

**BEFORE A SPECIAL EDUCATION HEARING OFFICER
STATE OF TEXAS**

**CLEAR CREEK INDEPENDENT
SCHOOL DISTRICT,**
 Petitioner,

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v.

DOCKET NO. 111-SE-1214

STUDENT,
bnf PARENT and PARENT,
 Respondent.

DECISION OF THE HEARING OFFICER

Introduction

Petitioner, Clear Creek Independent School District (Petitioner or school district) brings this action against the Respondent STUDENT bnf PARENT and PARENT (“Petitioner” or “the Student”) under the Individuals with Disabilities Education Improvement Act, as amended, 20 U.S.C. § 1401 et. seq. (IDEA) and its implementing state and federal regulations.

Prior Due Process Hearing

This case has its genesis in a prior due process hearing: STUDENT bnf PARENT and PARENT v. Clear Creek Independent School District; Docket No. 292-SE-0814 (the Prior Hearing). The written Decision of the Hearing Officer was issued on November 14, 2014 (First Decision). The outcome of the Prior Hearing was adverse to the Student. The proposed placement by the school district at issue was determined to be appropriate under the IDEA. While the Prior Hearing was pending the school district conducted a Full Individual Evaluation (FIE).

An Admission, Review & Dismissal Committee (ARD) convened in October 2014 to review and discuss the results of the FIE. Student requested an Independent Educational Evaluation (IEE) at school district expense and continued to question the school district’s proposed placement. The school district filed its request for a due process hearing following the October ARD and the IEE request. All Findings of Fact and Conclusions of Law established in the First Decision are hereby adopted and incorporated herein.

Party Representatives

Petitioner was represented by its legal counsel Amy Tucker with the law firm of Rogers, Morris & Grover. Respondent was represented by Respondent’s legal counsel Michael O’Dell, Attorney at Law.

Resolution Session and Mediation

The parties convened a Resolution Session on January 9, 2015 but were not successful in reaching an agreement. The parties did not seek the use of mediation.

Petitioner's Issues

The school district's sole issue is whether the school district's FIE dated September 24, 2014 was appropriate within the meaning of the IDEA and whether Student is entitled to an IEE at school district expense.

Petitioner's Requested Relief

The school district requests a finding that its September 24, 2014 FIE was appropriate within the meaning of the IDEA and an order releasing the school district from funding an IEE for Student at school district expense.

Student's Counterclaim

Student filed a Response to Petitioner's Due Process Complaint and Counterclaim (the Counterclaim) on December 26, 2014. Student raised a number of issues with regard to the school district's FIE and the ARD process. Following pleadings from both parties all but two of student's counterclaim issues were dismissed on the basis of res judicata – two issues related to the ARD process remained for resolution at the hearing. However, Student submitted a request to non-suit Student's two remaining issues prior to the disclosure deadline. The hearing proceeded to resolve the single issue of the school district's FIE.

Procedural History

Student's requests to disqualify the school district's attorney and to recuse the hearing officer were both denied. The school district requested consolidation of the eight additional issues raised in the Counterclaim with the school district's hearing request. During the initial prehearing telephone conference the parties selected new hearing dates in February 2015. The school district's request for an extension of the decision due date to March 11, 2015 was granted for good cause.

The school district submitted a second request for a continuance of the hearing dates and extension of the decision due date to resolve scheduling conflicts with the February hearing dates that arose subsequent to the prehearing conference. The parties selected March 3-4, 2015 as the new hearing dates. The school district's request for an extension of the 45 day decision due date on all the issues to April 10, 2015 was granted for good cause.

Due Process Hearing

The hearing was conducted in a single day on March 3, 2014. Petitioner continued to be represented by its attorney Amy Tucker with the law firm of Rogers, Morris & Grover. In addition ***, Executive Director of Special Education, attended the hearing as the school district's party representative. Respondent continued to be represented by Respondent's attorney Michael O'Dell, Attorney at Law. Student's parents, *** and *** also attended the due process hearing. The hearing was recorded and transcribed by a certified court reporter. The parties requested an opportunity to submit written closing arguments and they both did so in a timely manner. The decision of the hearing officer is due April 10, 2015 at the school district's request. This Decision is being issued well in advance of that date.

