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DECISION

Due Process Hearing for YM

Date of Birth: xx/xx/xx

File Number: 7177/06-07AS

Dates of Hearings:

2-5-2007, 2-20-2007, 3-8-2007, 3-13-2007, 4-27-2007.
5-3-2007, 5-17-2007

OPEN HEARING

Parties:

School District of Philadelphia
440 North Broad Street, 3rd Floor
Philadelphia, PA 19130

Date Transcript/Exhibits Received: 5-21-2007

Date of Decision: 5-30-2007

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I BACKGROUND

Student is a xx year old male, tenth grade student with Down Syndrome. He has attended the [redacted] High School (HS) since the beginning of the 2005-2006 school year. This school accepts students only after they satisfy rigorous academic and performing criteria. Upon initial application to HS, the student was not accepted. With the intervention of the District's Regional Office for Special Education Services, the student was accepted to the HS under the Legare Consent Decree of 1998 which provides the opportunity for students with need for specially designed instruction, with reasonable accommodations, to enter any high school program in the Philadelphia School District that is available to any student in the general population.

As described in Article 9 of the Legare Consent Decree, each applicant to a District High School may be reviewed on a "case by case basis." This review is subject to Due Process Proceedings described in 22 PA. Code, Chapter 14 and 15.

At the HS, the student receives a resource room level program of Special Education and was, until very recently, accompanied by a one to one therapeutic support staff member (TSS) for all of his academic subjects. The student came to HS from the [redacted] Elementary School with an Individual Educational Program (IEP). When the elementary school IEP was revised to reflect the student's program at HS, individual piano instruction was included in that IEP at the direction of the District's Regional Office for Special Education Services. The student did receive individual piano instruction as an elective subject during his first year at HS. Individual piano instruction was not included in the student's IEP for his second year at HS.

Mr., the student's father, did not sign a Notice of Recommended Placement (NOREP) for the 2006-2007 school year because the father requested that instrumental music be incorporated into his son's schedule with the supports necessary for this student's special needs and that an appropriate transition plan be developed.

The School District of Philadelphia (the District) asserts that it is offering a free, appropriate public education (FAPE) and that piano instruction is not part of the IEP in that it is not an academic subject. A transition program and the piano program requested by the parent are not part of the academic program that is reflected in the IEP nor is individual piano instruction part of the school's curricular offerings to any of its students. The District recognizes that the student wants to prepare for a career in music and is willing to transport him during the school day to and from a nearby District program which does offer individual piano instruction

II FINDINGS OF FACT

1. Students accepted to the HS under the Legare Consent Decree are fully included for their academic program with Special Education support, if necessary, provided by a resource room teacher (NT 54-55).
2. Approximately 85% of the students who attend the HS do not pursue careers in the arts due to a lack of available opportunities in that field of endeavor (NT 55).
3. At the HS, the music program focuses on ensemble performance (NT 56).
4. Students who participate in ensemble music groups have a high level of skill and understanding of musical theory (NT 55).
5. Because of lack of opportunity to participate in the ensemble groups at the HS, each pianist is required to study a second instrument so that he or she may have the opportunity to perform (NT 57-58; 158).
6. The student did not meet the acceptance requirement set by the musical staff that auditioned him and so notified the Office of Student Placement (NT 60, 96).
7. Staff of the Office of Specialized Services met with the administration and musical staff of the HS to determine how the HS staff could provide a free, appropriate program of education for this student (NT 62).
8. The HS administrator and staff explained to members of the Office of Specialized Services that students perform music at a very high level of sophistication and accomplishment and that pianists have limited opportunities at the HS (NT 65).
9. The student has not been given the opportunity to learn a second instrument while studying at the HS (NT 66).
10. During his first year at the HS, the student received individual piano instruction which is not a part of the HS curriculum (NT 67).
11. For the 2006-2007 school year, the student received one period of music and one period of ceramics rather than the two periods of music theory that the other students at the HS receive (NT 68-69).
12. According to reports of the student's ceramics teacher to the principal, the student is doing well in the ceramics program (NT 70).
13. The [redacted] Program (Program) is located one and a half miles from the HS and offers an individual music program for piano (NT 71, 156-157; HO 1).
14. The HS principal is willing to provide transportation for the student to and from the Program so that he can receive individual piano lessons (NT 71).
15. Under the Legare Consent Decree, seven per cent of the incoming class to the HS each year must include students with special needs (NT 74; P 2).
16. The student may not experience the excitement of performing that other HS students may derive from long hours of study and practice which culminate in performance at various school presentations (NT 82-85).
17. The student does not have the musical ability or high level of music theory to rehearse with an orchestral group at the HS (NT 87).

