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PENNSYLVANIA
SPECIAL EDUCATION HEARING OFFICER

DECISION

DUE PROCESS HEARING

Name of Child: BR
ODR # 8253/07-08 LS

Date of Birth: xx/xx/xx

Dates of Hearing: 1/10/08; 2/28/08; 2/29/08
3/3/08; 3/4/08; 4/7/08; 4/29/08; 4/30/08; 5/16/08

CLOSED HEARING

Parties to the Hearing:

Ms.

Columbia Borough School District
200 North 5th Street
Columbia, PA 17512

Date Transcript Received:

Date of Decision:

Hearing Officer:

Representative:

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May 23, 2008

June 9, 2008

Marcie Romberger, Esquire

BACKGROUND

Student is a xx year old Student of the Columbia Borough School District. He is scheduled to graduate at the end of the 2007-2008 school year. Student does not believe his program and placement has been appropriate or in the least restrictive environment.

FINDINGS OF FACT

1. Student is xx years old. P-1. He is currently enrolled in the Intermediate Unit's school to work program through a placement by the Columbia Borough School District (hereinafter, "District").
2. Student has been identified as having Autism and Mental Retardation. P-1.
3. On January 2, 2003, Student was evaluated to determine his educational needs and levels of academic and social functioning.. P-1. The school psychologist conducted the WISC-III and the WIAT-II abbreviated. P-1. She determined Student's full scale IQ was 42 and his achievement levels in word reading, numerical operations, and spelling to be between 40 and 55. P-1.
4. She did not determine his functioning in certain areas of reading such as decoding, reading comprehension, or phonemic awareness. P-1. There is also no curriculum based assessments or standardized testing regarding Student's ability in written expression. P-1.
5. The school psychologist found Student able to read simple sight words and write single and double digit numbers, but could not consistently solve one digit addition or subtraction problems. P-1.
6. Student's teacher on the other hand, believed Student's math skills were approximately on a 2nd to 3rd grade level using a calculator. P-1. She also estimated Student was reading on a 1st to 2nd grade level. P-1. She did not mention what specially designed instruction or accommodations (other than the calculator) are needed for him to work at those levels. P-1.

7. A formal adaptive behavior assessment was not conducted by the District's psychologist although Student was diagnosed as Mentally Retarded and Student would be 16 years old that school year. P-1; NT 295. However, it was decided Student was not able to rely on himself for travel in the community, had limited conversation and interaction skills, did not verbalize emotion to anyone but his mother including anger in the school setting, could not organize large projects, and was not motivated to complete academic tasks independently. P-1.
8. No social skills assessments were completed to determine Student's functional level. P-1; NT 300-301.
9. The District's psychologist did determine Student had a weakness in self direction and motivation. P-1; NT 303.
10. Student completed standardized testing in the area of speech and language. P-1. Although his scores were low, the District's psychologist believed Student could carry on a conversation when the topic was known to Student. P-1. She did believe he had expressive and receptive language needs, however. NT 304.
11. Student does persevere on a topic. P-1; NT 678.
12. Another evaluation was completed on December 22, 2004. P-2. No additional data was compiled for this evaluation, not even a vocational technical educational assessment although one had yet to be conducted and Student was 17 years old. P-1, 2, 3. There was also no discussion of Student's present educational levels or educational needs, no information provided by Student's mother, and no summary of findings based upon whatever review may have been completed by the team. P-2. For all intents and purposes, this evaluation was void of any information. P-2.
13. From this evaluation, an Individualized Education Program (hereinafter "IEP") was developed on January 19, 2005. P-3.
14. The IEP does not list in the need section Student's need to 1) improve his adaptive behavior skills regarding Communication, Community Use, Functional Academics, and self-direction; 2) identify skills, interests, and aptitudes; 3) become aware of postsecondary options; and 4) improve everyday living skills, including issues related to money, transportation, and caring for one's self and home. P-1, P-3.
15. Some goals and objectives in the January, 2005 IEP are not measurable. P-3; NT 60, 62.
16. Standardized reading evaluations were not conducted to determine the appropriate manner to teach reading to Student, i.e. whole word v. decoding. P-1, 2, 3.

