

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.

File No.: 8083/07-08 LS

WS

Date of Birth: xx/xx/xx

Dates of Hearing: October 18, 2007
October 30, 2007

CLOSED HEARING

Parties to Hearing:
Parents:

District:
Turkeyfoot Valley Area School District

Date Transcript Received:
November 5, 2007
Date of Decision:
November 11, 2007
Gerald Dambach, Ed.D
Hearing Officer

BACKGROUND:

Student is a xx year old grade 10 student at Turkeyfoot Valley Area School District (District). He has an educational diagnosis of Mental Retardation (MR) and is placed in a Learning Support (LS) program. The district proposed placing Student in a Life Skills Support (LSS) program in a neighboring district – Rockwood School District. The parents are separated with the mother, having physical custody. The parents have joint custody in terms of making decisions concerning Student. The father, agreed to the LSS placement at Rockwood School District and the mother signed a NOREP requesting this hearing. The district and the father were represented by council and the mother was pro se. The only issue before this Hearing Officer involved an appropriate placement for Student – the LS program at Turkeyfoot Valley Area or the LSS program at Rockwood. The parties did agree to place Student part-time at the [redacted] Vocational Technical School as soon as possible. The part-time placement at the Vocational Technical has begun.

FINDINGS OF FACT:

1. Student is a xx year old grade 10 student at Turkeyfoot Valley Area School District. He has an educational diagnosis of MR and is placed in a LS program. (JT. 1, SD 6, SD 8, NT 87)
2. Student's parents are married but are separated subject to divorce proceedings. (SD 3)
3. The parents have joint legal custody and the mother, has primary physical custody. (SD 3)
4. On August 9, 2007 the father signed a NOREP agreeing to the LSS placement at Rockwood School District. (SD 1)
5. The mother, indicated on a NOREP dated August 5, 2007 that she did not approve the recommendation for a LSS placement at Rockwood. She requested a due process hearing. (SD 2)
6. On September 12, 2007 the Honorable David C. Klementik of the Court of Common Pleas of Somerset County decreed that Student shall remain in the district's LS placement pending the due process hearing scheduled for October 18, 2007. (SD 4)
7. A resolution meeting to resolve placement for Student was held on September 19, 2007. (SD 5)
8. At the October 18, 2007 session of this proceeding the parties stipulated to place Student at the Vocational Technical School part-time as soon as possible. (NT 20)
9. The current IEP was developed on October 10, 2007 to reflect placement in the LS program pursuant to the court order and the outcome of these proceedings. (NT 247, SD 8)
10. A comprehensive multidisciplinary team reevaluation report (RR) was written on October 8, 2007. (SD 6)\
11. All team members agreed with the RR except the mother. (SD 7, NT 240)

12. On the October 8, 2007 RR Student earned a Full Scale IQ score of 59 on the WISC-4th edition. On the March 2004 reevaluation Student earned a Full Scale IQ score of 58 on the WISC-4th edition. (SD 6)
13. On the October 8, 2007 RR Student earned standard scores on the WIAT-2nd ed. Ranging from a high of 71 on Pseudoword Decoding to a low of 46 on Math Composite. On the March 2004 reevaluation Student earned standard scores on the WIAT-2nd ed. Ranging from a high of 82 on Listening Comprehension to a low of 48 on Math Composite. (SD 6)
14. According to Dr. B, School Psychologist, there is no indication that Student's rate of progress would change in the next 3 to 4 years. (NT 108)
15. Student is making far less than one year of academic process for a year of instruction and that his curriculum mismatch between his present levels now and the present levels of other students near his age is vast. (NT 95)
16. According to Dr. B, IU 8 School Psychologist, Student 's educational program should include: functional academics (reading and math); prevocational and vocational skills; and community-based instruction (CBI). (NT 115)
17. In October 2007 Student was evaluated by Dr. H, Clinical Psychologist, from Somerset. (Ms. 2)
18. Dr. H found that in the mental status examination Student presented unremarkably, meaning there was no significant emotionality presented. (NT 149)
19. Dr. H found Student was academically functioning at a third grade level and did not see him going too much higher based on intellectual functioning. (NT 157, NT 175)
20. Dr. H believed that Student would profit from pre-vocational instruction such as how to balance a checkbook, how to use a credit card, how to fill out a lease for an apartment, among other stated pre-vocational skills. (NY 159)
21. The LSS program at Rockwood School District currently has 6 students ages 15 and 16 with a paraprofessional. (NT 189-190, NT 192)
22. Each student in the LSS program at Rockwood has their own computer in the classroom and also receives Community-Based Instruction twice a month. (NT 199-200)
23. Student's instruction in the LS program is 1 on 1 for the first three periods. (NT 211)
24. The focus of Student's instruction in the LS program is on the grade 10 curriculum with different instruction and at his reading level. (NT 208)
25. Student has not progressed academically during the last two years. It takes him longer to acquire knowledge and his rate of retention is less than other students. (NT 207-208)
26. Student's scores (grades) in the LS program are based on his development and is not average as based to other students his age. (NT 2210)
27. According to his LS teacher, Ms M, Student needs a more functional life skills curriculum with pre-vocational and CBI activities. (NT 207)