18. The student did participate in one performance during the 2005-2006 school year (NT 109).
19. The decision to provide the student with piano instruction that is listed as a Measurable Goal on his Individual Educational Program of October, 2005 was inserted at the direction of personnel of the Office of Specialized Services (NT 67,92-3; P 1).
20. In June, 2005, a meeting of HS administration and staff was held with staff of the Office of Specialized Services to explore the possibilities of the student's attendance at HS (NT 94).
21. In a meeting subsequent to the June, 2005 meeting regarding the student's acceptance at the HS based on his level of musical accomplishment, staff of the Office of Specialized Student Services informed the HS assistant administrator that the student would be enrolled in the HS program (NT 96-97).
22. The student's individual piano teacher who was not a member of the HS educational staff attended the IEP for the student and provided approximately one hour per day of instruction in a lab (NT 99-101).
23. The piano instructor reported the student's progress to the chair of the Arts Department at the HS (NT 102).
24. In a meeting to revise the student's IEP, the student's piano teacher reported that the student was making some progress; however, his level of performance was still rudimentary (NT105).
25. Itinerant music instructors who are employed by the School District of Philadelphia are sent to the HS by the relevant District Office to provide individual music lessons in instruments other than the piano (NT 113-114).
26. The HS principal's assistant, not the principal, is the Local Educational Agency Representative (NT 129, 133).
27. The HS principal is unaware of the content of Special Education ongoing education that his staff at the HS receives (NT 131).
28. The HS principal is unaware of the transition plan for the student (NT 132).
29. The student has not performed with any musical group, nor has he performed at any of the major performances at HS; however, he has performed with a chamber group (NT 134-135).
30. In recognizing that 85% of the students at HS do not pursue a career in the arts, the school offers academic instruction as a "safety net" (NT 55, 136).
31. The student was enrolled in a ceramics program instead of a second instrument as is the case with students who are accomplished pianists because the principal could not pay for other music lessons for the student and because of information that the student had won an art contest (NT 68-69; 138-139).
32. In his audition to enter the HS, the student did very poorly on the aural portion; an indicator of the student's having difficulty in learning another instrument or singing in a choir (NT 149-151).
33. Instructional music staff did include the student in group music activities in the classroom in ways in which he could participate with others (NT 152-153).

34. The HS Arts Department Head asked other students to mentor the student and work with him on an individual basis with music that was different from the instruction provided by his music teacher (NT 153).
35. The HS Arts Department Head discussed with the student's father difficulties associated with the student's studying a brass instrument, a woodwind instrument, and a stringed instrument (NT 154).
36. The student is currently taking piano lessons at the HS (NT155).
37. The Arts Department Head did not participate in the decision to place the student in a ceramics class (NT 166).
38. The student did earn grades of C's and B's in his classes at the HS and did participate in some class activities (NT 168-171; P 3).
39. During the 2005-2006 school year, the student's individual piano teacher at the HS conferred with the student's music instructor at the [redacted] Music School to avoid confusing the student (NT 172).
40. The student's teachers varied in their experience level with students with Down syndrome and with their approach to making accommodations for the student (NT 172-174).
41. The student is currently taking a Music Theory 1 class, a class required of all HS students, for the second time (NT 149-151; 189, 191).
42. The student has difficulty with hearing different pitches of notes, a difficulty that is not necessarily correlated with his disability (NT 194).
43. Mentoring of the student by other male students ended after an eight week period when the mentoring student voiced his discomfort at the student's overtly expressed affection (NT 153; 196-197).
44. The Arts Department Head discussed the student's displays of affection with the student's Therapeutic Support Staff (TSS) member (NT 196-197).
45. The Arts Department Head did not attempt to have the student mentored by a female student (NT 198).
46. The decision to provide the student with individual music lessons this school year is based upon fees and scheduling and the availability of a retired teacher who is familiar with the HS program (NT 199).
47. The decision to help the student learn jazz was made in response to the student's reporting that he had heard jazz and liked it, the reason for the attempted mentoring program by other students (NT 200).
48. The student mentoring program was designed for the student to expose him to jazz as well as to have him work with another peer (NT 200-201).
49. The student's current music teacher selects pieces for the student based upon the student's level of proficiency and progress at the piano (NT 201).
50. The student must develop proficiency with the rudiments of piano before he can participate in duets with his teacher and then with other students (NT 202).
51. At present, the student's current piano teacher does not coordinate his instruction with personnel at the Music School (NT 202).
52. The student's performance at a concert at the HS demonstrated the student's progress in music as well as in the student's confidence level in performing in front of a large group of people (NT 203-204).