- Instead, Student, at 17, continued to be taught using a decoding approach although he was not making much progress over the years. P-3.¹
17. Student's IEP also does not have goals for word reading or reading comprehension, areas of weakness for Student. P-1, 3.
 18. Many of Student's needs are not addressed in the January, 2005 IEP. P-1, 3; NT 130.
 19. Some of the goals and objectives are not objectively monitored. P-3.
 20. Although Student receives occupational therapy, there are no occupational therapy goals. P-3.
 21. Student was not entitled to Extended School Year services. P-3.
 22. Student participated in an American Culture class during the 2005-2006 school year which he enjoyed. P-5; NT 388.
 23. Student was also enrolled in the full time life skills class. P-5. In that class, Student was provided lessons in personal management – social skills, computer usage, and self advocacy skills. NT 380.
 24. At the beginning of the 2005-2006 school year, Student took a Core Phonics assessment to determine placement in either a functional sight word reading program or a decoding reading program. NT 418. Based on this testing, Student was placed in the SRA reading group. NT 418, 419.
 25. Student's teacher testified that math was very difficult for Student and that progress was very slow. NT 449.
 26. The District developed another IEP for Student on February 1, 2006. P-5; S-2.
 27. Student's present educational levels for math were the same in February, 2006 as they were in January, 2005. P-3, 5; S-2.
 28. The needs Section of the February, 2006 IEP does not address all of Student's known areas of need. P-1, 5; S-2; NT 236, 237.
 29. Although Student received occupational therapy, there are no occupational therapy goals. P-5; S-2. His handwriting is poor. NT 820

¹ Student received another decoding program, Wilson Reading Program, prior to working in the SRA program. P-7; S-5. Yet, instead of conducting a reading evaluation to determine if Student learned better using the whole word approach, the District started Student in the lowest book in the SRA decoding series during his 11th grade year. At that point, it may have been preferable to teach Student functional words and words Student would see in the community rather than attempting decoding again.

30. Student's February 2006 IEP states Student will need to take a S.A.G.E. Vocational Evaluation, but he did not. P-5; S-2.
31. The reading comprehension goal is not measurable nor does it state what level Student should be working. P-5; S-2.
32. Many of the objectives in the February, 2006 IEP are identical to the January, 2005 IEP. P-3, 5; S-2.
33. Many of Student's needs are not addressed in the February, 2006 IEP. P-1, 5; S-2.
34. Although the District offered progress monitoring for Student's February, 2006 IEP, some of the data found in the progress report is inconsistent with the findings of the Reevaluation Report completed at the end of the progress monitoring time frame. P-6, 13; S-4. What is shown on the progress monitoring is very little progress. P-6, 13; S-4; NT 219, 220, 221.
35. Without hints, gestures, or prompts, Student's achievement levels would be much lower than listed in his progress monitoring. NT 374.
36. There does not appear to be any objective method of determining progress on the progress monitoring. P-13; S-13; NT 590.
37. From February, 2006 to the end of the 2005-2006 school year, Student was included in an American Cultures class. P-5; S-2. Student did not have an aide dedicated to assist him. P-5; S-2; NT 184.
38. During the 2006-2007 school year, Student participated in half day classes at a neighboring school district in the life skills class and inclusion in World Cultures and driver's education. P-6; S-4; NT 413, 1491. Student participated in a Basic Occupational Skills class for the other half of the school day where he received vocational training and learned basic work skills. P-6; S-4; NT 1343.
39. Student did not complete the year in driver's education class. NT 1492. He received a "D" or an "F" in the class and it was recommended that he be removed from the class. NT 1492-1493. He was removed from driver's education and placed in a cooking class instead. NT 1525-1536.
40. During the 2006-2007 school year, Student participated in vocational "crews." P-9; S-8. Student enjoyed working in a nursing and rehabilitation center. P-9. This is consistent with his evaluation reports which state Student enjoys caring for others. P-6; S-4.

