement and special education services.
58. The January 7, 2009 ARDC determined that that Student's behavior, as it affects educational placement and programming, demonstrates the following competencies: Student interacts appropriately with peers, Student interacts appropriately with adults, Student adjusts easily to new situations, Student respects authority, Student is cooperative, and Student completes tasks. It was noted that Student may tantrum when frustrated, but such occurrences are very rare. Student's behavior does not impede Student learning or that of others.
59. The January 7, 2009 ARDC determined that Student has made progress in speech therapy. When prompted, Student is able to ask for desired items. The ARD noted that a \*\*\* was incorporated into therapy, but Student did not show interest in using the switch. It was determined that Speech Therapy will continue. Student is also currently being provided with Speech Modeling.
60. The January 7, 2009 ARDC initially decided that In-home/parent training would be provided. However it was later determined that in-home training is not needed, because the Parent has already received in-home training.
61. The January 7, 2009 ARDC determined that Student was successful in current placement. Student was placed in a general education environment with support services part-time, as well as in a self-contained special education class. Student received ESYS for Developmental Skills for 3 hours, 3 days a week.
62. In the Least Restrictive Environment Supplement included with the January 7, 2009 ARD, it was noted that "activities to facilitate [Student]'s movement toward general education settings will

include: a gradual transition of [Student] into general education, and/or scheduled visits for [Student] to the general education classroom.

63. The January 7, 2009 ARDC noted the following in deliberations: “New and old goals were reviewed including Speech and OT and accepted by the committee. Progress was mentioned in all areas. OT says she very much enjoys working with [Student]. She says that [Student] is a hard worker.” Further, the Special Education Teacher stated that progress, especially in word usage, has been made since the previous year.
64. The January 7, 2009 ARDC determined that Personal Care Services are required in the following areas: \*\*\*, transportation, and communication skills. Failure to provide these services will result in difficulties in development, behavior, attending to tasks, dressing, toileting, and communicating.
65. In Student’s September-December 2009 Communication Folder, Teacher reported that on \*\*\*, Student had a “crying spell” and was \*\*\*. Teacher requested to schedule a conference with Parent. Teacher also mentioned that Student had an episode on \*\*\*.
66. In Student’s September-December 2009 Communication Folder, Teacher notes that on \*\*\*, Teacher called Parent about an injury to Student’s \*\*\*. Teacher further noted that the injury was very visible.
67. During both the \*\*\* and \*\*\* classroom incidents where Student was injured, there were \*\*\* adults (including Student’s teacher) supervising the self-contained class of \*\*\* children.
68. Petitioner provided Notes by District Staff from September to November 2009 contained information that Student was scratched by peer \*\*\*, while sitting at a table on \*\*\*. The notes further described an incident on \*\*\* in which Student was hit by a peer while sleeping.
69. Petitioner provided Notes by District Staff from September to November 2009 contained information that Teacher contacted Parent of planned interventions to insure a safe environment for Student. Proximity control and separation from other peers were designed to be implemented whenever possible.
70. On \*\*\*, as described in Notes by District Staff, Student was \*\*\* and comforted by Teacher in an attempt to calm Student down. Student became agitated \*\*\*.
71. In Notes by District Staff, various incidents are described in which Student exhibited aggressive behavior. It was noted that Student would be given \*\*\* when exhibiting such behavior.
72. In Notes by District Staff, Staff described an incident on \*\*\* in which Student was calmed down by covering self completely with \*\*\* provided after an incident in which Student became angry and agitated.
73. The District attempted to schedule several ARD meetings with Parent to consider adjusting Student’s IEP to address behavior problems. Parent refused to attend ARD meetings scheduled for November 3, 2009 and December 16, 2009.



74. A \*\*\* is kept in Student's classroom to allow Student comfort when Student is upset. Student does not always wish to use this \*\*\* or any other specific \*\*\*.
75. There was no evidence presented to show that the District has failed to provide Student with speech therapy. Student's communication skills have improved during the present school year and over the course of the previous school year.
76. Student's teacher is a certified speech therapist and has 18 years experience in special education.

