

This is a redacted version of the original hearing officer decision. Select details may 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

ODR File No.: 7701/06-07 KE
Student: BC
School District: Pocono Mountain
Type of Hearing: Closed

For the Student:

Parent

For the School District:

Brian J. Ford, Esq.
King, Spry, Herman, Freund & Faul, LLC
One West Broad Street, Suite 700
Bethlehem, PA 18018

Pocono Mountain School District
P.O. Box 200
Swiftwater, PA 18370

Due Process Hearing Request Date:	May 14, 2007
Hearing Date:	July 5, 2007
Date of Receipt of Transcript:	July 9, 2007
Decision Date:	July 18, 2007
Hearing Officer:	Daniel J. Myers

BACKGROUND

Student is a xx year old resident of the School District with serious emotional and behavioral issues whose parent contests the School District's May 14, 2007 NOREP recommending a particular private school placement. In addition, the School District contests a parental request that certain summer camps be funded out of Student's compensatory education award. For the reasons described below, I conclude that the School District's May 14, 2007 NOREP is appropriate, and I conclude that the request for funding of certain summer camps must be denied.

ISSUES

Is the School District's May 14, 2007 NOREP appropriate?

Must the School District fund Student's June 14, 2007 request for payment of three [redacted] Camps?

FINDINGS OF FACT

1. Student, whose date of birth is xx/xx/xx, is a resident of the Pocono Mountain School District (School District). (P6, p.1) He has serious behavioral difficulties and engages in physical and verbal aggression. He is eligible for special education services as a student with a serious emotional disturbance, oppositional defiant disorder, adjustment disorder with disturbance of mood and conduct, and academic inhibition. In Re B.C. and the Pocono Mountain School District, Special Education Opinion No. 1406 (2003)
2. On August 8, 2003, Hearing Officer Stengle issued a Decision and Order ordering, among other things, that the School District provide compensatory education to Student. (HO4, p.3) On September 17 and October 7, 2003, Hearing Officer Stengle's compensatory education award was modified by the Appeals Panel. (In Re B.C. and the Pocono Mountain School District, Special Education Opinion No. 1406 (2003); HO4, p.3)
3. On December 6, 2003, the School District informed Student's parents that it required certain preliminary information before it would reimburse tutoring services as part of Student's compensatory education award. (HO4, p.5) After Student's parents submitted the required information, the School District then imposed additional requirements before it would consent to reimbursing the tutoring services. (HO4, pp.6, 10)
4. On March 29, 2004, Hearing Officer G. Smith determined that the School District's actions imposing pre-reimbursement requirements had not complied

with the compensatory education orders of Hearing Officer Stengle and the Appeals Panel. (HO4) Consequently, Hearing Officer Smith's March 29, 2004 Order included the following:

- a. Upon receipt of a request for payment or reimbursement for payment for compensatory education services the Pocono Mountain School District must make that payment and or reimburse [Student's] parents for those services. If the District wishes to challenge the appropriateness of those services, it may only do so through the special education due process procedures available to it.
 - b. [Student's] parents must provide the following to the District when requesting payment for compensatory education services: The name and address of the service provider, the exact services provided, the duration of those services, the dates that the services were provided, the cost of the services, the signature of the service provider, and either a request that the service provider be paid directly or a request for reimbursement with evidence that the parents have paid the service provider. If the submission is for services covering more than one date, then they must be itemized to show what services were provided on which dates and the duration and cost of each service provided. (HO4, pp.18-19)
5. Approximately three years later, sometime prior to March 26, 2007, Student's parent submitted to the School District a request that it fund, out of Student's compensatory education award, three Camps for this summer 2007. (P3; N.T. 41, 43, 46, 73) The same summer camps were funded out of Student's compensatory education award for summer 2006. (HO5, p.8; N.T. 38) Student's social skills improved a great deal while he was at those camps during summer 2006. (HO 5, p.8) Student did not receive religious instruction at the camps last year and it is not expected that he will receive religious instruction at the camps this year. (HO 5, p.8) This year, however, the School District neither funded the camps nor initiated special education due process procedures to contest the funding request. (HO5, p.9)
 6. On April 12, 2007, Hearing Officer Valentini issued a decision and order that included the determination that the School District violated previous compensatory education order(s) by refusing to pay for the summer camps. (HO5, p.15) Hearing Officer Valentini determined, as a matter of equity and in an abundance of caution, that the cost of the camps should be split 80/20 between the School District and Student's parent. (HO5, p.16) She also noted that the School District must initiate a due process hearing whenever it believes a request for compensatory education services is inappropriate. (HO5, pp. 16-17)
 7. On April 25, 2007, Student's IEP team met to revise Student's January 2007 IEP and behavior support plan in response to a behavioral incident the week before. The IEP team determined that Student required a full-time emotional support program outside the School District. (P11; N.T. 125) The parties disagreed,

