

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

**Pennsylvania Special Education Due Process Hearing Officer
Final Decision and Order**

Closed Hearing

ODR No. 30227-24-25

Child's Name:

J.F.

Date of Birth:

[redacted]

Parents:

[redacted]

Counsel for Parent:

Pro Se

Local Educational Agency:

Bethel Park School District
301 Church Road
Bethel Park, PA 15102

Counsel for LEA:

Rebecca Heaton Hall, Esquire
Weiss Burkhardt Kramer, LLC
445 Fort Pitt Boulevard – Suite 503
Pittsburgh, PA 15219

Hearing Officer:

Michael J. McElligott, Esquire

Date of Decision:

11/14/2024

Introduction

This special education due process hearing concerns the educational rights of [Student] ("student"), a student who attends school in the Bethel Park School District ("District").¹ The student currently qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 ("IDEA")² as a student with an emotional disturbance.

The student's parents filed the complaint which led to these proceedings. The parents claim that the District, as the student's school district of residence, must transport the student from the family home to a charter school.

The District counters that its good-faith efforts to transport the student could not be arranged and, ultimately, under the terms of Pennsylvania school law and regulations, it does not need to transport the student.

For reasons set forth below, I find in favor of the District.

Issue

Must the District transport the student to the charter school
which the student attends?

¹ The generic use of "student", and avoidance of personal pronouns, are employed to protect the confidentiality of the student.

² It is this hearing officer's preference to cite to the pertinent federal implementing regulations of the IDEA at 34 C.F.R. §§300.1-300.818. See *also* 22 PA Code §§14.101-14.162 ("Chapter 14").

Findings of Fact

All evidence of record was reviewed. The citation to any exhibit or aspect of testimony is to be viewed as the necessary and probative evidence in the mind of the hearing officer.

1. In November 2021, while the student resided in the District but attended a private school, the student was evaluated by the District. The student was identified as a student with an emotional disturbance. (School District ["S"]-1).
2. In February 2022, the student continued to attend the private school with weekly counseling services provided at the District. (S-2).
3. In March 2022, the District proposed an individualized education program ("IEP") for the student as the student continued to attend the private school with two classes (mathematics and art) provided by the District. (S-5; Notes of Testimony ["NT"] at 32-48, 63-70).
4. In March 2022, shortly after this programming was proposed, the student began attending a charter school which focuses especially on the arts. (NT at 32-48, 63-70).

5. The charter school provided transportation for the student in the remainder of the 2021-2022 school year through the 2023-2024 school year. (NT at 63-70).
6. The charter school declined to provide transportation in the current 2024-2025 school year. Parents requested that the District provide transportation to the charter school. (NT at 53-61, 63-70).
7. The District worked through several options for transportation, including working with another school district and a vocational program, both located near to the charter school's location. The scheduling of transportation through these means could not be arranged. (NT at 53-61).
8. The District is beyond ten miles from the charter school. (NT 53-61).
9. Ultimately, the District informed the parents that it could not arrange for transportation and, as it understood its obligations to the student under Pennsylvania law, was not under an obligation to do so. (NT at 53-61, 63-70).
10. Parents began to transport the student to and from the charter school on their own. (NT at 63-70).
11. As a result of the District's position, the parents filed the special education due process complaint which led to these proceedings.

Credibility of Witnesses

All witnesses testified credibly. No witness's testimony was accorded materially more or less weight than the testimony of any other witness.

Legal Framework

A child eligible under IDEA receives a free appropriate public education ("FAPE") (34 C.F.R. §300.17) through the delivery of special education and related services in an individualized education program ("IEP"). Where transportation is necessary for the student to receive FAPE, that transportation must be made part of a student's IEP. (34 C.F.R. §§300.34(c)(16), 300.324).

Discussion & Conclusions

Here, the first, necessary consideration is whether or not District transportation is required to provide the student with FAPE. On the evidentiary record created here, that is not the case.

The student appears to enjoy the charter school, which allows the student to deepen the student's artistic talent. So it is only natural that the family would seek to make the school as accessible to the student as

possible. But transportation to the charter school is not necessary for the student to access special education.

At the hearing, the parties focused on arguments about how provisions of the Pennsylvania School Code should be interpreted regarding transportation requirements for school districts for resident-students who attend charter schools. In Pennsylvania, school districts must provide transportation to students who reside in the district to “a charter school located in (the) school district of residence, a regional charter school of which the school district is a part, or a charter school located outside the district boundaries at a distance not exceeding ten miles by the nearest public highway....”. (24 P.S. §17-1726-A(a)).

If the student here required transportation for the provision of FAPE through the delivery of special education, rather than transportation for a preferred regular education setting, the analysis might be different from a special education perspective. But the student’s special education needs do not require transportation to the charter school, so there is no basis for an order in that regard.

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ORDER

In accord with the findings of fact and conclusions of law as set forth above, because the student does not require transportation in order to

access special education or a free appropriate public education at the charter school the student currently attends, the Bethel Park School District need not provide transportation of the student to the charter school.

Any claim not specifically addressed in this decision and order is denied and dismissed.

s/ Michael J. McElligott, Esquire

Michael J. McElligott, Esquire
Special Education Hearing Officer

11/14/2024