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File No.: 8465/07-08 AS

**MK**

DATE OF BIRTH: xx/xx/xx

DATE OF HEARING: MARCH 26, 2008

CLOSED HEARING

Parties to Hearing:

Parents:

District:

Pittsburgh School District

Indiana School District

Date Transcript Received:

April 1, 2008

Date of Decision:

April 8, 2008

Gerald Dambach, Ed.D

Hearing Officer

## **BACKGROUND:**

Student is a xx year old male who resides at [Residential Facility] within the Pittsburgh School District. Residential Facility is a residential facility and an Approved Private School (APS). He attends school at [redacted] Center operated by the Pittsburgh School District. Student's parents reside in the Indiana School District where the hearing was held. Student has an educational diagnosis of Autism and is placed in a Full Time Multi-Disability Support Program (MDS).

This hearing was originally scheduled for March 20, 2008 but the Pittsburgh School District requested a continuance because of unavailability of witnesses. The continuance was granted and scheduled for March 26, 2008. On February 6, 2008 this Hearing Officer talked with Mr. who indicated that he did not request this hearing. The ODR Due Process Complaint Notice indicates that the LEA had requested this hearing, although the content of the notice indicated parental issues. On February 6, 2008 this Hearing Officer also talked with Attorney Kramer. She sent a letter to this Hearing Officer indicating that the district hereby amended the complaint. The district is requesting permission to conduct a comprehensive reevaluation.

The district (Pittsburgh) is requesting this hearing to obtain permission to conduct a comprehensive evaluation of Student and to obtain necessary and relevant data from Student's residential placement, and that a representative from Residential Facility be a required participant on the multidisciplinary evaluation team.

## **FINDINGS OF FACT:**

1. Student is a xx year old student who attends Center, a center program operated by the Pittsburgh School District for special needs children. (NT 21, SD 15)
2. Student has an educational diagnosis of Autism and is placed in a Full Time (FT) multiple disabilities support (MDS) program. The MDS program is operated by [redacted] Institute. (SD 12, SD 15)
3. Student lives at Residential Facility within the Pittsburgh School District. (SD 15)
4. Student's parents reside in the Indiana School District and the Indiana School District is responsible for the costs of his educational; program in the Pittsburgh School District.(NT 52)
5. The current IEP for Student has a team meeting date of June 12, 2007.(SD 15)
6. The Indiana School District was invited to the June 12, 2007 IEP meeting but did not attend.(NT 52)
7. Student was placed at Center in January 2004.(NT 21)
8. Student received a comprehensive evaluation in September 2004 with an update in May 2005. A Psychological evaluation was completed in February and March 2004 by Dr. W, School Psychologist for the Pittsburgh School District. (SD 12)
9. A reevaluation report was completed on May 30, 2007. It consisted of observation and record review, but no specific individual assessments. (SD 13)
10. The district sent a permission to reevaluate to the parents on May 4, 2007. (SD 1)
11. The parents did not give permission for the May 4, 2007 reevaluation, nor did they return the parent input checklist. (NT 25-26)
12. The district sent a permission to reevaluate to the parents on September 8, 2007. (SD 3)
13. The parents did not give permission for the September 8, 2007 reevaluation. (NT 29)
14. The district sent a permission to reevaluate to the parents on October 26, 2007. (SD 4)

15. The parents did not give permission for the October 26, 2007, nor did they return the parent input form. (NT 31-32)
16. The district sent a permission to reevaluate to the parents on January 16, 2008. (SD 6)
17. The parents did not give permission for the January 16, 2008 reevaluation. (NT 35)
18. During the past two (2) years the parents have never granted permission to reevaluate Student. (NT 38)
19. At Center Student has no peers working at the same level as him in the classroom or in the building. He is functioning at a much higher level. (NT 23, NT 117)
20. Student is the only student at Center who takes the PSSA as opposed to the PASA. (NT 22)
21. Student's class at Center consists of 9 students. Only Student does not have a Behavior Plan as part of the IEP. Student exhibits no behaviors that interfere with his learning or that of others. (NT 122-124)
22. Student was initially placed at Center because of serious problem behaviors. (NT 114)
23. Neither the June 2006 or June 2007 IEP contain a Behavior Plan for Student. (SD 14, SD 15)
24. Student needs a less restrictive environment for learning. (NT 24, NT 107-108, NT 116)
25. The parent has not given permission for the district to communicate with Residential Facility. (NT 114)
26. Typically for other students residing at Residential Facility, the district is able to contact and communicate with the staff. (NT 116)
27. The purposes of including Residential Facility staff in the reevaluation process would be to discuss behaviors at home and to collaborate concerning transition planning. (NT 109)
28. Residential Facility staff have not participated in IEP meetings because the district did not have the authorization to have contact with them, (NT 109-110)
29. The district is seeking permission to reevaluate that includes specific assessments in achievement, aptitude, IQ, FBA, and diagnostic reading. (NT 133-135)
30. The parent requested that the district provide six (6) district employees available to testify as parent witnesses. These witnesses included: Mr. C, Ms. E, Mr. M, Mr. R, Ms. S, and Ms. W. (Letter from parent to Jocelyn Kramer, Esq. Dated March 16, 2008, HO 2)
31. Mr. M and Ms. S both testified and were cross-examined by the parent. (NT 20-109, NT 110-154)
32. This Hearing Officer determined that the other four (4) witnesses listed in No. 30, had no current or relevant testimony concerning the issue of permission to reevaluate and were denied as viable witnesses. (NT 158-162)

## **ISSUES:**

1. Does the Pittsburgh School District have permission to conduct a comprehensive multidisciplinary evaluation of Student ?
2. Does the Pittsburgh School District have the legal right to request educationally relevant information concerning Student from Residential Facility?
3. Does the Pittsburgh School District have the authority to require Residential Facility to be a participant on the multidisciplinary evaluation team?