- however, over which outside full-time emotional support program the Student should attend. The School District proposed that Student attend the [redacted] School in [redacted] (School Proposed by District). (P11) Student's parent wanted Student to attend the [redacted] School (School Proposed by Parent). (N.T. 23-24) While the School District stipulates that the School Proposed by Parent would be an appropriate placement, that particular school has rejected Student's application for enrollment due to lack of space. (N.T. 23-24, 118)
8. Because Student appeared to be responding positively to his revised behavior plan, the School District did not issue a Notice of Recommended Educational Placement (NOREP) immediately after the April 25, 2007 IEP revision. (N.T. 125) Within two weeks, however, Student's emotional and behavioral functioning began deteriorating, resulting in a five-day in-school suspension. (N.T. 118) On May 10, 2007, the School District convened an IEP team meeting and arranged an intake interview at the School Proposed by District. (N.T. 125, 154) School District officials attended the IEP meeting and intake interview but Student's parent did not. (P10; P11)
 9. On Monday, May 14, 2007, Student assaulted someone at school. (P7; N.T. 50) The School District called Student's parent to come pick up Student from school and to reconvene the IEP team immediately in order to find another educational placement. (N.T. 47, 153-154) Police arrived in response to the assault and, when Student made suicidal threats, the police admitted Student involuntarily into the [redacted] Hospital. (N.T. 51, 53, 104)
 10. The School District then issued a May 14, 2007 NOREP for the School Proposed by District that it preferred and for which space was available. (N.T. 114, 117, 120; SD1; P10) The School District's cover letter to the NOREP states that Student will attend the School Proposed by District for the remainder of his 2006-2007 (9th grade) school year, and then to move up to the high school-level School Proposed by District- High School, "which is the program that [Student] would attend for the 2007-2008 School Year." (P10; SD1; N.T. 83-86) The NOREP states that the School District considered placement at School Proposed by Parent, but that School Proposed by Parent is not accepting referrals for 2006-2007. It further states that School Proposed by Parent will accept referrals for 2007-2008, implying that the School District will attempt to place Student at School Proposed by Parent next school year. (SD1, p.1; P10; N.T. 23, 83-86, 118)
 11. On May 14, 2007, Student's parent objected to the NOREP and requested an expedited due process hearing, objecting to the School District's proposed placement of Student at School Proposed by District, which Student's parent calls an "alternative school," and alleging that the School District has violated compensatory education orders. (N.T. 23; HO 2, p.3)
 12. On May 19, 2007, Student's parent wrote to the School Proposed by Parent requesting an update on the School District's most recent referral request. (P9)