Findings of Fact

1. The school district completed a Full Individual Evaluation (FIE) and issued a report on September 20, 2014. (Joint Exhibit 1, referred to hereafter as "J. Ex. __.") (Transcript Volume I, p. 16) (referred to hereafter as "Tr. p. __.") Student's previous FIE was completed and a report issued on February 25,

2011. (J. Ex. 2). Student was placed unilaterally by Student's parents at *** beginning in 2014 and continued to attend *** during the period of assessment for the FIE. (J. Ex. 1-4, 1-8, 1-15).
2. Student's eligibility for special education was previously confirmed in June 2014 in a review of existing educational data (REED) when Student was identified as a student with an emotional disturbance. (J. Ex. 1-1). A June ***, 2014 Admission, Review & Dismissal Committee (ARD) referred Student for additional evaluation to provide updated information regarding Student's intellectual functioning, academic achievement, emotional and behavioral functioning, a functional behavior assessment and the need for related services. (J. Ex. 1-1) (Tr. pp. 16-17, 28-29). All areas of suspected disability, including a possible learning disability, were assessed by the FIE. (J. Ex. 1-35) (Tr. pp. 73, 88-90, 123-124, 128).
 3. The FIE was conducted by a multidisciplinary team that included two licensed specialists in school psychology (LSSPs), and a certified behavior analyst (BCBA). Prior information collected by a behavior specialist in late May 2014 was also included in the FIE. (J. Ex. 1-1 to 1-2, 1-37).(Tr. p. 18). All members of the team held current licensures and had sufficient experience and training to conduct the FIE. (J. Ex. 7) (J. Ex. 8-1 to 8-12) (J. Ex. 6-2 to 6-21) (J. Ex. 1) (Tr. pp. 18, 30, 33, 66, 82-83, 85-86, 136-137, 148-149, 153-154).
 4. A broad range of sources were used to evaluate Student's functional behavior. Student was observed in Student's current educational placement at *** by three different school district evaluators over several hours. (J. Ex. 1-1, 1-2, 1-15 to 1-28). The FIE included multiple teacher interviews and a review of private school records – including progress notes, incident reports, and detention slips from February 2013 through May 2014. A previous FBA conducted by a school district LSSP and an independent FBA conducted by Student's expert witness were also sources of information for the FIE. (J. Ex. 1-1 to 1-2; 1-15 to 1-28).
 5. Assessment of Student's behavioral functioning also included an observation of a behavioral incident by the BCBA and in-depth analysis of over a year of behavioral data. (J. Ex. 1-15 to 1-21) (Tr. p. 64). The amount of data collected through observation by the team was sufficient – the observations were consistent with previously identified behaviors and information from *** staff and Student's mother. The team had sufficient behavioral data to make recommendations to meet Student's needs. (Tr. Vol. I., pp. 19-20, 32, 55-57, 60, 68, 154, 185-186).
 6. Sources of data for the FIE to assess Student's emotional and behavioral function also included: a functional assessment screening tool completed by Student's mother and compiled by the BCBA on September ***, 2014; the Behavior Assessment for Children, 2d Edition (BASC-2), with a self-report completed by Student on September ***, 2014, a parent rating completed by Student's mother on September ***, 2014, two *** teacher ratings completed on September ***, 2014; a Functional Assessment Screening Tool (FAST) completed by three *** teachers on September ***, 2014 compiled by the BCBA and, the Children's Depression Inventory. (J. Ex. 1-1 to 1-2) (Tr. p. 19).
 7. Additional sources of data to assess Student's emotional and behavioral functioning included: the REED; a parent interview with Student's mother on September ***, 2014 conducted by the team; a student clinical interview conducted on September ***, 2014 by the two LSSP's; *** teacher interviews conducted on September ***, 2014; and, an interview with the Director of *** on September ***, 2014. (J. Ex. 1-1 to 1-2) (Tr. pp. 19, 45). In addition, behavior and academic documentation from *** (including report cards, incident reports, behavior sheets, and work samples) were also compiled by the multidisciplinary team for the FIE. (J. Ex. 1-1 to 1-2) (Tr. pp. 137, 140, 143).
 8. Data for the FIE also included the Woodcock-Johnson Tests of Achievement, 3d Edition conducted on September ***, 2014 to assess academic achievement and the Woodcock-Johnson Tests of Cognitive Abilities, 3d Edition conducted on September ***, 2014 to assess Student's intellectual functioning.

Both assessments were conducted by an LSSP with a particular strength in the areas of academic achievement and intellectual testing. (J. Ex. 1-1 to 1-2) (Tr. p. 66). The LSSP scored the academic achievement testing appropriately. (J. Ex. 9-20, 9-50, 9-154 to 9-155) (Tr. pp. 92-94, 104, 106-111, 113, 116, 128).

