

This is a redacted version of the original decision. Select details have been removed from the decision to preserve anonymity of the student. The redactions do not affect the substance of the document.

Pennsylvania

Special Education Hearing Officer

DECISION

Child's Name: J.M.

Date of Birth: [redacted]

Dates of Hearing: 2/20/2015, 3/16/2015, 3/18/2015, 4/6/2015

CLOSED HEARING

ODR File No. 15736-14-15-AS

Parties to the Hearing:

Representative:

Parents

Parent[s]

Parent Attorney

Michael Gehring Esq.
McAndrews Law Offices, P.C.
30 Cassatt Avenue
Berwyn, PA 19312
610-648-9300

Local Education Agency

Council Rock School District
The Chancellor Center
Newtown, PA 18940

LEA Attorney

Joanne Sommer Esq.
Eastburn and Gray, PC
60 E. Court Street
Doylestown, PA 18901
215-345-7000

Date Record Closed:

May 7, 2015

Date of Decision:

May 12, 2015

Hearing Officer:

William Culleton Esq.

INTRODUCTION AND PROCEDURAL HISTORY

Student¹ is a twenty-one year old [adult] who is eligible for special education services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §1401 et seq. (IDEA). (NT 8-9.) Student lives within the respondent District. (NT 8-9, 27-29; 107-108; S 15.) Student is identified under the IDEA as a child with Intellectual Disability, 34 C.F.R. §300.8(c)(6). (NT 9.) Student has not graduated; the parties agree that Student, who became 21 years of age in 2014, was entitled to special education from the District until the end of the 2014-2015 school year, in the form of post-secondary transitional services. (NT 26-29.) Student has not attended any District transitional services.

Parent asserts that the District failed to offer or provide Student with appropriate post-secondary transition services, as required by the IDEA. Parent seeks compensatory education for the period during which the parties agree that the District was responsible for providing special education services, from the day after the last offer of an Individualized Education program (IEP), March 14, 2014, to the last day of the hearings in this matter. (NT 11, 59-60.) Parent also seeks a prospective order, in the event that the hearing officer concludes that the District failed to offer or provide a free appropriate public education (FAPE) to Student.

The District denies the Parent's allegations and seeks dismissal of the complaint. The hearing was completed in four sessions; the last session was devoted exclusively to argument about and admission of exhibits.

I conclude that the District offered an appropriate placement, reasonably calculated to provide Student with appropriate post-secondary transitional services.

¹ Student, Parent and the respondent District are named in the title page of this decision; personal references to the parties are omitted in order to guard Student's confidentiality.

ISSUES

1. In March 2014, did the District offer Student an appropriate placement for purposes of post-secondary transitional education?
2. Should the hearing officer order the District to provide any program or placement to Student on or after the date of the decision in this matter?
3. Should the hearing officer order the District to provide Student with compensatory educational services for or on account of all or any part of the period from March 14, 2014 to the last day of hearings in this matter?

FINDINGS OF FACT

1. Student has a history of brain trauma and seizures, with medical diagnoses of developmental delay and attention deficit hyperactivity disorder. For most of Student's school history, Student was classified under the IDEA as a child with mental retardation (now called intellectual disability). (S 1, 3.)
2. Student's academic achievement is in the Very Low to Low range in all areas except oral expression. Student's academic deficits include functional academic needs, such as learning to read an analog clock or to determine the relative worth of groups of coins. (S 1.)
3. Student has profound functional skill gaps at school. In the school setting, Student performed in the Extremely Low range when compared to same age peers, in all adaptive skill areas except School Living. (S 1.)
4. Student exhibits gaps in pre-vocational skills, including difficulty in remaining on task and in completing tasks. (S 8; P 13.)
5. Student's educational needs include planning for transition to post-high school life, and adaptive skills in the areas of community use, self-care, safety, home living and self direction. (S 1.)
6. In a classroom setting, Student has a hard time sitting still. Student seeks to avoid or escape non-preferred activities, leading to inappropriate behaviors. (NT 64-65, 93-94; S 8.)
7. In school and classroom settings, Student has a history of exhibiting significant impulsivity and impatience, and has had difficulty with such skills as waiting to take Student's turn, interrupting others, and acting without thinking. Student has exhibited some dangerous and aggressive behaviors, including hitting others. (S 1, 8.)