13. Student spent the next two weeks (May 14-May 29) as an overnight patient first of the [redacted] Hospital and then at [redacted] Hospital (2). Hospital (2) is an in-patient crisis hospital for children with mental health needs. (N.T. 51-52, 54, 79-80, 106)
14. On May 29, 2007, Student was discharged from the Hospital (2) and immediately admitted into the Hospital (2) Acute Partial Hospitalization Program (APHP). (P6, pp.1, 3) APHP is a day program on the [School Proposed by District] campus that is one step down from the in-patient mental health services that Student was receiving at Hospital (2). APHP has a psychiatrist on staff overseeing medication, a therapeutic component that provides group and individual counseling, social workers on staff, and it provides one hour of academic instruction per day. (N.T. 52, 79-80, 106, 109, 133)
15. Coincidentally, on May 29, 2007, the Appeals Panel reversed the portion of Hearing Officer Valentini's April 12, 2007 decision holding that the School District had violated previous compensatory education order(s) by refusing to pay for certain summer camps. (HO3, p.8) The basis for the Panel's reversal was that the reimbursement request by Student's parents did not include the signature of the service provider, the exact services to be provided, and the specific dates and duration of those services. (HO3, p.8) In Re B.C. and the Pocono Mountain School District, Special Education Opinion No. 1406 (2003)
16. On June 14, 2007, Student's parent re-submitted her request to the School District that it fund the Camps that were the subject of Hearing Officer Valentini's and the Appeals Panel's decisions. (N.T. 15, 38, 74; P1)
 - a. Contending that the School District already has all of the information that it needs, Student's parent did not submit anything other than what she had already submitted prior to Hearing Officer Valentini's and the Appeals Panel's decisions. (N.T. 38, 41, 43, 73, 74, 158-159; P3)
 - b. The School District neither funded the request nor initiated due process, contending that it needs additional information regarding the Camp's non-secular activities, its relationship to Student's social skills needs, and a signature from a camp director or person in charge, verifying the information. (N.T. 93, 159)
17. On June 15, 2007, Student was discharged from APHP. (N.T. 55, 111; P6, p.1) Neither party has any written documentation of APHP's discharge recommendation(s). (P5; N.T. 54-56) Although the School District typically attends its students' discharge meetings, it was never invited to this Student's APHP discharge meeting and School District personnel do not know whether such meeting actually ever occurred. (N.T. 112-113) Student's parent testified that APHP personnel verbally recommended that Student attend another partial

- hospitalization program. (N.T. 58, 132) Student's parent has conveyed that verbal recommendation to the School District. (N.T. 52, 59-60, 132)
18. Apparently after June 15, 2007, the School District issued Student's end-of-year report card. (N.T. 49; P4) Because Student received "marginally passing" grades in 4 out of 8 courses, he was promoted to 10th grade. (N.T. 63, 147; P4) School District officials are still waiting to receive information from APHP regarding Student's educational progress during the last month of the 2006-2007 school year, and they intend to consider that information in developing Student's future educational plan. (N.T. 146-147)
 19. On June 19, 2007, the School District requested that I add the June 14 camp funding request to the issues for this due process hearing. (N.T. 39; P2) On June 25, 2007, the School District requested that I dismiss this case because the Appeals Panel's May 29, 2007 decision in In Re B.C. and the Pocono Mountain School District, Special Education Opinion No. 1406 (2003) barred most of Student's claims and any remaining claims were either insufficient or moot. (HO 2, p.3) On June 27, 2007, I denied the motion to dismiss and decided to conduct a hearing. (HO2, p.4)
 20. On July 5, 2007, I conducted a due process hearing in this matter. Parent exhibits P1-P11, School District exhibit SD1, and my exhibits HO1-HO5, were all admitted into the record without objection. (N.T. 167-169)
 21. Regarding Student's disapproval of the School District's May 14, 2007 NOREP, the parties' positions are as follows:
 - a. Student's parent contends:
 - i. That the APHP verbal discharge recommendation was that Student should be in a partial hospitalization program. (N.T. 76)
 - ii. That the [School Proposed by the District] is an "alternative school" and that it is neither an approved private school nor a partial hospitalization program. (N.T. 60, 86-87)
 - iii. That Student should be placed at the School Proposed by Parent's partial hospitalization program. (N.T. 21, 77, 89)
 - iv. That, with persistent pressure from Student's parent and the School District, the School Proposed by Parent will find room for Student. (N.T. 61, 72-73; P9)
 - b. The School District contends:
 - i. That a partial hospitalization program is a short-term, typically two-week placement. (N.T. 110)
 - ii. That the School Proposed by Parent no longer has a partial hospitalization program. (N.T. 142)
 - iii. That Student should be placed at an approved private school, not an alternative school or a partial hospitalization program.