9. The FIE included a review of Student's speech and language skills determined to be within normal limits based on teacher and parent information as well as a speech/language screening conducted by a speech/language pathologist in November 2010. There were no new indicators that Student's speech and/or language skills might be relevant to the testing. (J. Ex. 1-2) (Tr. pp. 65, 84). The FIE considered Student's native language (English), Student's academic language (English) and determined Student was not limited English proficient. (J. Ex. 1-2). Based on a review of the 2010 FIE and updated parent information the FIE concluded there were no concerns with Student's speech or language. (Tr. pp. 20-21, 44).
10. The Functional Assessment Screening Tool (FAST) is an informal screening tool used as a component of the FIE to assess Student's functional behavior. As an indirect assessment tool the FAST lacks strong validity but can be used to formulate a "preliminary picture." The FAST can appropriately serve as a "survey" of behaviors and was used merely as a "starting point" for further inquiry and assessment into Student's behavior. (J. Ex. 1-22 to 1-24) (Tr. pp. 150, 155, 166, 203-205). The BASC-2 and clinical interviews were also utilized to assess Student's functional behavior along with a review and analysis of behavioral records from ***. (J. Ex. 1-1 to 1-2, 1-18) (Tr. pp. 156-158, 161-162, 164-165).
11. The FIE was conducted in English - the language and form most likely to yield accurate information on what Student knew and what Student could do academically, developmentally, and functionally. (J. Ex. 1-3). The FIE included consideration of whether Student demonstrated any health or motor needs (Student did not), whether there were cultural, linguistic, or experiential factors that might influence Student's learning and/or behavior (there were not) and whether Student's sociological status indicated a lack of previous educational opportunities in reading or math (there was not). (J. Ex. 1-3, 1-7, 1-8) (Tr. pp. 20-21, 41-43, 65, 75, 84-85).
12. The team worked together in a collaborative manner to complete the FIE. (J. Ex. 5-1) (Tr. pp. 33, 35-36, 46-47, 50-51, 63, 84). The team collaborated in generating the final FIE report using a school district software program accessible to each team member for updates and editing. (Tr. pp. 37-38, 74, 120). The FIE resulted in valid and reliable data regarding Student's educational needs. (Tr. pp. 25, 87-88). The evaluation measures selected were not racially or culturally discriminatory. (Tr. pp. 22-23, 86).
13. The evaluation instruments used were administered in the form most likely to yield accurate information regarding Student's academic, developmental, and functional abilities. The team followed the recommended procedures stated in the assessment manuals for the instruments administered. (Tr. pp. 23-24, 86). The evaluation instruments administered by the team were used for the purposes for which they were valid and reliable. (Tr. pp. 24, 127). The evaluations provided the team with valuable and reliable data in order to identify Student's educational needs. (Tr. pp. 25, 86-88).
14. Student's need for psychological services as a related service was also assessed in the FIE. The data obtained during the evaluation process led the team to conclude Student lacked sufficient coping skills to deal with characteristics of depression identified in the FIE. (Tr. pp. 25-26, 177). The team recommended 90 minutes of direct psychological services every nine weeks to assist Student in acquiring coping strategies. Indirect psychological services were also recommended through staff support to assist Student in generalizing the learned strategies. (J. Ex. 1-36) (Tr. pp. 26, 177).
15. The FIE included a functional behavior assessment (FBA). The purpose of the FBA was to identify the

function of Student's behavior. This was accomplished by identifying the antecedents prior to the behavior, the behavior, and then the consequences of the behavior – (ABC) and then reaching a conclusion based on those factors. (J. Ex. 1-25) (Tr. pp. 29, 149, 158, 164-165, 168-169, 172, 175-176, 2015-207). An FBA may be conducted through a number of observations and collecting information from multiple sources. The FIE team collected behavioral data from the adults working with Student – Student's *** teachers – and Student's mother. A BCBA and an LSSP are both qualified to conduct an FBA. The BCBA on the team conducted the FBA for the FIE. (Tr. pp. 29-30, 149-150, 154). There was sufficient information in the FIE for the ARD to develop a Behavioral Intervention Plan for Student. (Tr. p.186).