41. In the fall, 2006, Student's Basic Occupational Skills teacher drafted some IEP goals and objectives to include in Student's IEP, but they were not included in Student's IEP until January, 2007. NT 1470.
42. On January 17, 2007, a Reevaluation Report was completed for Student. P-6. This Report was untimely as the previous evaluation report was completed December 22, 2004. Apparently, its only purpose was to provide information regarding Student's vocational skills. P-2, 6; S-4; NT 1407. No additional academic testing was conducted. NT 1431.
43. The Reevaluation Report states Student cannot count to 100 by 5's or 2's, needs support to count a combination of coins, and his printing is difficult to read. P-6; S-4. According to his teachers, Student can tell time to 5 minute intervals. P-6; S-4. Student can also use the Alphasmart and or computer to make journal entries. P-6; S-4.
44. No technology assessment was conducted to determine if additional technology could assist Student. P-6, 7; S-4, 5, 17.
45. Based upon this evaluation, an IEP was developed for Student on January 31, 2007. P-7, S-5, 17.²
46. This IEP team did not include a regular education teacher even though Student was included for two classes at the time of the development of the IEP. P-7; S-5, 17.
47. There is no goal or objective regarding telling time to one minute intervals even though Student did not meet the objective from the previous IEP. P-5, 6, 7; S-2, 4, 5, 17.
48. Although Student receives occupational therapy, there are no occupational therapy goals. P-7; S-5, 17.
49. Although Student was placed in regular academic classes, an aide was not provided to assist him in those classes. P-7; S-5, 17.
50. The itinerant Autistic Support teacher suggested Student receive one hour of Autistic Support per week, but Student was only provided with 30 minute per week. P-7, 8; S- 5, 6, 17.
51. Numerous needs of Student's are not addressed in the IEP, including any reading goals. P-7; S-5, 17; NT 392, 393.

² It was agreed by both parties there are pages in P-7 and S-5 that were incorrectly placed in the document during copying. The accurate January 31, 2007 IEP can be found at S-17. The incorrect versions were kept in the record so that testimony on those pages prior to finding the problem can be understood.

52. Some of the goals and objectives are identical to the previous IEP. P-5, 7; S-5, 17; NT 239.
53. Some of the goals and objectives are not measurable. P-7; S-5, 17; NT 240.
54. A new IEP was developed for Student in June, 2007. P-9; S-8.
55. The June, 2007 IEP was written for Student's placement full time at the school to work program. P-9; S-8. During the 2007-2008 school year, Student was not included in any regular education classes. P-9; S-8.
56. The school to work program works on functional types of academics related to employability. P-10; S-16; NT 512, 526-527. No specific reading, English, or math programs are used. NT 593, 594.
57. The program does work on budgeting and writing checks. NT 633.
58. But for one measurable annual goal and related objectives related to vocational skills, Student's June, 2007 IEP is exactly the same as Student's January, 2007 IEP. P-7, 9; S-5, 8, 17. No changes to his objectives or his accuracy were made. P-9; S-8.
59. Again, Student's IEP does not address all areas of need. P-7, 9; S-5, 8, 17; NT 565, 566, 567.
60. Student's mother does not believe Student can do many of the things addressed in the goals and objectives of the June, 2007 IEP. NT 1542-1545.
61. Student has had social skills deficits but no social skills goals in any IEP since 2005. NT 98, 1506.
62. Student's mother requested Student be involved extracurricular activities, but it did not happen when Student was enrolled in programs outside District's building. NT 139, 1499, 1531. It was also not addressed in any IEP.
63. On September 10, 2007, Student's mother asked for an Autism specialist to test Student's abilities. S-14. As a result, the District offered to reevaluate Student. S-10. Student's mother did not respond to the District's offer until January, 2008 when she gave her consent. NT 763, 1487.
64. Student needs support from caregivers. NT 200. Student's teacher believed fading caregivers could be a possibility with Student. NT 357. Yet this was never addressed in any IEP.
65. Student has always had anxieties but they were never addressed in any IEP. P-3, 5, 7; NT 263, 682.

66. Student obtained a job at [redacted] University through the school to work program. After about a week on the job, Student's mother requested Student not work there any longer because of the hours Student had to work, the work he was performing, and the lack of interaction between Student and non-disabled peers. S-14; NT 723-725.
67. Student was provided many job crew options, but it does not appear any were in his areas of interest. P-6; S-4, 14, 18; NT 569, 570, 572.
68. Student would like a job sorting CDs and he appears to enjoy helping people. P-9; NT 822.
69. Although he was to receive autistic support 30 minutes per week during the 2007-2008 school year, Student did not begin receiving autistic support until October 3, 2007 and he only received Autistic support every other week. S-14.
70. Student does not cause a disruption in any of the regular education classes that he has attended nor did he negatively impact other students in the classroom. NT 276, 1492.
71. Student needed assistance from caregivers in self advocacy, problem solving and cooking. NT 486, 487, 864.
72. Student needs instruction on basic money matters in order to function in society. NT 809.
73. None of Student's IEP provided a goal or objective in life skill areas like cooking, learning how to read a recipe, measurements, and housekeeping. NT 463-465, 681.
74. Student's mother is not concerned about Student getting a job: she wants him to be educated. NT 700, 718. She would like Student to work more with an Autistic specialist, be in regular education classes, more social skill instruction. NT 717, 718. She does not believe Student is ready to have vocational training because he was not appropriately educated in earlier years. NT 719.
75. During the 2006-2007 school year, Student's mother was unhappy with the work crew Student was on because he was doing work he already knew how to do. NT 822.
76. It would not be difficult to schedule Student for half day academics and half day school to work training. NT 597.