- iv. That School Proposed by Parent is an approved private school but it does not have an opening for Student for either the 2006-2007 or 2007-2008 school years. (N.T. 122-123)
- v. That the School Proposed by District is an approved private school for middle-school students that is located adjacent to the APHP and that will provide instruction in social skills, forming appropriate relationships, identifying emotions in various settings, appropriate responses to various emotions, and counseling. (P11; N.T. 109, 133-135)
- vi. That the [School Proposed by District] High School is the approved private school for high-school students that Student would attend next (2007-2008) school year. (N.T. 136)
- c. Neither party presented witnesses from either the School Proposed by District or the School Proposed by Parent.
- d. Neither party clearly and explicitly defined their terms “approved private school” and “alternative school.”

DISCUSSION

Under the Individuals with Disabilities Education Improvement Act (IDEIA), the School District is required to provide a free appropriate public education (FAPE) to all Students who qualify for special education services. 20 U.S.C. § 1412 The School District program will meet its FAPE obligation if it provides special education and related services at public expense, that meet the standards of the state educational agency, and that are provided in conformity with an individualized education program (IEP.) Stroudsburg Area School District v. Jared N., 712 A.2d 807 (Pa. Cmwlth. 1998)

The cornerstone of FAPE analysis is an IEP that need not provide the maximum possible benefit, but must be reasonably calculated to enable the child to achieve meaningful educational benefit. Board of Education v. Rowley, 458 U.S. 176, 73 L.Ed.2d 690, 107 S.Ct. 3034 (1983); Ridgewood Board of Education v. M.E. ex. rel. M.E., 172 F.3d 238 (3d Cir. 1999) Whether an IEP is reasonably calculated to afford a child meaningful educational benefit can only be determined as of the time it is offered to the student and not at some later date. Fuhrmann v. East Hanover Board of Education, 993 F.2d 1031 (3d Cir. 1993); Daniel G. v. Delaware Valley School District, 813 A.2d 36 (Pa. Cmwlth. 2002) It is rare, if ever, that an IEP document can be deemed perfect. In Re R.B. and the Eastern Lancaster County School District, Special Education Opinion No. 1802 (2007)

The United States Supreme Court has held that the burden of proof in an administrative hearing challenging a special education IEP is upon the party seeking relief, whether that party is the disabled child or the school district. Schaffer v. Weast, ___ U.S. ___, 126 S.Ct. 528, 163 L.Ed.2d 387 (2005); In Re J.L. and the Ambridge Area School District, Special Education Opinion No. 1763 (2006) The U.S. Supreme Court has also indicated that, if the evidence produced by the parties is completely balanced, or in equipoise, then the party seeking relief must lose because the party seeking relief bears

the burden of persuasion. Schaffer v. Weast, supra. In this case, Student's parent seeks relief from the School District's May 14, 2007 NOREP, and the School District seeks relief from Student's June 14, 2007 request to fund certain [Redacted] camps. Of course, where one party has produced more persuasive evidence than the other party, the evidence is not in equipoise, and the Schaffer holding has no practical impact.