8. Student has a history of successful work in family-referred work opportunities. Student worked in an auto detailing setting, but was closely monitored and exhibited attention, work-completion and refusal behaviors. Student worked in a culinary setting, and was very successful; Student exhibited significantly fewer negative behaviors in this setting, which Student prefers. Student was seasonally employed in an amusement setting, scaring people in a fun house type of entertainment. (NT 66-68, 73-75, 106-107, 124-125; S 10.)
9. Parents enrolled Student in a private school beginning in seventh grade, and Student attended the private school until Student was 20 years old. (S 3, FF 3.)²
10. In 2013 and 2014, the parties considered various transitional programs in which to place Student. (NT 475-476, 478-480, 608; S 6; P 4.)
11. The parties considered an employment training program offered by the local intermediate unit and provided through the local Vocational/Technical school, offering one half day of employment training and one half day of functional academics. The program offered a selection of employment opportunities, including automotive technology, auto collision technology, building trades, construction carpentry, cosmetology, culinary arts, landscaping, early childhood education, electrical technology, health occupations, and plumbing. (SD 6; P 4.)
12. In 2013, the District applied for Student's admission to the intermediate unit's employment training program, which the Parent indicated was Student's preference, due to its provision of training in culinary arts and landscaping. The program had no openings in its culinary arts and landscaping programs by the time of filing of the application, and the program rejected Student's application because it did not believe that it could serve Student's needs. (NT 562, 565; S 6; P 5.)
13. On or about February 24, 2014, pursuant to the Hearing Officer's Decision dated February 4, 2014, the District invited Parent to a meeting of the IEP team scheduled for March 14, 2014, in order to discuss Student's post-secondary transition programming. On March 3, 2014, the District sent Parent a draft IEP for consideration at the March 14 meeting. (NT 481; S 4.)
14. Student was also invited to the meeting, but did not attend. (NT 483; S 4.)
15. The District offered a Notice of Recommended Educational Placement (NOREP), placing Student in the District's in-house transitional program, along with an IEP. The IEP was based largely upon a previous IEP that had been developed while Student was in the private school, without the benefit of Student's participation in District programming. (NT 475-476, 483; S 2, 8, 9.)

² In a previous final decision as a result of a request for due process, dated February 4, 2014, Hearing Officer Carroll concluded that Student's purported graduation from this private school was inappropriate and that Student remained eligible for services until Student should reach age 21. In this matter, the parties do not raise any issues related to Hearing Officer Carroll's findings or decision. Nevertheless, I rely on one finding from that decision, referred to as: "FF".