77. The cost of the school to work program and the half day Basic Occupational Skills class/life skills class is approximately the same. NT 1476-1477.

ISSUES

Did Student receive an appropriate program from October, 2005 to January 10, 2008?

Did Student receive programming in the least restrictive environment?

Is Student entitled to compensatory education?

Is Student entitled to an independent educational evaluation, an independent functional behavioral analysis, and an independent transition assessment?

DISCUSSIONS AND CONCLUSIONS OF LAW

Burden of Proof

Following [Schaffer v. Weast, 126 S. Ct. 528, 537, 163 L. Ed. 2d 387 \(Nov. 14, 2005\)](#), and [L.E. v. Ramsey Bd. of Educ., 435 F.3d 384 \(3d Cir. 2006\)](#), the burden of persuasion in IDEA cases, as one element of the burden of proof, is now borne by the party bringing the challenge. As it was Student who filed this due process request, he has the burden of persuasion. Pursuant to [Schaffer](#), though, it only comes into play when neither party introduces preponderant evidence and, as a result, that evidence is fairly evenly balanced.

Special Education Services

The Individuals with Disabilities Education Act (hereinafter, "IDEA") entitles each child with a disability a free appropriate public education (hereinafter, "FAPE"). The IDEA defines FAPE as special education and related services provided at public expense, under public supervision and direction, and without charge to the child's family. 34 C.F.R. § 300.17. Special education for a student with disabilities can include instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings. 34 C.F.R. § 300.39.

A. Evaluation

In order to be entitled to FAPE, a child must have a disability established under the IDEA. In order to determine if a child has a disability under IDEA, a comprehensive evaluation must be completed. 34 C.F.R. §300.301(a). In conducting an initial evaluation, a school district must use a “variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability.” 34 C.F.R. § 300.304. A child must be assessed in all areas related to the suspected disability, including social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 34 C.F.R. § 300.304. The evaluation must be sufficiently comprehensive to identify all of the child’s special education and related services needs. 34 C.F.R. § 300.304.

In Pennsylvania, a child diagnosed with Mental Retardation must be reevaluated at least once every two years. 22 PaCode § 14.124. As part of the reevaluation, the IEP Team must review existing evaluation data on the child, on the basis of that review, and input from the child’s parents, identify what additional data, if any, are needed to determine the educational needs of the child, the present levels of academic achievement of the child, whether the child continues to need special education and related services, and whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum. 34 C.F.R. § 300.305.

It is hard to imagine the team had enough data based upon the 2003 and 2004 Evaluation Reports to develop an appropriate IEP for Student in 2005. For a child diagnosed with Autism and Mental Retardation, no testing was completed in areas of adaptive living skills and social skills, areas of weakness for Student. In addition, a full battery of academic testing was not completed. Nor was a vocational or transitional assessment completed. Although many of Student’s teachers testified they did not need results from standardized tests in order to understand Student’s needs, their testimony is mere speculation.³ Testing would have provided input into not only Student’s needs, but also ways in which Student learns. This would have assisted the team in determining appropriate research based instruction methods to help Student learn. For example, a reading evaluation by a reading specialist could have determined whether Student should be learning via a research based whole word approach such as Edmark or to continue with a decoding model such as SRA.

B. IEP

The IEP is the cornerstone of the special education program of a student. The IEP must include comprehensive present educational levels; measurable annual goals which

³ At least one of Student’s teachers stated standardized test results would have been helpful to appropriately educate Student.

point toward the child's actual educational needs;⁴ a statement of special education and related services and supplementary aids and services which meet the individual needs of the child as reflected in the Evaluation Report and extend beyond mere classroom accommodations that will enable a child to make progress in the general education curriculum and to participate in extracurricular and other non academic activities;⁵ and an explanation of the extent to which the child will be educated with non-disabled children. 34 C.F.R. § 300.320; Polk v. Central Susquehanna Intermediate Unit, 853 F.2d 171 (3d Cir. 1988).