An Approved Private School (APS) is a private school that is licensed by the State Board of Private Academic Schools, with a specific special education program for certain exceptional handicapped persons that is approved by the Secretary, and is thereby eligible to receive payments for tuition, or tuition and maintenance, from funds of the school district or the Commonwealth, or both. 22 Pa. Code §171.11 Each year, the Secretary of Education is required to furnish to each intermediate unit a listing of all APSs and the types of programs approved for each. 22 Pa. Code §171.12(c) Act 30 of 1997 gives authority to the Pennsylvania Department of Education to approve "alternative education programs" for disruptive students and to provide grants for these programs. 24 P.S. §19-1901-C

The School District's May 14, 2007 NOREP is appropriate

In this case, Student's parent contests the appropriateness of the School District's May 14, 2007 NOREP. That NOREP recommends the School Proposed by District as well as its successor, the School Proposed by District High School, for next school year. Student's parent seeks relief from the NOREP, arguing that the proposed Schools Proposed by District are not appropriate. Student's parent gives three reasons why the May 14, 2007 NOREP is inappropriate: 1) Student requires a partial hospitalization program; 2) the School Proposed by Parent is more appropriate; and 3) the Schools Proposed by District are "alternative schools."

The quality of evidence presented in this case by both parties is poor. Neither party presented witnesses from any of the schools in question, nor did they even introduce an IEP describing Student's needs and containing the goals that any of their preferred schools must implement. My decision, however, must be based upon the record as it was created by the parties through this adversarial due process system. When I weigh the evidence in the record, I conclude the following.

Student has serious behavioral difficulties, including a serious emotional disturbance, oppositional defiant disorder, adjustment disorder with disturbance of mood and conduct, and academic inhibition, and he engages in physical and verbal aggression. In Re B.C. and the Pocono Mountain School District, Special Education Opinion No. 1406 (2003) On April 25, 2007, Student's IEP team determined that Student requires a full-time emotional support program outside the School District. (P11; N.T. 125)

Three private schools are capable of meeting Student's educational needs: 1) School Proposed by District; 2) School Proposed by District High School and 3) the School Proposed by Parent. I base this conclusion regarding the School Proposed by District and School Proposed by District High School upon testimony from School

District officials familiar with those schools that they will provide instruction in social skills, forming appropriate relationships, identifying emotions in various settings, appropriate responses to various emotions, and counseling. (P11; N.T. 109, 133-136) I conclude that the School Proposed by Parent is capable of meeting Student's educational needs because the parties agree to the appropriateness of the School Proposed by Parent. (N.T. 23-24, 118)

Only two of those three schools (School Proposed by District, School Proposed by District High School and School Proposed by Parent) are appropriate, however, because only the School Proposed by District and School Proposed by District High School have space available for Student. The School Proposed by Parent is not an appropriate option from which the School District may choose because it does not have an opening for Student. (N.T. 23-24, 118) In fact, if the School District's May 14, 2007 NOREP had proposed placing Student at the School Proposed by Parent, I would find that NOREP to be inappropriate because the School District could not follow through by actually placing Student at the School Proposed by Parent. Because there is space available at the Schools Proposed by District, however, and because those schools can meet Student's educational needs, I do find that School District's May 14, 2007 NOREP is appropriate.

Regarding the three bases listed by Student's parent for her rejection of the May 14, 2007 NOREP, I conclude the following. First, the only evidence that Student needs a partial hospitalization program is the verbal recommendation of someone at Student's APHP June 15, 2007 discharge meeting. I find this evidence lacks credibility because of its uncorroborated hearsay nature, and also because it does not make sense to me that a partial hospitalization program would simultaneously conclude that a child needs a partial hospitalization program and recommend discharging that same child from a partial hospitalization program. Thus, I do not believe that Student's educational needs require a partial hospitalization program. Second, as I discussed in the paragraph above, it would not have been appropriate for the School District's May 14, 2007 NOREP to have proposed placing Student at the School Proposed by Parent when the School District knew that it could not follow through because the School Proposed by Parent would not accept Student due to space limitations. Third, the only evidence that either the School Proposed by District or the School Proposed by District High School are "alternative schools" is the verbal statement to Student's mother by Student's APHP therapist. I find this evidence lacks credibility because of its uncorroborated hearsay nature, and also because it is directly contradicted by the testimony of School District officials who are familiar with the Schools Proposed by District. (N.T. 109, 133-136)