16. In the IEP, the District offered extended school year (ESY) services. (NT 503; S 8, 9.)
17. The District's in-house program offered to provide vocational assessment, training and experience in community-based employment opportunities. Among the goals of the program would be to identify and articulate work preferences, as well as to develop social and employability skills. The program also provided instruction in functional academics, with functional academic goals established in the IEP. The program offered to provide instruction in various functional skills. (NT 87-93, 483-499; S 6, 7; P 13.)
18. The program offered free transportation, job coaching, school nurse services as needed, speech and language therapy services to support generalization into the community setting, physical therapy, occupational therapy and adaptive technology. (NT 485-486, 513-514.)
19. The District's in-house program was goal oriented, anticipating the limited level of support services available to its students when no longer eligible for special education, and seeking to provide students with skills that would be needed, including academic, functional and social skills. (NT 487-499, 498-499, 501-502, 527-529, 600-602, 691-692, 708-709; P 13, 27.)
20. The District's in-house program was coordinated with the offered IEP. Although the IEP was directed toward pre-vocational skills and functional academics, the IEP goals and specially designed instruction were directed toward skills that the Student would need in the community work opportunities provided by District's placement. The District's program begins with these skills, and the District was unable to address more advanced vocational skill needs because the Student had not yet participated in its program. The program was structured so that, when Student did proceed to training at work sites, the work sites would take data and assess Student on Student's demonstration of learned work-related behaviors in the work settings in the community. (NT 521-526, 531-532, 573-578, 627, 653-673, 682-686, 723-724; S 6,7, 8, 22.)
21. Functional academics and work-oriented skills are taught in small group settings as needed in the District's in-house program. (NT 663.)
22. The District's program was able and willing to accommodate and address Student's needs with regard to sitting still and movement. (NT 681-682, 689.)
23. The District's in-house program addressed needs for functional academic skills, adaptive and daily living skills, community access and living skills, and social and leisure skills. (NT 488-496; S 7, 23; P 13.)
24. The District's in-house program was and is staffed by Masters level Pennsylvania certified teachers, including a certified special education teacher; it was and is directed by a board certified behavior analyst, who also is a certified special education supervisor. It offered experienced job coaches. (NT 469-474, 496-498; S 7.)
25. The District's in-house program offered opportunities to work in the community in the areas of culinary arts, medical services, warehouse work, and retail sales. (NT 499-501, 518-519, 611-613, 628-629, 673-681, 728-732.)

26. The District's program would place Student in the community as soon as educators were satisfied that Student could participate on a job site without unsafe behaviors, could communicate with a job coach, and could safely travel to the work site. (NT 698-705, 713-714.)
27. In August 2014, the District received a private evaluation of Student, which was funded from Student's compensatory education fund established in compliance with the previous Hearing Officer order. The evaluator, selected by Parent, found that the District's in-house program was inappropriate for Student, because, first, it did not provide opportunities for job training in the three areas that the evaluator asserted were Student's top three areas of interest; and, second, it would provide classroom experiences that would require Student to sit still for longer than Student was able to sit. (NT 504; S 10.)
28. The private evaluator observed functional academic programming in the District's classroom setting for one hour or less, and interviewed program staff. The evaluator observed Student in two of Student's family-referred work settings. The evaluator did not observe the District program's work settings or teaching settings for functional, adaptive, leisure, social or community based skills. The evaluator did not observe Student in the home setting and relied entirely upon Parent's report for data with regard to Student's discrete skills at home. (NT 129, 219-227, 507-520, 625-626, 687-688; S 24g; P 10.)
29. The private evaluator's report made eight recommendations for programming for Student. (S 10.)
30. Student did not attend the ESY programming that the District offered for the summer of 2014. (S 9, 15.)
31. At an IEP meeting on September 10, 2014, the District offered additional vocational assessments, job development, job placement, job coaching, and speech and language services, as well as a functional behavior assessment at a worksite. (NT 505; S 15.)
32. Student did not attend the September 2014 IEP meeting. (NT 505; S 15.)
33. On September 11, 2014, the District sent materials to Parent for applying for services for Student through the Office of Vocational Rehabilitation. (S 27.)
34. Parent requested a tour of one of the District's vocational sites, and Parent visited that a site on October 9, 2014; Student did not attend this tour. (S 15.)
35. The District revised the offered IEP in October 20, 2014, to address the private evaluator's recommendations. The IEP noted all eight recommendations, and offered to address all of them through the program being offered to Student. (NT 520-526, 569-572; S 8.)
36. On October 30, 2014, Parent asked if Student could not attend the life skills portion of the District's in-house program, and still receive "speech and behavioral programs". (S 14.)