"The IEP must point toward the child's actual educational needs by including summaries of the child's abilities and present levels of educational performance, outlines of measurable educational goals, specifications for educational services to be provided, and appropriate evaluation procedures and schedules for determining whether instructional objectives are being achieved. 20 U.S.C. § 1414(d)(1)(A); Pardini v. Allegheny Intermediate Unit, 420 F.3d 181, 185 (3d Cir. 2005); Polk v. Cent. Susquehanna Intermediate Unit 16, 853 F.2d 171, 173 (3d Cir. 1988). For an IEP to be appropriate, it must offer a child progress in all relevant domains (behavioral, social, emotional) via meaningful educational benefit[s]." S.H., 336 F.3d at 265; M.C. v. Central Reg'l Sch. Dist., 81 F.3d 389, 394 (3d Cir. 1996); Sinan L. v. School Dist. of Philadelphia, slip op. at 17-19, Civ. A. 06-1342 (E.D. Pa. June 29, 2007).

To be appropriate, the IEP "must be reasonably calculated to enable the child to receive meaningful educational benefits in light of the student's intellectual potential." Shore Regional High Sch. Bd. of Educ. v. P.S. ex rel. P.S., 381 F.3d 194, 198 (3d Cir. 2004); L.R. v. Manheim Twp. Sch. Dist., 2008 U.S. Dist. LEXIS 23966 (E.D. PA 2008). The relevant inquiries are: "First, has the State complied with the procedures set forth in the Act? And second, is the [IEP] . . . reasonably calculated to enable the child to receive educational benefits?" Bd. of Educ. v. Rowley, 458 U.S. 176, 206-07, 102 S. Ct. 3034, 73 L. Ed. 2d 690 (1982); L.R. v. Manheim Twp. Sch. Dist., 2008 U.S. Dist. LEXIS 23966 (E.D. PA 2008).

Regarding the first inquiry in determining FAPE, mere non compliance with IDEA procedures is not enough to find a lack of FAPE. "A child is denied a FAPE only when [a] procedural violation [of the IDEA] results in the loss of educational opportunity or seriously infringes the parents' opportunity to participate in the IEP formation process." R.B. ex rel. F.B. v. Napa Valley Unified Sch. Dist., 496 F.3d 932, 940 (9th Cir. 2007); Deal v. Hamilton County Bd. of Educ., 392 F.3d 840, 860 (6th Cir. 2004); L.R. v. Manheim Twp. Sch. Dist., 2008 U.S. Dist. LEXIS 23966 (E.D. PA 2008). When no substantive harm occurs, an "IDEA procedural error may be held harmless." R.B., 496 F.3d at 938; see e.g., Robert B. ex rel Bruce B. v. W. Chester Area Sch. Dist., 04-2069,

⁴ 34 C.F.R. §300.320. Bernardsville Board of Education v. J.H., 42 F.3d 149 (3rd Cir. 1994); Battle v. Commonwealth 629 F.2d 269 (3d Cir. 1980); David P. v. Lower Merion S.D., 1998 U.S. Dis. LEXIS 15160 (E.D. Pa. 1998).

⁵ 34 C.F.R. §300.320;

[2005 U.S. Dist. LEXIS 21558, 2005 WL 2396968, at 9 \(E.D. Pa. Sept. 27, 2005\)](#)

(denying relief because although "no regular education teacher was present at the IEP meeting," "the Court finds no evidence in the record that Robert has been denied any necessary service . . . as a result of the flaw"). L.R. v. Manheim Twp. Sch. Dist., 2008 U.S. Dist. LEXIS 23966 (E.D. PA 2008).

The IEPs in this case were flawed to the point that harm did occur to Student. Many of Student's needs are not addressed as goals or objectives in any IEP from 2005 to the present. There are no objective standards provided that would explain the basis for any goal or objective. Information is inconsistent. For example, in the February, 2006 IEP, Student is to tell time to one minute intervals. P-5. Yet, the present education levels in that same IEP state Student can tell time to the five minute intervals only 33% of the time. P-5. In addition, the same data was provided in the present educational levels in the January, 2005 IEP as in the February, 2006 IEP. P-3, 5. Either the Present Educational Levels in math in 2006 IEP were not updated since January, 2005 or Student made no progress. P-3, 5.