It is likely that the School Proposed by District High School will be an appropriate high-school-level placement for Student's 2007-2008 school year but, as these parties are well aware, Student's needs may change unpredictably and so it is possible that Student's IEP team will reconsider and revise his IEP between now and the start of the 2007-2008 school year. I note that School District officials are still waiting to receive information from APHP regarding Student's educational progress during the last

month of the 2006-2007 school year, and they intend to consider that information in developing Student's future educational plan. (N.T. 146-147)

Accordingly, based upon the information contained in the record developed at the July 5, 2007 hearing, I find that the School District's May 14, 2007 NOREP is appropriate.

**The School District is not Required to Fund
Student's Summer Camp Request**

a. The School District's Processing of Student's Request Was Not Appropriate

It is well settled that compensatory education is an appropriate remedy where a school district knows, or should know, that a child's educational program is not appropriate or that he or she is receiving only trivial educational benefit, and the district fails to remedy the problem. Such an award compensates the child for the period of time of deprivation of special education services, excluding the time reasonably required for a school district to correct the deficiency. *M.C. v. Central Regional School District*, 81 F.3d 389 (3rd Cir. 1996)

Student has been entitled to compensatory education services since at least 2003. (In Re B.C. and the Pocono Mountain School District, Special Education Opinion No. 1406 (2003); HO4, p.3) Shortly after the 2003 award, however, the School District unilaterally imposed its own criteria regarding how Student could utilize his compensatory education award – even changing those criteria after Student met the School District's first set of criteria. (HO4) Hearing Officer Smith determined that this School District behavior was inappropriate and ordered the School District to go to due process when it disagreed with the Student's proposed use of his compensatory education award. (HO4)

In March 2007, however, the School District again unilaterally imposed its own criteria to Student's proposed use of his compensatory education award when the School District believed that Student's proposed use might violate constitutional principles against the establishment of religion. The School District did not take one of the two actions required by Hearing Officer Smith, i.e., either fund the request or seek due process. Instead, the School District took a third course of action that Hearing Officer Smith did not authorize, i.e., it neither funded the request nor initiated a special education due process hearing to determine the constitutionality of the proposed camps. (HO5, p.9; P3; N.T. 41, 43, 46, 73)

Thus, the same problem that Hearing Officer Smith intended to prevent in 2003, when he ordered the "either/or" procedure, was repeated in 2007. That problem is the School District's apparent tendency to make up, and then impose, its own criteria when processing Student's requests to use his own compensatory education award.

Last year, the same summer camps were funded out of Student's compensatory education award (HO5, p.8; N.T. 38), his social skills improved a great deal while he was at those camps (HO 5, p.8), and Student did not receive religious instruction at the camps last year. (HO 5, p.8) This year, the School District apparently became concerned about both the constitutionality of funding the camps as well as the relationship of the camps to Student's educational needs. While there is nothing wrong with having such concerns, there is something wrong with the way that the School District decided to tackle those concerns. Rather than immediately taking one of the two actions required by Hearing Officer Smith, i.e., either funding the request or initiating due process, the School District took a third, unauthorized action – it chose to neither fund nor initiate. (HO5, p.9)

After the constitutionality of the camps was added to an already-pending due process hearing request, and the issue was considered by Hearing Officer Valentini (HO5, p.9), the Appeals Panel determined that the Hearing Officer should not have ruled the way she did because she did not have a complete application to review. (HO3, p.8) In Re B.C. and the Pocono Mountain School District, Special Education Opinion No. 1821 (2007) The Appeals Panel's decision should not be interpreted by the School District, however, as permitting it – the School District – to decide when one of Student's applications is complete. That is clearly for the hearing officer, and not the School District, to decide.