### **III. Discussion**

Petitioner's allegation that Student has been denied a FAPE by virtue of twelve distinct allegations has not been borne out by the pertinent facts admitted to this record. Student is a seven-year old, severely autistic, speech impaired student who has made steady academic progress in communication skills, the Student's more pressing academic need. The progress made in communication, alone is more than the "de minimis" educational progress about which the Fifth Circuit Court of Appeals wrote in *Cypress Fairbanks Indep. Sch. Dist. v. Michael F.*, 118 F.3d 245, 248 (5<sup>th</sup> Cir. 1997). Student's behavioral problems, which have increased during the current school year, do not diminish Student's educational progress, or indicate a lack of a FAPE. Such behavioral problems may represent the need for a potential change in Student's IEP, including the possible development of a Behavior Intervention Plan ("BIP) for Student.

If a BIP is deemed necessary, ultimately, it will best be determined by the good faith participation of *all* of Student's ARD committee members including, or especially, Student's parent. Student's educational history has been characterized by consensus ARD meetings and general cooperation on the implementation of Student's multiple IEP's. The unfortunate classroom incidents of this past fall semester may have impaired the working relationship between Student's Parent and student's school, but they are not indicative of a denial of a FAPE. Student is not being bullied and Student is not in an unsafe educational environment that lacks appropriate adult supervision. Student classroom injuries are never to be tolerated, but they are inevitable where classes contain more than one student. The School acted appropriately in its response to the incidents and in the safe implementation of Student's IEP.

Finally, the evidence concerning the intermittent classroom use of a \*\*\* to calm Student during behavioral outbursts does not prove a denial of a FAPE. If anything, the testimony was inconclusive about Student's reliance on a \*\*\*. However, the District correctly cites *M.M. and B.M. ex. rel. CM. v. School Bd. Of Miami-Dade County, Fla.*, 437 F. 3d 1085 (11<sup>th</sup> Cir. 2006) and *Lachman v. Illinois Bd. Of Educ.*, 832 F.2d 290 (7<sup>th</sup> Cir. 1988) for holdings that support a local education agency's choice of educational methodologies. A parent is not entitled to a choice of educational methodologies, or \*\*\*, provided the Student receives a FAPE.

#### **Specific discussions regarding individual allegations.**

- (1) *Petitioner claims that Respondent has failed to provide Petitioner with appropriate Speech Therapy services*

There is no competent record evidence of record to support this allegation.

- (2) *Petitioner claims that Respondent has failed to provide an in-home training assessment and has not provided in-home training services.*

Parent's position on this allegation is not credible or persuasive. The record shows that Student's previous ARDC's have either provided in-home training ; offered it and been declined; or determined it to be unnecessary over various periods over the last five years. I do not find Petitioner's claim to that District never "approached" her with in-home training as convincing evidence of a failure to provide a needed educational service.

- (3) *Petitioner claims that Respondent has failed to provide appropriately trained staff regarding Autism and to meet the needs of Petitioner as a student with Autism.*

The record demonstrates that Student is being taught by trained, qualified, and experienced instructors who have provided a FAPE to Student.

- (4) *Petitioner states that Student is being physically harmed by another special needs student.*

Student was physically harmed by \*\*\*. The incidents were the result of either an unpredictable outburst from another student \*\*\* or a simple accident. Each time Student's classroom teachers responded appropriately to prevent further jeopardy to Student or Student's classmates. I find that nothing in this record supports a determination that Student is being taught in an unsafe environment or one that otherwise interferes with Student's educational program.

- (5) *Petitioner states that as a result of Respondent's failure to implement appropriate behavior interventions and intervention techniques, Student is suffering emotionally, socially, physically, and academically.*

The record indicates that the District has consistently developed and implemented appropriate behavior interventions and techniques to minimize or ameliorate Student's emotional difficulties. The District has appropriately responded to changes in Student's behavior with adjustments to Student's IEP or instructional settings. The District's adjustments have been timely and characterized by an appropriate and collaborative procedure.

- (6) *Petitioner claims that due to the inappropriate educational program implemented for Student at School District, Student is unable to express all of Student's anxiety and fear.*

This allegation is not entirely clear, since the express of anxiety and fear is not an appropriate educational goal *per se*. However, to the extent that Petitioner asserts Student's educational program is inappropriate or inappropriately implemented, the record supports neither assertion.

- (7) *Petitioner states that Respondent has failed to provide a \*\*\* to Student to cope with Student's sensory problems.*

This allegation implies that the provision of a \*\*\* is always appropriate and that the District has repeatedly or significantly failed to implement an appropriate methodology to help the Student cope with sensory problems. Neither implication is supported by the record. Respondent has employed an appropriate education methodology to address Student's variable sensory needs.