ISSUE:

1. What is the appropriate educational placement for Student – a LS program or a LSS program?

DISCUSSION AND CONCLUSIONS OF LAW:

Student is a xx year old grade 10 student at Turkeyfoot Valley Area School District. He has an educational diagnosis of MR and placed in a LS program. He also attends Vocational Technical School. The district since 2004 has discussed a LSS placement with his parents. (SD 6) Initially both parents opposed the placement in a LSS program.

The parents are separated with the mother having physical custody. The parents have joint custody in terms of making decisions concerning Student. During this school year (2007-08) the district again recommended placing Student at the Rockwood LSS program. The father signed a NOREP agreeing to the placement, but the mother signed a NOREP disagreeing with the placement and requested this due process hearing.

On September 12, 2007 the Honorable David C. Klementik of the Court of Common Pleas of Somerset County decreed that Student shall remain in the district's LS placement pending the results of this due process hearing. At this hearing there were three parties – the father, the mother, and the district. The father and the district were represented by counsel and the mother was pro se.

Student has an educational diagnosis of MR with cognitive skills in the IQ range of 59. His achievement levels are commensurate with his cognitive skills. His rate of acquisition and rate of retention are also commensurate with ability and achievement. He is achieving at a basic grade 3 level. Both Dr. B, IU 8 School Psychologist, and Dr. H, Clinical Psychologist, indicated that Student's rate of progress would not change. He is making far less progress than one year of academic progress per year of instruction and that the academic curriculum mismatch is vast.

In Student's current LS program he is receiving 1 on 1 instruction for all academic areas but has demonstrated very little progress academically during the past two years. Both his rate of acquisition and his rate of retention are low. His progress in the LS program is based on his development and not average when compared to other students his age.

The LSS program at Rockwood School District currently has 6 students, ages 15 to 16. There is also a paraprofessional in the classroom. Each student has his own computer in the classroom. The instruction in the LSS program stresses functional skills, pre-vocational skills, and CBI.

Mother visited the LSS program at Rockwood with Dr. B on September 27, 2007. She did not offer any specific reason why she did not want Student to attend Rockwood. She did indicate that she wanted to think about this and that she would decide in the future. (NT 116)

Student was present for part of this due process hearing during the first day. He was the first witness and was then excused to return to class. Student did not visit the Rockwood LSS program. He simply stated that "I want to stay here and finish at my home school. I grew up at this school. I want to finish at this school." (NT 34) When questioned about changing schools he stated, "If I go, I quit." (NT 34) He did indicate

however that he would like to attend the vocational-technical school for construction (carpentry) (NT 34-35)

A learning support program is for students whose primary identified need is for academic learning, which, typically means academic learning as close to the general curriculum of students of that age as possible. The emphasis and approach in a LSS program is to build skills for independent living, which is wider than academics. It would include functional academics, with emphasis on academics that are used in typical adult function, pursuits and activities. Life skills includes community-based instruction, not only to learn about these types of things in the classroom, but to go out in the community under the supervision of teachers to work on learning and practicing and applying these types of skills in real life situations, and then the addition of the pre-vocational and vocational skill kind of things.

According to Dr. B and the multidisciplinary evaluation team (October 8, 2007) Student's educational program should include three strands:

1. Functional academics.
2. Pre-vocational and vocational skills
3. Community-based instruction.

His current IEP (SD 8) dated October 10, 2007 does not reflect an appropriate program for Student. The IEP was developed and implemented because of Judge David C. Klementik's order to remain in the district's LS placement pending this due process hearing.

Student's current LS placement is not appropriate. He requires a LSS curriculum that focuses on functional academics in reading and math, pre-vocational and vocational skill development and community-based instruction.

ORDER:

It is hereby ordered that:

1. Student be placed in the Life Skills Support program at Rockwood School District.
2. He will continue to be placed part-time at the Vocational Technical School where his focus will be carpentry or construction.
3. A new IEP will be developed that will include functional academics in reading and math, prevocational and vocational skills, and community-based instruction.

Submitted by:

Gerald Dambach, Ed.D
Hearing Officer