37. On November 10, 2014, in response to Parent's request, the District offered to provide only behavioral and speech and language services to Student. Parent did not respond. The District reiterated this offer in a letter dated December 4, 2014. (NT 526; S 15.)
38. On December 4, 2014, the District gave Parent 10 days' written prior notice that the Student would be exited from special education, due to the Student's failure to participate in the offered special education program. The District's letter offered to discuss any services previously offered during the ten-day period. (S 15.)
39. The Parent wanted to limit the work opportunities provided to Student, focusing only on culinary arts, landscaping or animal care. The District declined to alter its programming for this purpose, because it is important to provide a variety of job settings to Student so that Student will learn to generalize learned employment related skills to multiple settings, in order to be better prepared to adjust to changes in the markets for Student's services over time. (NT 529-531, 384-385, 602-603, 675-676, 728-732.)
40. The Parent wanted the program to assign Student to work in the community immediately upon Student's enrollment; the District declined to do this because it needed to assess Student's skills for a period of four to six weeks so that it could plan more specifically for Student's community work experiences. (NT 531-533, 653-673.)
41. Parent disagreed with the NOREP and filed the instant request for due process. (S 15.)
42. Student has not attended any District educational program or service since March 14, 2014. (NT 504, 629.)
43. The District issued a second NOREP to exit Student from special education due to Student's non-attendance in offered programming, but continued to be ready to provide offered or other requested services if Parent should request any such services during the ten-day advance notice period stated in the NOREP. Upon discussion between counsel, the District withdrew the second NOREP, as it had done with the first. (NT 634-637.)

DISCUSSION AND CONCLUSIONS OF LAW

BURDEN OF PROOF

The burden of proof is composed of two considerations: the burden of going forward (introducing evidence first) and the burden of persuasion. Of these, the more essential consideration is the burden of persuasion, which determines which of two contending parties must bear the risk of failing to convince the finder of fact (which in this matter is the hearing officer).

In Schaffer v. Weast, 546 U.S. 49, 126 S.Ct. 528, 163 L.Ed.2d 387 (2005), an IDEA case, the United States Supreme Court held that the burden of persuasion is on the party that requests relief. Thus, the moving party must produce a preponderance of evidence that the other party failed to fulfill its legal obligations as alleged in the due process complaint. L.E. v. Ramsey Board of Education, 435 F.3d 384, 392 (3d Cir. 2006)

This rule can decide the issue when neither side produces a preponderance of evidence – when the evidence on each side has equal weight, which the Supreme Court in Schaffer called “equipoise”. On the other hand, whenever the evidence is preponderant (i.e., there is weightier evidence) in favor of one party, that party will prevail, regardless of who has the burden of persuasion. See Schaffer, above.

In this matter, the Parent requested due process and the burden of proof is allocated to the Parent. The Parent bears the burden of persuasion that the Parent’s claims are true. If the Parent fails to produce a preponderance of evidence in support of its claims, or if the evidence is in “equipoise”, then the Parent cannot prevail.

TRANSITION

The IDEA requires that every IEP of a child of designated³ age must include “appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills.” 20 U.S.C. §1414(d)(1)(A)(i)(VIII)(aa). The education agency must provide “the transition services ... needed to assist the child in reaching those goals” 20 U.S.C. §1414(d)(1)(A)(i)(VIII)(bb). The transition plan is not required to drive the goals in the rest of the IEP, nor must it guarantee a

³ In Pennsylvania, transition services must begin at age 14. 22 Pa. Code §14.131(a)(5).

vocational result; rather, it is meant to provide the child with an opportunity to advance toward desired post-secondary goals. High v. Exeter Twp. Sch. Dist., 2010 WL 363832 (E.D. Pa. 2010).