- (8) *Petitioner claims that Respondent does not have appropriate behavior interventions in place and has not provided adequate training to school staff.*

This allegation is a combination of allegations (3) and (5). The record does not support the allegation.

- (9) *Petitioner contends that there is no appropriate transitioning from the school picture system to the home setting and that Respondent has not offered thorough in-home training.*

The record shows that Respondent has been appropriately responsive to Student's need for in-home training when it is needed to confer educational benefit.

- (10) *Petitioner states that Respondent has failed to provide Student with an appropriately trained, designated, one-on-one aide.*

There is insufficient proof of record to show that Student requires a one-on-one aide to receive a FAPE.

- (11) *Respondent has notified Petitioner several times that Student's behavior is unacceptable and that Student must leave school on that particular day.*

This allegation is simply a statement of fact that implies that Student's School's actions in such days were inappropriate. The record does not support such a conclusion or demonstrate that Student is not subject to appropriate classroom behavior strategies.

- (12) *Petitioner alleges that Respondent has failed to appropriately identify all of Student's educational needs for special education services. Student has been diagnosed with Autism and Respondent did not provide Student with a continuum of services to satisfy Student's educational needs.*

The record does not support this allegation. The District has provided Student with a series of IEP's designed to address Student's changing educational needs and evolving mastery levels. Such programs have provided Student with a variety of educational services and instructional settings allowing an appropriate continuum.

#### **IV. Conclusions of Law**

1. Petitioner is a student in the School District who is eligible for special education services based on meeting eligibility criteria as a student who is autistic and non-verbal.
2. Respondent ISD has a responsibility to provide Student with a free appropriate public education, 20 USCA§1412; 34 CFR; §300.2; 19 TAC. §89.1001.
3. Student made educational progress and obtained a meaningful educational benefit from the IEP which was implemented by the Respondent. *Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 US 176 (1982); *Cypress-Fairbanks ISD v. Michael F.*, 118. F.3<sup>rd</sup> 245 (5<sup>th</sup> Cir. 1997).
4. Petitioner failed to demonstrate , through a preponderance of the evidence, that the Respondent failed to provide Petitioner with a free appropriate public education. *Michael F. supra.* At p. 252.

**V. Order**

After due consideration of the record, the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer ORDERS that the relief sought by Petitioner is DENIED.

SIGNED in Austin, Texas this 17<sup>th</sup> day of February, 2010.

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Stephen P. Webb  
Special Education Hearing Officer

STUDENT	§	BEFORE A SPECIAL EDUCATION
	§	
v.	§	HEARING OFFICER FOR THE
	§	
CORPUS CHRISTI INDEPENDENT	§	
SCHOOL DISTRICT	§	STATE OF TEXAS

**SYNOPSIS**

**Issue:** Whether the School District failed to provide autistic student with appropriate behavioral interventions and support services to address the Student’s behavioral outbursts.

**Federal Citation:** 20 U.S.C.A. § 1414; *Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176 (1982); *Daniel R.R. v. State Board of Education*, 874 F.2d 1036 (5<sup>th</sup> Cir. 1989); *Cypress-Fairbanks Indep. School Dist. v. Michael F.*, 118 F.3d 245, 258 (5<sup>th</sup> Cir.-1997); 34 CFR §§ 300.324; 300.305.

**Texas Citation:** 19 TAC §§ 89.1050, 89.1055; *Tatro v. State of Texas*, 625 F.2d 557 (5<sup>th</sup> Cir. –1980).

**Held:** For the Respondent. Respondent’s behavioral interventions and supports in the Student’s IEP and placement of the Student in an adaptive educational classroom were used, appropriately.

**Issue:** Whether the School District failed to use a special \*\*\* in the classroom to assist in controlling the Student’s classroom outbursts.

**Federal Citation:** *M.M. and B.M. ex. rel. C.M. v. School Bd. Of Miami-Dade County, Fla.* 437 F.3d. 1085 (11<sup>th</sup> Cir. 2006); *Lachman v. Illinois Bd. Of Educ.*, 832.F.2d 290 (7<sup>th</sup> Cir. 1988).

**Held:** For the Respondent. Petitioner is not entitled to the use of a specific methodology as long as the Student is provided a FAPE.