Yet, on June 14, 2007, when Student's parent re-submitted her request to the School District that it fund the summer camps (N.T. 15, 38, 74; P1), the School District once again neither funded the request nor immediately initiated due process (N.T. 159). Once again, it took a third, unauthorized action by considering the funding request to be incomplete.

The wisdom of Hearing Officer Smith's "either/or" process (the School District must either fund the request or initiate due process) is apparent when one looks at the reasons why the School District considers the Student's request incomplete. The Appeals Panel determined that the Hearing Officer should have denied the March 2007 funding request because Student's parents did not include: 1) the signature of the service provider; 2) the exact services to be provided; and 3) the specific dates and duration of those services. (HO3, p.8) In Re B.C. and the Pocono Mountain School District, Special Education Opinion No. 1821 (2007) Yet, when Student's parent resubmitted the same funding request on June 14, 2007, the School District determined that the application is also incomplete because it lacks information regarding the camp's non-secular activities and its relationship to Student's social skills needs. (N.T. 93, 159) These criteria were never required by either Hearing Officer Smith or the Appeals Panel!

The problem that prompted Hearing Officer Smith's "either/or" process in 2003 was the School District's unilateral imposition of its own, indefinite criteria to Student's requests to use his compensatory education award. That same problem has resurfaced in 2007 with the School District, once again, unilaterally imposing its own additional criteria for "completeness" and "constitutionality." Frankly, if I had the authority to fine the School District for such behavior, I would consider doing so because, once again, this

School District has attempted to impose its own unilateral control over a compensatory education award that simply does not belong to it.

The School District has every right to argue to a mediator, or to a hearing officer, or to an appeals panel, or even to a state or federal judge, that a particular compensatory education funding request is incomplete, unconstitutional, and/or inappropriate for any number of reasons. The School District does not, however, have the right to do anything other than either immediately fund the request or immediately initiate due process to contest the request.

b. Student's Request to fund certain summer camps is denied

In this case, the May 29, 2007 Appeals Panel was clear with respect to the items that Student's March 2007 funding application lacked: 1) the signature of the service provider; 2) the exact services to be provided; and 3) the specific dates and duration of those services. (HO3, p.8) In Re B.C. and the Pocono Mountain School District, Special Education Opinion No. 1821 (2007) In fact, these criteria have been required since Hearing Officer Smith's decision in 2003. (HO4) Nevertheless, Student's parent chose simply to resubmit on June 14, 2007 the same funding application that she had submitted in March 2007. Contending that the School District already had all of the information that it needed, Student's parent did not submit anything other than what she had already submitted prior to Hearing Officer Valentini's and the Appeals Panel's decisions. (N.T. 38, 41, 43, 73, 74, 158-159; P3)

Clearly, the June 14, 2007 funding application is incomplete, just as the March 2007 application was. It was incomplete when the Appeals Panel issued its May 29 decision, and it is still incomplete. Because nothing new has been submitted, the application still lacks those three items listed by the Appeals Panel: 1) the signature of the service provider; 2) the exact services to be provided; and 3) the specific dates and duration of those services. Accordingly, I have no choice but to find that Student's June 14, 2007 request that the Camps be funded out of his compensatory education award is incomplete and must be denied.

CONCLUSION

Student is a xx year old resident of the School District with serious emotional and behavioral issues whose parent contests the School District's May 14, 2007 NOREP recommending a particular private school placement. In addition, the School District contests a parental request that certain summer camps be funded out of Student's compensatory education award. For the reasons described below, I conclude that the School District's May 14, 2007 NOREP is appropriate, and I conclude that the request for funding of certain summer camps must be denied.

ORDER

The School District's May 14, 2007 NOREP is appropriate.

Student's June 14, 2007 request that Camps be funded out of his compensatory education award is denied.

Daniel J. Myers

Hearing Officer

July 18, 2007

ODR File No.: 7701/06-07 KE
Student: Student
School District: Pocono Mountain