16. Student's special education and related service needs were determined and identified by the FIE. The FIE recommended a small, structured learning environment as an appropriate educational setting for Student. A set of recommendations to address Student's academic needs arose from the academic testing including monitoring Student's written expression and implementing specific accommodations related to written work and processing speed. (J. Ex. 1-36) (Tr. pp. 89-90, 126). (Tr. pp. 26, 152-153). Programming recommendations were also included in the FIE to address Student's challenging behaviors. (J. Ex. 1-36 to 1-37) (Tr. pp. 26-27, 151, 174, 178, 183-184).
17. An ARD met in October 2014 and reviewed the FIE with Student's mother. Although there were a few minor errors mis-stating some parental information the errors were not substantial enough to affect the integrity of the FIE or its conclusions and recommendations. (Tr. pp. 27-28). Parental questions and comments about the FIE, the sources of data, and how the FIE was put together were addressed at the ARD. (Tr. pp. 38, 121).

Discussion

Right to an Independent Educational Evaluation (IEE)

A parent has a right to an IEE at school district expense if the parent disagrees with the school district's evaluation subject to certain regulatory conditions. 34 C.F.R. § 300.502 (b) (1). In response to the request the school district must either request a due process hearing to show its evaluation is appropriate or ensure the IEE is provided. If the school district establishes its evaluation was appropriate the parent may still secure an IEE but not at school district expense. 34 C.F.R. § 300.502 (b) (2) (i) (ii). In this case Student's parents requested an IEE and the school district filed a request for hearing to determine whether its evaluation was appropriate – if so, the school district is not required to fund the IEE.

Reevaluation Requirements under the IDEA

The IDEA requires that a school district ensure that a reevaluation of each student with a disability is conducted in accordance with a specific set of regulatory criteria and must occur at least once every 3 years unless the parents and school district agree a reevaluation is not necessary. 34 C.F.R. § 300.303 (a) (b) (2). A school district must conduct a reevaluation if the school district determines that the student's educational or related service needs, including improved academic achievement and functional performance of the student, warrant a reevaluation or if the student's parent or teachers request it. 34 C.F.R. § 300.303 (a)(1)(2). The timeliness of the FIE was determined to be appropriate in the Prior Hearing.

REED

The IDEA also allows a review of existing evaluation data (known as a "REED") as part of a reevaluation. 34 C.F.R. § 300.305 (a). The REED must include evaluations and information provided by the parents, current classroom-based, local or State assessments and classroom-based observation and observations by teachers and related service providers. 34 C.F.R. § 300.305 (a)(2)(i)(A)(B)(i)(ii)(iii). The ARD committee is then charged with

the responsibility of determining what additional data, if any, is needed to confirm the student's continued eligibility for special education services and the student's educational needs. This must include the student's present levels of academic achievement and related developmental needs and whether the student needs any additions or modifications to the student's IEP in order to meet annual measurable IEP goals and participate in the general education curriculum. 34 C.F.R. § 300.305 (a) (2).

In this case an ARD Committee met in June 2014, conducted a REED to confirm Student's continued eligibility for special education, and determined there was a need for additional data to determine Student's educational needs. The ARD agreed Student was eligible but there was a need for additional evaluation in the areas of emotional/behavioral, intellectual, achievement, functional behavior assessment and related services. Therefore, under the IDEA the school district utilized the REED appropriately. 34 C.F.R. § 300.305 (a) (2).

Evaluation Procedures under the IDEA

The IDEA requires a number of evaluation procedures be followed whether the evaluation is an initial evaluation or a reevaluation. 34 C.F.R. § 300.304.

First, the IDEA regulations require the school district use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student -- including information from the parent. This information is to be used to confirm the student's eligibility within the meaning of the IDEA. The information is also to be used to determine the content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum. 34 C.F.R. § 300.304 (b) (1) (i) (ii).

Second, no single measure or assessment may be used as the sole criterion for determining the student's eligibility or an appropriate educational program. 34 C.F.R. § 300.304 (b) (2).

Third, the school district must use technically sound instruments that assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. 34 C.F.R. § 300.304 (b) (3).

Fourth, the school district must ensure that assessments and other evaluation materials used to assess the student are selected and administered so as not to be racially or culturally discriminatory. 34 C.F.R. § 300.304 (c) (i).

Fifth, the assessments and other evaluation materials must be provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally – unless it is clearly not feasible to do so. 34 C.F.R. § 300.304 (c) (1) (ii).

Sixth, the assessments and other evaluation materials used must be valid and reliable. 34 C.F.R. § 300.304 (c) (1) (iii).

Seventh, the assessments and other evaluation materials must be administered by trained and knowledgeable personnel. 34 C.F.R. § 300.304 (c) (1) (iv).

Eighth, the assessments and other evaluation materials must be administered in accordance with the instructions provided by the producer of the assessments. 34 C.F.R. § 300.304 (c) (1) (v).