Transition services must be coordinated activities designed to be within a results oriented process that is focused upon improving the child's academic and functional achievement and that facilitates the child's movement from school to post-school activities. 34 C.F.R. §300.43(a)(1). The process must be based upon the child's individual needs, taking into account the child's strengths, preferences and interests. 34 C.F.R. §300.43(a)(2). Services must include, as appropriate, instruction, related services, community experiences, development of employment objectives or other post- school objectives, acquisition of daily living skills and functional vocational evaluation. Ibid. Related services for transition must include developmental, corrective and supportive services as needed. 34 C.F.R. §300.34(a). Related services for transition also must include needed rehabilitation counseling – services that focus on employment preparation, achieving independence, and integration in the workplace and community. 34 C.F.R. §300.34(c)(12). Vocational rehabilitation services must also be made available as needed. Ibid.

In the present matter, the Parent put only one aspect of the above services in issue: the placement that the District offered to Student⁴ was that the offered placement was not reasonably calculated to provide all of the above services. I find that the District offered a placement capable of providing all of the above services and therefore I conclude that its offer in March 2014 was not inappropriate under the IDEA.

⁴ Student's IEP was also in evidence, and there was testimony about it. Parent argued in summation that the IEP was deficient because it did not contain any reference to the proposed placement, and because its goals were not tailored to transitional needs. I decline to reach these issues, because, at the beginning of the hearing, I made it clear that I would not address issues not formulated at the beginning, in order to provide fairness to both parties. (NT 30.) At that time, on the District's motion, I precluded the language of the IEP from the issues in this matter, for failure to plead that issue, 34 C.F.R. §300.511(d). (NT 52-59.) Parent was clear at that time that the only issue was the appropriateness of placement, and the ability of the placement to implement an appropriate IEP. (NT 59.) As to the latter issue, I conclude that the placement was fully capable of implementing an appropriate IEP for Student.

The District's in-house placement was a comprehensive transitional program, designed and calculated to deliver instruction and training related to participants' transition to employment. The program also addressed participants' adaptive, functional, social and behavioral skills as related to the goal of meaningful employment upon graduation from school. The District's witnesses credibly testified that the program, in March 2014, would have provided a goal oriented process to provide Student with skills needed to obtain appropriate employment, live in the community, and utilize services available in the community. The program would have included an emphasis on functional academics, including reading, mathematics and writing; the evidence shows that these are skills that are needed in order to be successful in employment, as well as to live in the community. The witnesses testified credibly that the program would have addressed Student's ability to control Student's behavior, as to which there was a negative history in the record. If needed, the program would have taught Student to behave in a safe way, to communicate with a job coach, and to navigate safely in the community, as part of the initial services offered by the placement. Functional skills, including self-care, hygiene, community access, self-advocacy, social skills and leisure skills would all be part of the services offered in the program. In short, the District's program was designed to be able to address the unique needs that Student exhibited for transitional educational services.

The evidence is preponderant that the District's program would have been individualized to Student's needs, and that this was appropriately offered in March 2014. The District's witnesses credibly testified that, from the beginning of their new program, they were prepared to offer services that would meet Student's individualized needs. The witnesses indicated credibly that they would have taken into consideration Student's needs, strengths, preferences and interests. They would have provided direct instruction in small group or one-to-one programming. When satisfied

that Student could begin work assignments in the community safely, the placement would have provided an experienced job coach in order to assist Student in generalizing basic employment skills learned in the classroom to actual job situations. The evidence is also preponderant that the program offered to provide supervised leisure activities to help Student develop both social and leisure skills.

The District's program offered direct instruction in a classroom setting, thus addressing Student's needs for both correcting gaps in knowledge and advancing skills. It also offered an array of related services that included speech and language therapy (both individually and in job settings), job coaching, transportation, physical therapy and occupational therapy. The program offered community experiences, in the forms of leisure activities, shopping in the community, volunteer activities in the community, and jobs. The program included assessment and interest inventories in order to help participants establish their employment goals and objectives. The program offered to address participants' needs to acquire daily living skills. Both the classroom environment and the job environment were organized in order to assure an ongoing vocational evaluation of each participant. In this way, the program offered to provide Student with services that would help Student to prepare for long-term employment, achieve a higher degree of independence, and become integrated into the workplace and community.