53. The student's daily music lessons are "supervised practice," and he should develop independence to practice on his own, taking lessons only once per week with an instructor which is more usual than daily lessons (NT 205).
54. The student could participate in an ensemble only if the other students in the ensemble play at a very rudimentary level, the level of functioning of the student (NT 205, 207).
55. Playing with small groups may improve the student's socialization and confidence in performing; however, small group ensembles in which the student may be able to participate are not available at HS during most of the school year (NT 205-6, 214).
56. The only way to have the student participate in an ensemble production is to have the student participate with another student who is taken from a larger ensemble, thus denying the educational needs of the second student to further his or her own level of proficiency (NT 215).
57. At the time that the student had his audition for entry to the HS, he performed on the piano at the elementary beginner's level (NT 221).
58. In one year at the HS, the student progressed in piano from the beginner to the beginner intermediate level with daily instruction (NT 205, 223).
59. The student's difficulty with auditory issues and with the complexity and demand of technique limit his ability to play with a school ensemble, including other HS students (NT 149-151; 224).
60. The goals and objectives of the student's IEP at the HS were based on subjects for which he was rostered upon entry at the HS (NT 236-238; P1).
61. The student's case manager who participated in the writing of his first IEP at the HS does not know who wrote the goal for individual piano lessons for the student or who inserted this in the student's IEP (NT 243, P1).
62. The parent rejected the IEP of 5-23-2006 because it did not include instrumental music, individual piano lessons, and a comprehensive transition plan (NT 262-263, SD 3, SD 4).
63. The transition in question focused upon post-secondary education plans (NT 286; SD3).
64. The school district issued an amended IEP plan and transition component on August 8, 2006 which was dated 5-24-2006 (NT 272-273, SD 7).
65. The amended transition component included development of personal responsibility, improvement of peer relations, improvement of self advocacy skills, development of performance etiquette skills, use of public transportation, developing budgeting skills (NT 274-276; SD 7).
66. The student did not participate in the development of this transition plan (NT 278).
67. The father expressed his concern about the absence of vocational based programming (NT 279).
68. Individual piano lessons were not included in the IEP dated 5-24-2006 and written on 8-8-2006 (NT 279, 310, 312).
69. On 10-20-2006, the father returned the Notice of Recommended Educational Placement that was sent on 8-8-2006, marked "disapproved"

- due to the absence of a goal in the IEP for music instruction and a lack of a comprehensive plan for transition (NT 283; SD 8).
70. Although the parent requested mediation, a mediation session was never held (NT 284).
 71. The student's case manager was not aware of a goal page in his IEP of 10-5-2005 until the father filed a State complaint (NT 297, 313; SD 12).
 72. The proposed transition plan in the 8-8-2006 IEP was intended as a starting point in the transition process (NT 319, SD 7).
 73. The student's case manager did not review an assessment of needs, preferences, interests and aptitudes of the student prior to participating in the development of the student's IEP (NT 321).
 74. The student's case manager used the career decision-making booklet that the student completed in grade 8 to develop his IEP (NT 322).
 75. The student's case manager invited the Office of Vocational Rehabilitation to the student's IEP meeting at the request of the student's father (NT 324).
 76. The goals written in the transition plan, dated 5-24-2006 and disseminated on 8-8-2006 are not written as specific, measurable goals (NT 337, SD 7).
 77. The student does use public transportation, but only in a limited manner when he is coached by his father who speaks with him by cell phone during his travel (NT341).
 78. The student was admitted to the HS by an appeals panel of three administrators, convened by the Associate Superintendent for schools in charge of specialized services (NT 74, 359, 363-365; P2).
 79. One of the two Executive Directors of the office of the Superintendent for Schools in charge of specialized services facilitated the student's transition to the HS by attending the school's orientation, attending an IEP meeting at the HS , and helping to build a roster to support the student's needs at that school (NT 366).
 80. At HS, the student was to continue his education with a fully integrated academic program after an initial period of time with the Special Education teacher for English and mathematics (NT 366).
 81. The student had a Therapeutic Support Staff person, who established firm boundaries for the student, accompanied him during transitions from class to class and remained with him in the school setting (NT 366-367, 422).
 82. An Executive Director for Special Education facilitated the placement of a support teacher at the HS for a two month period to help prepare adapted materials for the Special Education teacher to use with the student (NT 368-369. 416,427).
 83. Upon the request of the Executive Director, an administrator of the office of Culture, Language, and arts obtained the services of a one to one piano instructor for the student for one and three quarters hours per day of individual piano instruction (NT 370-371).
 84. In September, 2005, upon entry of the student to the HS, the Executive Director, student's case manager, Arts Department Head, and the parent attended an intake meeting to revise his IEP to reflect the student's needs and provisions at the high school level (NT 379).