The IDEA regulations also require the student is assessed in all areas of suspected disability. 34 C.F.R. § 300.304 (c) (4). Furthermore, the evaluation must be sufficiently comprehensive to identify all of the student's educational and related service needs and that the assessment tools and strategies are useful in meeting student's educational

needs. 34 C.F.R. § 300.304 (c) (6) (7).

Application of the Regulatory Criteria to the School District's FIE

Variety of Tools & Strategies Used to Determine Eligibility and Content of IEP: The record confirms the school district used a variety of assessment tools and strategies and gathered relevant functional, developmental, and academic information about Student. The evidence shows the school district used both formal and informal assessment tools and strategies including a parent interview and a parent-completed behavior rating scale. Nineteen different sources of data were used to assess the needs identified by the June 2014 ARD based upon its REED.

The school district's FIE identified Student's functional skills and Student's functional behavior. Developmental and academic information was compiled using both standardized, norm-referenced testing and informal information from student's unilateral private placement and student's parents, as well as historical information from the REED.

No Single Measure Relied on: The evidence shows no single measure or assessment was used as the sole criterion for determining whether Student met eligibility requirements under the IDEA or for determining an appropriate educational program. Indeed, eligibility was not an issue. Furthermore, the recommendations for Student's educational program were based on the wide variety of assessment tools and data collected by the FIE team and in collaboration with one another.

Technically Sound Instruments: The evidence showed that all evaluation measures used by the team were technically sound and assessed Student's cognitive skills, behavior, physical, and developmental needs. There was no evidence that any of the evaluation instruments were somehow technically faulty.

Not Racially or Culturally Discriminatory: There was no evidence that any cultural or racial bias in the testing instruments was a concern in the school district's FIE.

Provided in Student's Native Language: The evidence showed Student's dominant language was English and that all tests were administered in English.

Used for the Purposes for Which Evaluations Measures were Valid and Reliable: While the evidence showed there are some validity issues with the use of the FAST even Student's expert admitted its use as a basic starting point in assessing Student's behavior might be appropriate. The evidence showed the FAST was used for what it could offer and no more – a preliminary picture of behavioral concerns noted by Student's parent and teachers. All other evaluation measures were used for the purposes for which they were valid and reliable – ranging from the Woodcock Johnson Tests of Cognitive Abilities and of Achievement to the various rating scales completed by Student's parent, teachers, and by the Student ***self.

Administered by Trained and Knowledgeable Personnel: The evidence showed all members of the FIE team held the requisite credentials, licensures, training, and experience to conduct the various components of the FIE. There was no evidence to the contrary.

Administered in Accordance with Instructions: The record reflects all evaluation measures were administered in accordance with test publisher instructions – there was no evidence to the contrary. Student's counsel attempted to establish the scoring by the LSSP of the academic achievement tests was inaccurate but the evidence showed otherwise.

Specific Areas of Need Assessed – Not Single Intelligence Quotient: The record reflects that the FIE included assessments of Student's behavioral and academic needs and did not simply rely on a single IQ score. The Student's academic needs were determined by the use of the Woodcock Johnson Tests of Achievement and also a

review of Student's report cards; Student's behavioral needs were assessed using a wide variety of measures including several observations; Student's cognitive ability was assessed by the Woodcock Johnson Test of Cognitive Abilities and compared to Student's level of academic achievement. The evidence showed all areas of specific need were assessed.

The evidence supports the conclusion the information was then used appropriately by the school district to determine Student's educational needs. As a result of the additional findings in the FIE direct and indirect psychological services were added to student's proposed IEP during the ARD meeting in October. The FIE confirmed Student's need for a small, structured educational setting. A set of recommendations to address Student's academic and behavioral needs were also included in the FIE.

Student's Criticisms of the FIE

Student had a number of complaints about the FIE but none were persuasive enough to undermine the conclusion that the FIE met all IDEA regulatory requirements. Student's mother and expert witness claimed they couldn't identify which professional completed which portion of the FIE or understand how the report was put together. However, the evidence showed that members of the FIE team attended the October ARD and were able to answer parental questions about these aspects of the FIE.

The operational features of a school district's evaluation process may seem mysterious and confusing to parents and others not intimately acquainted with a school district's inner workings. It is understandable that a parent may not be aware of the use of school district software and how it is used by the various members of an FIE team. While that information may be useful in terms of fostering understanding and collaboration in an ARD the IDEA notice provisions do not require such details. See, 34 C.F.R. § §300.304 (a); 300.503.