Parent's Concerns

Although Parent raised a number of concerns about the appropriateness of the placement offered to Student, the heart of Parent's objection is that it would have challenged Student to perform in job settings that Student did not prefer. Parent argued in summation that the program was deficient because it would not have offered Student employment opportunities in food

preparation or cooking, landscaping or animal care, "exclusively". Both Parent and Parent's private evaluator asserted that only such a limited employment opportunity would be appropriate, because Student uniquely needs to learn appropriate academic, developmental, communication and social skills in the context of one of those three preferred vocations.

A preponderance of the evidence does not support this argument. The only evidence that Student ever expressed a preference for food preparation work was the hearsay statement of Parent's private evaluator, who testified that Student had said that to her. Parent testified the Student had such a preference, but Student had never stated this to anyone in the District, because Student had never attended an IEP meeting on or after March 14, 2014. Student had never attended with Parent when Parent visited placements that were being considered, including the District's in-house program. There was no preference inventory or other structured assessment to corroborate Parent's testimony that Student's job preference was so limited as to exclude the universe of possible jobs that Student might be able to do.

While an expert's testimony as to hearsay is admissible to show the basis of that expert's opinion, this is not an exception to the hearsay rule; therefore, Student's alleged statement to the expert is not substantive evidence upon which I can rely for a finding. Similarly, I cannot rely upon Parent's sincere belief that Student would only learn in the context of one of the above three job preferences. I cannot apply one hearsay statement to corroborate another, in the circumstances of this matter.

The only other evidence of record that indicates that Student has a limited job preference is the evidence, largely provided through Parent's evaluator, that Student worked enthusiastically and without behavioral incident during a short observation that she performed of Student's work in the food preparation job setting. While I can give some weight to this circumstantial evidence,

it only proves that food preparation is a preferred activity. It does not prove that there is no other possible job activity that would be as rewarding and satisfying to Student as food preparation.

Parent's argument fails also because the District established credibly that its comprehensive approach, emphasizing what the witnesses called "soft" job skills, and preparation in the classroom for later generalization to the job setting, is reasonably calculated to provide meaningful benefit. As offered by the District in March 2014, the placement could be expected to address Student's behavioral needs appropriately, without limiting Student's job prospects to the three narrow areas reported to be Student's preference. The placement was prepared at that time to assess Student's vocational preferences comprehensively, thus raising the likelihood that other preferred job settings would be identified. In addition, the approach of the placement was to teach employment skills applicable to all possible jobs, through a combination of direct, classroom-based instruction, school-based role-playing, and direct generalization to work settings in the community with the support of a job coach. Nothing in the record indicates that this approach was inappropriate, or was not reasonably calculated to provide meaningful benefit to Student.

Parent's argument amounts to a disagreement with the methodology selected by the educational agency. Parent's disagreement does not prove the agency wrong; nor does the contrary opinion by Parent's expert evaluator. Even in the face of such evidence, agencies have the right under the IDEA to select their own educational methodology. K.C. v. Nazareth Area Sch. Dist., 806 F.Supp.2d 806, 813-814 (E.D. Pa. 2011); See, Leighty v. Laurel School Dist., 457 F.Supp.2d 546 (W.D. Pa. 2006)(IDEA does not deprive educators of the right to apply their professional judgment).

In sum, the evidence was not preponderant that the placement offered by the District was not reasonably calculated to provide meaningful educational benefit in the IDEA mandated area

of post-secondary transition services. Parent did not prove that Student's preferences were immutably limited to food preparation, landscaping and animal care. Parent did not prove that the offered placement would be unlikely to succeed. Parent did not prove that the placement's approach would be inappropriate based upon professional literature or research. Parent simply disagreed with the approach taken by the placement to educate Student. This does not establish a violation of the IDEA.