85. In June, 2005, an Executive Director of the office of specialized services, the HS principal, the HS Arts Department Head, and the HS Special Education resource room teacher attended a meeting at the student's elementary school to discuss a program for the student for the coming school year at HS (NT 421).
86. At the June, 2005 meeting, there was no discussion of supports and services for the music portion of the student's program at HS (NT 421).
87. In considering the student for admission to the HS, the appeals panel did not consider his musical skill (NT 429-430).
88. Individual piano lessons, made available by the Executive Director of the Office of Specialized Services for the student, were not provided during his second year at HS (NT 433, 438).
89. During the current school year, the student is making adequate progress in the core English curriculum as well as in American History, Spanish and mathematics (NT 451).
90. The Special Education resource room teacher at the HS wrote the goal for music instruction in the student's IEP of 10-19-2005 after having conferred with the one on one piano instructor who worked with the student at the HS (NT 453-454; P 1).
91. The Special Education resource room teacher does not know if the other members present at the meeting to discuss the 10-19-2005 IEP knew about the insertion of the goal page in the student's IEP (NT 456; P1).
92. The School District accepted the expertise and the findings of the parent's expert witness on inclusion and Down Syndrome (NT 483; P 31, 32).
93. The District has agreed to engage the Parent's expert on inclusion and Down Syndrome to provide training and consultation to the administration and staff of the HS with regard to inclusion and differentiated instruction, curricular overlapping, parallel instruction and other techniques to provide instruction for students with diverse needs (NT 483; p32).
94. The IEP of May 24, 2006 did not state the goals and objectives of the student's IEP for supports, services and accommodations for subject content in a behavioral, measurable and situation specific manner (P 32).
95. The student's IEP does not include behavioral, measurable, specific goals for supports, services and accommodations for both academic subjects and music (P 32).
96. The student's IEP does not include behavioral, measurable and situation specific goals to maximize appropriate social behaviors and to minimize inappropriate social behaviors in relationships with fellow students (P 32).
97. The student's progress in achieving the goals of his IEP must be measured in a systematic, data based manner in order to assess further needs to be addressed (P 32).
98. The administration and staff of the HS were not provided with training in inclusion practices, in the use of assistive technology, and in data gathering techniques to assess the student's progress (P 32).
99. With peer mentoring or tutoring for the student, the peer did not receive formalized and systematic support from the HS staff.

100. The student's academic and arts teachers at the HS did not hold regular planning meetings with regard to the student's assessed progress (P 32).
101. The student's IEP did not have behavioral, measurable, specific goals with regard to developing social and music skills necessary to participate in an ensemble music groups (P 32).
102. The student was not given the opportunity to study a second musical instrument, an opportunity provided to all other pianists at the HS (NT 514; P 32).
103. The School District does not have a comprehensive transition plan in place for the student (NT 494).
104. The father averred that although his son is retarded and has Down Syndrome, he has always been a hard worker and a good learner (NT 495-497).
105. The father believes that the student's difficulty in rendering pitches, listening to a tone and reproducing the tone orally, is due to a problem with voice control and a speech impediment as a result of having Down Syndrome while other teachers have commented that the student has a good ear (NT 504-506).
106. Voice modulation is included in the speech component of the student's IEP (NT 506).
107. The father wants his son to be included in the full music program at the HS rather than have individual music lessons (NT 507),
108. The student never had the opportunity to participate in an ensemble at the HS (NT 511-512).
109. The father, a certified teacher in computers and information technology among other subjects, built an electronic portfolio for his son when the student applied to the HS (NT 489, 524).
110. The father asserted that the principal of the HS, not the assistant principal, was the decision maker with regard to his son's program and IEP (NT 526).
111. The father was concerned that the student's music program would no longer be available for him during his sophomore year at the HS due to the withdrawal of individual music lessons and the insertion of art class (NT 530).
112. The HS school principal or other administrative staff told the father that the reason for the withdrawal of the individual music lessons was a financial one; however, despite the father's request, no one would specify this reason in writing (NT 532-533).
113. The student has received a one half hour private music lesson and a one hour music theory lesson per week for the past five years at a facility other than a public school program (NT 534).
114. As a result of a report by the Division of Compliance Monitoring, the student's individual music lessons which the School District had withdrawn, were reinstated (NT 534,537; P 14).
115. The father had not been receiving periodic progress reports from the student's music teachers as directed by the student's IEP (NT 538).
116. When music lessons were reinstated, the teacher provided materials that were too easy for the student and the teacher reported to the father that she did not know about the student's levels of progress or proficiency (538-539).
117. The student is not receiving music instruction with other students (NT 541).