## **DISCUSSION AND CONCLUSIONS OF LAW:**

Student is a xx year old student at Center, a center program for special needs students operated by the Pittsburgh School District. He has an educational diagnosis of Autism and is placed in a full time MDS program. Student currently resides at Residential Facility. Residential Facility is within the Pittsburgh School District. The parents reside in the Indiana School District. Since Residential Facility is located within the Pittsburgh School District, Pittsburgh is the responsible program operator for Student. The Indiana School District is the legal residence of the parents and are therefore responsible for the costs of Student's educational program operated by the Pittsburgh School District.

On February 4, 2004 father, reported to a Pittsburgh School district School Psychologist that Student has Fetal Alcohol Syndrome and several mental health issues. The father depicted Student as a complex boy who shows significant learning and behavioral problems. Problem behavior included extreme aggression toward family members. Student was placed at [redacted]Services, a residential treatment facility in April 2001. Prior to that placement Student was home schooled. In June 2003 he transferred to the Residential Facility, a residential home for children with severe emotional problems. (SD 12) Student was placed at Center in January 2004.

The ODR Due Process Complaint Notice indicates that the LEA had requested this hearing, although the content of the notice indicated parental issues. On the ODR Complaint Notice the parent indicated that "by failing to provide the information, records, and documents that I have requested, you have interfered with my son's rights and my rights.....The remedy that I am seeking is for the Pittsburgh School District to immediately furnish me with a copy of all the information, records and documents for which I have made previous written requests. I am requesting remedy of compensatory educational services for the entire period that my son has been enrolled in the Pittsburgh School District."

The district resolution indicates that the district requests permission to reevaluate. (ODR Complaint Notice dated January 23, 2008)

On February 6, 2008 this Hearing Officer talked with Mr. who indicated that he did not request this hearing. On February 6, 2008 this Hearing Officer also talked with Attorney Jocelyn Kramer, She sent a letter to this Hearing Officer indicating that the district hereby amended the complaint. The district is requesting permission to conduct a comprehensive reevaluation. (HO 1)

The district requested written permission to reevaluate from the parents on May 4, 2007, September 8, 2007, October 26, 2007, and January 16, 2008. On all four occasions the parents did not provide written permission to reevaluate.

Student has been placed at Center since January 2004. The district did complete a comprehensive psychological evaluation in September 2004 which was then incorporated into a reevaluation dated May 25, 2005. (SD 12) the district also completed a records review reevaluation on May 30, 2007. (SD 13)

According to the district Student has no peers working at the same level as him in his classroom or in the building. "He is much higher functioning than the other children, he is more social with the staff and, unfortunately, there aren't peers in his classroom that he can be social with. He does talk to the other children,

the other children are verbal, but they are not functioning at his social levels to be an appropriate peer for him. Student expresses the desire to have friends, and he is very friendly toward the other children at Center. There is just a significant discrepancy between Student and the other children.” (NT 117)

Student’s class at Center consists of nine (9) students. Only Student does not have a Behavior Plan as part of his IEP. Student exhibits no behaviors that interfere with his learning or that of others. Student is also the only student at Center who takes the PSSA as opposed to the PASA.

According to district staff Student needs a less restrictive environment. The district is requesting permission to complete a comprehensive multidisciplinary reevaluation in order to facilitate decision-making concerning LRE. The district is proposing specific assessments to include the areas of achievement, aptitude, IQ, behavior and reading. (NT 133-135) The district is hereby granted permission to complete a comprehensive multidisciplinary reevaluation including specific psychological assessments. The specific assessment tools and areas of assessment are to be determined by the district.

The district is also seeking permission to communicate with Residential Facility. The district is seeking input for the MDE concerning relevant educationally related data such as home behavior. They are seeking to collaborate concerning transition planning. For other students living at Residential Facility, the district is able to contact and communicate with the staff. The parents have not given authorization for the district to communicate with Residential Facility.

The MDE team not only includes appropriate educators, but also parents. The parents have not provided input into the MDE (NT 25-26, NT 31-32, NT 38) The inclusion of input from Residential Facility concerning educationally related information is a valuable part of the MDE process. The district has the right to seek educational input from the parents and Residential Facility. The district does not have the right, without written authorization, to obtain mental health or medical records from Residential Facility.

The district has the right to invite the parents, Residential Facility staff, and Indiana School district staff to be active participants on the MDE and IEP teams. The district may invite, but cannot require active participation.

## **ORDER:**

It is hereby determined that the Pittsburgh School District has:

1. Permission to conduct a comprehensive multidisciplinary evaluation of Student . The MDE shall include comprehensive psychological assessment by a Certified School Psychologist. The specific assessments are to be determined by the district.
2. Permission to obtain educationally relevant input from Residential Facility. The information may include home behaviors and social interactions with peers and staff. The information may not include medical or mental health data without written consent from the parents.
3. The district may invite Residential Facility staff and Indiana School District staff to both the MDE and IEP meetings.

Submitted by:  
Gerald Dambach, Ed.D  
April 9, 2008