In addition, Parent argues that the placement was new when offered in March 2014, and consequently did not in fact offer the full array of services as to which the witnesses testified. I find that this does not so undercut the offer that the placement is proved to be inappropriate. The placement started in September 2013. Its essential structure and approach were in place by March 2014. While some job placement opportunities may have been added in the 2014-2015 school year, the evidence shows that at least some food service assignments were available to Student in March 2014. On this record, there is not preponderant evidence that the placement offered in September and October 2014 was so materially different from that offered in March 2014 that it fell below the IDEA "reasonably calculated" standard.

Parent argues that the entire program was not individualized, because the IEP was drawn from a computer-based IEP drafting software, and was not tailored appropriately to Student's needs; in particular, Student would not realize the full benefit of the placement because the placement would not address Student's behavioral difficulty of sitting still in a classroom setting. This argument fails because the quality of the IEP is not at issue here; the only issue is whether the placement was capable of delivering an appropriate IEP, and I conclude that it was capable. The placement was individualized because, as discussed above, it addressed all of Student's needs for transitional services. The evidence is preponderant that the program was reasonably calculated

to address Student's needs for movement and improvement in the ability to attend to task.

Parent also argues that her expert evaluator's report was compromised by unnecessary limitations placed upon the evaluator's access to observe the program. On the contrary, the expert's time for observation was not unreasonable under these circumstances, and in fact the expert did not use all of it. Rather, the expert chose to limit to less than one hour the observation of the programming that she ultimately criticized, and she did not see several important aspects of the program, despite being invited to do so. She chose instead to observe Student in two job settings that were arranged by the family; these observations did not provide any support for the expert's criticism of the District's program.

Parent argues that the Student would not have enough time in the placement to realize meaningful benefit because of the delays caused by the District's attempt to exit Student due to alleged graduation from the private school. While the previous controversies did unfortunately delay the District's offer so that Student had about one and one half years to benefit from the program when offered; and while the program was designed to accommodate participants for at least three years, this does not establish an inappropriate offer of placement to Student. There is no evidence that under these circumstances Student could not have been expected reasonably to benefit meaningfully. Moreover, as explained above, the issues are limited to District acts and omissions on or after March 14, 2014.

Neither separately nor together do any of these arguments establish an inappropriate placement. Therefore, I conclude by a preponderance of the evidence that Parent has failed to meet her burden of persuasion and that the evidence before me does not show that the placement as offered in March 2014 was inappropriate.

CREDIBILITY

It is the responsibility of the hearing officer to determine the credibility of witnesses. 22 PA. Code §14.162 (requiring findings of fact); A.S. v. Office for Dispute Resolution, 88 A.3d 256, 266 (Pa. Commw. 2014)(it is within the province of the hearing officer to make credibility determinations and weigh the evidence in order to make the required findings of fact). In this matter, I found the Parent to be honest and sincere; however, her memory of her intricate dealings with the District, and particularly, her memory of what she was told, was overtly, if understandably, unreliable. Moreover, her testimony as a whole demonstrated that her grasp of post-secondary transition education is severely limited; as a lay person, the Parent did not have sufficient knowledge of the facts to assure me that she fully understood the information that she was given about the District's offered placement.

As noted above, I gave little weight to the Parent's private evaluator's opinions about the District program. This witness' opinions on this subject were not based upon sufficient knowledge of the programs.

I found the District witnesses to be credible, reliable and expert in their knowledge of transitional education and of the program that they had offered. I gave considerable weight to their testimonies, which corroborated each other in material respects, and to their opinions.

CONCLUSION

I conclude that the offered placement was not inappropriate. No relief is ordered.

ORDER

In accordance with the foregoing findings of fact and conclusions of law, the requests for relief are hereby DENIED and DISMISSED. It is FURTHER ORDERED that any claims that are encompassed in this captioned matter and not specifically addressed by this decision and order are denied and dismissed.

William F. Culleton, Jr. Esq.

WILLIAM F. CULLETON, JR., ESQ.
HEARING OFFICER

DATED: May 12, 2015