In addition, many of the objectives in the February, 2006 IEP are identical to the objectives in the January, 2005 IEP. P-3, 5. Although it appears Student did not make meaningful educational benefit to master the goals outlined in his 2005 IEP, Student was not provided Extended School Year during the summer of 2005.

Student's January, 2007 IEP contained identical goals and objectives as the previous IEP, but Student again was denied Extended School Year services. Student's 2007 IEP team did not include a regular education teacher even though Student was included in two regular education classes and failing one of those classes. P-7; NT 1492. A regular education teacher on the team could have assisted the team compile a list of accommodations to make Student successful in the regular education class.

Although the programs Student was placed in over the years seemed to address some areas of need, I am not convinced that they adequately addressed all of Student's areas of need because of the lack of appropriate evaluations and IEPs. NT 546.⁶ No vocational assessment was completed prior to 2007 even though Student had turned 16 in 2003. When one was finally conducted, it was determined Student had a high interest in performing patient care, personal service, and laundry service or working in a music store. P-6. Yet, it did not appear Student worked in any of those areas during his basic occupational skills class or his school to work program. P-7. Moreover, at no time does it appear Student received math instruction through any research based program or learned functional words to assist Student towards independence in the community.

Least Restrictive Environment

⁶ I do believe Student's school to work teacher did as good of a job for Student as he could, but it was not enough to provide Student an appropriate program.

To the maximum extent appropriate, children with disabilities are to be educated with children who are not disabled. 34 C.F.R. § 300.550. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment should occur “only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” 34 C.F.R. § 300.550.

In providing or arranging for the provision of nonacademic and extracurricular services and activities with nondisabled peers, each public agency “must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child’s IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.” 34 C.F.R. § 300.117.

Although a review of least restrictive environment is not necessary since I found Student’s education inappropriate, I will briefly address the issue. Student believes he was not educated in the least restrictive environment. He believes he should have been educated the entire day at the High School with no vocational training. I do not agree that would have been an appropriate placement for Student. At Student’s age and with Student’s disabilities, transition services should be included as part of his daily education. I do agree, however, Student’s IEP team should have done more to ensure Student’s participation with non disabled peers in extracurricular activities.

Compensatory Education

The Federal Courts have held the right to compensatory education accrues when the school knows or should know that its IEP is not providing an appropriate education. [*M.C. v. Central Reg. Sch. Dist.*, 81 F.3d 389, 395 \(3d Cir. 1996\)](#). If a school district fails to correct the situation, “a disabled child is entitled to compensatory education for a period equal to the period of deprivation, but excluding the time reasonably required for the school district to rectify the problem.” [M.C., 81 F.3d at 397](#) (noting that “[t]he school district . . . may not be able to act immediately to correct and inappropriate IEP; it may require some time to respond to a complex problem”). [P. v. Wissahickon Sch. Dist.](#), 2007 U.S. Dist. LEXIS 44945, (E.D.Pa. 2007).

Because of the flawed Evaluation Reports and IEPs, Student did not receive an appropriate program. He was not provided Extended School Year. Student did not receive appropriate training in math, reading, English, or social skills. He was not provided vocational training in areas of interest. Although Student was included for some classes with nondisabled peers, he was not provided supports to be successful. Student did not participate in extracurricular activities with non disabled peers although Student’s mother requested this at every IEP meeting. For those reasons, Student is entitled to compensatory education for each day he was in school from October 30, 2005 to January 10, 2008. He is also entitled to 60 hours for each summer he did not receive extended school year services.

Independent Evaluations

Student requested independent evaluations. However, I believe this request is premature. The District recently completed an evaluation of Student which was not part of this hearing. Therefore, if Student objects to the findings in that evaluation, Student can request independent evaluations at that time.

ORDER

Student did not receive an appropriate program from October, 2005 to January 10, 2008.

Student did receive programming in the least restrictive environment because he was not involved in extracurricular activities.

Student is entitled to compensatory education for a full day for every day Student was in school from October 30, 2005 to January 10, 2008. Student is also entitled to 180 hours of compensatory education for missed extended school year services during the 2005, 2006, and 2007 summers.

Student is not entitled to an independent educational evaluation, an independent functional behavioral analysis, or an independent transition assessment.

Marcie Romberger, Esquire