

May 4, 2008

Caryl Andrea Oberman, Esq.
Grove Summit Office Park
607A North Easton Road
Willow Grove, PA 19090

Re: Julie Smith – Pennsylvtucky School District

Dear Ms. Oberman:

Please allow this letter to serve as the District's response to your special education due process hearing Complaint.

It is agreed that Julie, whose birthday is 1/14/94, is a resident of the District, residing with her parents John and Jacqueline Smith. It is also agreed that she is an eligible student and that her current placement is full time in the AEP.

Your recitation of Julie's programming from the fourth grade until September, 2007 is also agreed to. It is also correct that based on Julie's marked progress the team agreed to a trial period of reducing her contact with special education to itinerant level for the 2007-2008 school year, and inclusion in all regular education classes. Although Julie had some difficulties, largely around her failure to complete homework and spotty attendance, it is denied that the District took no steps to remediate the situation. Julie was provided with assistance from her special education case worker as well as the guidance counselor, in addition of course, to assistance from her regular education teachers. It is also denied that Julie was provided with no opportunities to continue her academics. Whenever Julie was not in the classroom she was provided with the class work and assistance to complete it.

It is admitted that an evaluation was requested and that an evaluation was completed. It is also admitted that upon agreement of the entire team – including the parents – Julie was placed in the AEP program for language arts and math. The AEP program provides more support for both behaviors and academics. The curriculum mirrors the general education curriculum, but moves at a slower pace. It is agreed that Julie continued to have behavioral difficulties despite the additional support, but denied that her behavior "escalated." It is admitted that the entire team met and Julie's program was revised to include more time in the AEP program.

Opportunities for inclusion still existed, however, based on her behavior. This program was put in place pending the re-evaluation that was ongoing.

It is admitted that a Re-evaluation Report was issued on March 15, 2008. In addition to the results of the assessments listed on the PTE (achievement, BASC and FBA) the report contained reports from all of Julie's teachers indicating her academic and behavioral performance since the beginning of the year. It is denied that the Re-evaluation report was not comprehensive and did not evaluate Julie in all areas of suspected disability. It is admitted that based on the report, Julie's primary category of eligibility was changed to emotionally disturbed, as it was the consensus of the team that it was Julie's behaviors that were impeding her progress and no longer primarily learning difficulties. Learning Disability remained Julie's secondary category of disability as the testing revealed that there still existed a slight discrepancy between ability and achievement in the area of reading comprehension.

It is denied that the resulting IEP was devoid of relevant information regarding Julie's behavioral issues. The BASC, FBA and anecdotal information provided the team with a thorough basis from which to develop an IEP. The behavior goals were responsive to the evaluation information, and the SDI addressed antecedent and environmental modifications recommended as a result of the FBA (preferential seating, quiet place for testing, opportunities to take a break, opportunities for and instruction in verbal mediation, social skills group, sessions with the counselor) as well as the consequences related thereto. Similarly, the SDI addressed Julie's needs in the area of language (repeating directions, checks for understanding, copies of notes and outlines) as she has not qualified for direct services in several years.

It is admitted that as a result of Julie's behavior she received two suspensions. It is denied that the District "side stepped the requisite hearing and manifestation determination" by reducing her suspensions. The change in length of suspensions came as a result of the ongoing investigation into each incident and the administration's determination of the appropriate punishment. It is admitted that the IEP was not revised as a result of the suspensions. The team felt that it had not been in place long enough to determine it was ineffective.

The District remains willing to work cooperatively with the family to enable Julie to make progress in her program. Please provide me with dates to schedule the required resolution session.

If you have any questions, please do not hesitate to contact me. I look forward to hearing from you.

Very Truly Yours,
LEVIN LEGAL GROUP, P.C.

Andria Saia, Esquire

cc: Dr. Michael Paone, Director of Pupil Services