

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

DECISION

EXPEDITED DUE PROCESS HEARING

Name of Child: Student
ODR #6695/05-06 LS

Date of Birth: xx/xx/xx
Date of Hearing: June 27, 2006

OPEN HEARING

Parties to the Hearing:

Parent

School District of Philadelphia
Office of General Counsel
440 N. Broad Street, 3rd Floor
Philadelphia, Pennsylvania 19130

Date Transcript Received:

Date of Decision:

Hearing Officer:

Representative:

Michael Basch, Esquire
Fine, Kaplan and Black
1835 Market Street, 28th Floor
Philadelphia, Pennsylvania 19103

Deborah DeLauro, Esquire
Office of General Counsel
440 N. Broad Street, 3rd Floor
Philadelphia, Pennsylvania 19130

July 2, 2006

July 2, 2006

Linda M. Valentini, Psy.D.

Background

Student is a[n] xx-year-old eligible student who resides in the School District of Philadelphia (hereinafter District). Student was the subject of two previous due process hearings; both were resolved by settlement agreements between the parties. The current dispute concerns the implementation of the March 30, 2006 Settlement Agreement which among other things addressed Student's summer program for summer 2006.

On June 21, 2006 Ms. Parent, Student's mother (hereinafter Parent) requested this expedited hearing because of her concern that Student was not going to receive the agreed upon summer program which is scheduled to begin on July 5, 2006.

Issue

Did the School District implement the terms of the March 30, 2006 agreement it made with the Student's mother regarding programming for summer 2006?

Stipulations

1. Student attended [redacted] during the 2004-2005 school year.
2. For the 2005-2006 school year, the program that existed between the School District and [redacted] was terminated, but the parties entered into negotiations to create a new partnership with [redacted], but the partnership was not in place at the start of the 2005-2006 school year.
3. In March 2006 the parties entered into a new agreement that the District would place Student in the [Redacted] Employer Paid Summer Internship Program for the summer of 2006 and summer of 2007 as described in Appendix B of the Settlement Agreement and would shepherd Student's summer placement at [redacted].
4. It was further understood by the parties that the District cannot force the [Redacted] Employer Paid Summer Program or the Health Tech Program at [redacted] to accept Student. [Student] must earn his acceptance.
5. In June 2006 the District offered the [redacted] program to the Parent as opposed to the [redacted] program.
6. The District has a partnership with Communities in Schools, a separate entity, which is a nonprofit organization that is not part of the School District and not part of [redacted].

7. Communities in Schools has a partnership with [redacted], among other facilities, to facilitate career pathways for [local] school students.

Findings of Fact

The District's Office of Career and Technical Education, under the District's Office of Secondary Education, is the office that runs the summer programs. (NT 68-69)

The District's Office of Career and Technical Education contracts with [Redacted] Youth Network to facilitate the paperwork for the summer job program because of the large number of students who are involved in summer jobs. (NT 69)

[Redacted] Youth Network, is the organization that handles and facilitates the placing of students for the summer program for the District. (NT 68-69)

[Redacted] Youth Network uses a computer system called Pyndex, which identifies students that are placed into the system for assignment into summer jobs programs. (NT 65)

A copy of the Pyndex computer information screen pertaining to Student indicates "healthcare aides", "start date 7/5/06", and includes Student's social security number, student ID number, birthdate and address. (NT 65-66; S-1)

The Work Site ID number, 16799, is the number assigned to [redacted]. (NT 67)

Ms. H, the Chief Operations Officer from [Redacted] Youth Network, in a letter dated June 28, 2006 to Mr. B, the District's Deputy Chief Academic Officer, Office of Secondary Education, confirms that "Student has been enrolled in the summer internship program sponsored by the Office of Career and Technical Education" at the District, and that "Student will be participating as an intern at [Redacted] Hospital". (NT 56-58; S-1)

The assistant director of the Office of Career and Technical Education, Mr. O, confirmed that this June 28, 2006 letter constitutes an agreement on the part of the District that Student is going to [redacted] for the summer program and an agreement that [redacted] is going to accept [Student] for the summer program. (NT 69-70)

Discussion and Conclusions of Law

Student is entitled by federal law, the Individuals with Disabilities Education Act as Reauthorized by Congress December 2004, 20 U.S.C. Section 600 *et seq.* and Pennsylvania Special Education Regulations at 22 PA Code § 14 *et seq.* to receive a free appropriate public education (FAPE). FAPE is defined in part as: individualized to meet the educational or early intervention needs of the student; reasonably calculated to yield

meaningful educational or early intervention benefit and student or child progress; provided in conformity with an Individualized Educational Program (IEP).

Pursuant to a previous dispute, the parties voluntarily entered into a Settlement Agreement dated March 30, 2006. The current due process hearing concerned whether or not the District was fulfilling one specific part of that agreement.

The Office of Dispute Resolution published an updated Dispute Resolution Manual after IDEA 2004 became effective in July 2005. Section 811.E, dealing with Enforceability of Settlements notes, "Unless there is a change in circumstances where alternative and/or additional services are necessary in order for a student to obtain an appropriate education, a settlement agreement is binding on the parties".

The District produced convincing testimony and evidence that as of June 28, 2006 it was complying with the terms of the March 30, 2006 Settlement Agreement by placing Student in the [redacted] worksite for his summer 2006 program.

ORDER

It is hereby ORDERED that:

The School District is implementing the terms of the March 30, 2006 agreement it made with the Student's mother regarding programming for summer 2006 by placing Student in the [Redacted] Employer Paid Summer Internship Program for the summer of 2006, beginning on July 5, 2006.

The School District must implement the terms of the March 30, 2006 agreement it made with the Student's mother regarding programming for summer 2006 by placing Student in the [Redacted] Employer Paid Summer Internship Program for the summer of 2006, beginning on July 5, 2006.

July 2, 2006

Date

Linda M. Valentini, Psy.D.

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Hearing Officer