Even so, the FIE report identified by name and professional position each member of the FIE team. Had Student's expert attended the ARD he too would have had the opportunity to ask clarifying questions about how the FIE was completed and prepared. The IDEA specifically contemplates that the ARD function as a collaborative group, sharing information, exchanging ideas, and creating a dialogue about the Student's needs and how the needs were evaluated. Student's complaints ignore this critical feature of the evaluation and ARD process. See, 34 C.F.R. §§ 300.321; 300.324.

Student's expert also testified he would not be able to design a Behavior Intervention Plan from the information in the FIE. First of all, the ARD as a group designs the student's IEP, including any behavior plan that is a necessary component – no one individual is assigned that task although the advice and guidance of behavioral experts is certainly contemplated. Second, the school district staff testified to the contrary leading to the conclusion that reasonable professionals may differ from time to time; however, this difference in professional opinion alone does not mean the FIE failed to meet IDEA regulatory requirements.

Minor errors in the FIE, although perhaps relevant in terms of undermining parental confidence in the competency and accuracy of the evaluation, were not substantial enough to have an impact on the information collected through formal and informal measures or on the FIE conclusions and recommendations. Student's expert expressed some concerns about the way behavioral data was collected and used and by whom. Once again the ARD process provides an avenue by which some of those questions could be answered and others were simply a matter of professional opinion and/or preference. The school district met its burden of showing the FIE met all relevant IDEA regulatory requirements and Student's criticisms – even if valid to a certain degree – were insufficient in terms of calling the school district's proof into question.

Conclusion of Law

The school district's Full Individual Educational Evaluation completed in September 2014 met all IDEA

requirements and followed all IDEA procedures and was therefore appropriate within the meaning of the statute. Student's parents are not entitled to an Independent Educational Evaluation at school district expense. 34 C.F.R. §§ 300.304; 300.502 (b).

ORDERS

Based upon the foregoing findings of fact and conclusions of law it is therefore **ORDERED** that Petitioner's request for relief is **GRANTED** and Petitioner is not required to fund an Independent Educational Evaluation for the Respondent.

SIGNED the 25th day of March 2015

/s/ Ann Vevier Lockwood

Ann Vevier Lockwood

Special Education Hearing Officer

NOTICE TO THE PARTIES

The Decision of the Hearing Officer in this cause is a final and appealable order. Any party aggrieved by the findings and decisions made by the hearing officer may bring a civil action with respect to the issues presented at the due process hearing in any state court of competent jurisdiction or in a district court of the United States. *34 C.F.R. § 300.516; 19 Tex. Admin. Code Sec. 89.1185 (n); Tex. Gov't Code, Sec. 2001.144(a) (b).*

**BEFORE A SPECIAL EDUCATION HEARING OFFICER
STATE OF TEXAS**

**CLEAR CREEK INDEPENDENT
SCHOOL DISTRICT,
Petitioner,**

v.

**STUDENT,
bnf PARENT and PARENT,
Respondent.**

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DOCKET NO. 111-SE-1214

SYNOPSIS

ISSUE:

Whether school district's Full Individual Evaluation (FIE) of student with emotional disturbance was appropriate within the meaning of the Individuals with Disabilities Education Act (IDEA) or whether student was entitled to an Individual Educational Evaluation (IEE) at school district expense.

HELD: FOR THE SCHOOL DISTRICT

School district's FIE met all IDEA regulatory requirements. Student was not entitled to an IEE at school district expense. Student was assessed in all areas of suspected disability. Following confirmation of student's continued eligibility for special education using a review of existing evaluation data (REED) the Admission, Review & Dismissal Committee (ARD) referred the student for additional evaluation to provide updated information regarding student's intellectual functioning, academic achievement, emotional and behavior functioning, a functional behavior assessment, and student's need for related services.

FIE conducted by a multidisciplinary team including two licensed specialists in school psychology and a Board Certified Behavior Analyst. All members of the team held current licensures and had sufficient experience and training to conduct the FIE.

Broad ranges of sources were used to evaluate student's functional behavior -- including several hours of observation in student's unilateral private placement by various members of the team and information from a previous observation conducted by a school district behavior analyst at the end of the prior school year. Both formal and informal measures were utilized including parent, student, and teacher interviews -- as well as an interview with the Director of the private placement. The team worked in a collaborative manner to conduct the FIE and generate a final report. The FIE included recommendations to meet student's academic, emotional and behavioral needs, including the need for psychological services.

34 C.F.R. §§300.303; 300.304; 300.305; 300.502