118. The student's first choice of high school programs when applying to high school was the HS program (NT 545: P 33).
119. The student received a level one certificate of achievement in piano from his private music school program in May, 2006 (NT 548; P 34).
120. The student's progress in the private music school is good to excellent (NT 552-553; P 37).
121. Recently, the student received a level two certificate of achievement in piano from his private music school program (NT 553; P 38).
122. An occupational and vocational evaluation would be of benefit in providing information for developing a transition plan for the student (NT 568; P 39).
123. The student's program at HS does not include appropriate musical, academic, social and vocational development (NT 573).
124. The student required the services of a therapeutic support specialist to help him interact socially in unstructured social situations until he recently completed all of his behavioral goals (NT 574-575; SD 11).
125. The student has limited self help skills in every day living situations (NT 579).
126. An educational re-evaluation of the student was conducted on January 17, 2007 and it was reviewed by the student's IEP team on February 9, 2007 (SD 11).
127. Parental input in the re-evaluation indicated the parent's desire of social skill development and transitional supports to encourage social interaction (SD 11).
128. Parental input also noted that the student has not progressed as the parent expected in reading, written language, mathematics and science (SD 11).
129. The student functions in regular classes with a great deal of support (SD 11).
130. For the student, memory is a strength, and analyzing and synthesizing information are areas of need (SD 11).
131. The student is often socially inappropriate in the absence of his Therapeutic Support Staff (TSS) (SD 11).
132. During less structured situations, the student may act in an impulsive, immature manner, later articulating the appropriate choices that he should have made (SD 11).
133. The student described his difficulty in note taking (SD 11).
134. During formal assessment, when alone with the female psychologist, the student was not consistently cooperative; however, he was much more compliant in the presence of his TSS (SD 11).
135. The student has not worked independently and has not used appropriate social skills without immediate adult assistance (SD 11).
136. The father's written concerns about the re-evaluation report are attached to that report and will remain with that report (SD 11).
137. The music theory teacher who has spent approximately three semesters in the past two years with the student has never received or seen a copy of his IEP (NT 602-603).
138. The music theory teacher who also provided individual piano lessons for the student did not prepare separate lesson plans for the student (NT 605).

139. The music theory teacher did not receive staff training or development from HS administration or Special Education support in providing an appropriate education for the Student (NT 605-606).
140. While the student did participate in class discussions in the music theory class, he struggled with written tests, and he had difficulty with his ability to hear music (NT 606).
141. The music theory teacher accommodated the student's difficulty with tests by giving him extra time (NT 606).
142. The student identifies in writing about 20% of the intervals that the teacher plays for him, demonstrating difficulty in identifying music aurally, and demonstrating difficulty in hearing different musical pitches (NT 607).
143. All students in the music theory class spend part of that period from time to time in an individual practice room as part of the class program (NT 610-612).
144. The instrumental music teacher has asked the student to accompany on the piano stringed instrumental students while they are playing scales (NT 614).
145. The student has not participated as part of the HS string orchestra or full orchestra as an accompanist because of his rudimentary music skills (NT 616).
146. There is little coordination among the student's music teachers with regard to the student's need for specialized instruction (NT 618-621, 634, P 32).
147. The student has made musical and social progress in his music theory class in relating with the teacher and with classmates (623-625).
148. At this point in his musical training, the student does not possess the skill level to participate with an ensemble group of students at the HS due to the wide gap between the student's level of performance and his musical peers' level of performance (NT 628, 631).
149. The student is not self motivated to attempt more difficult music pieces (NT 632).
150. Other students at HS are respectful of the student and interact with him in classroom situations (NT 635).
151. The student has the opportunity to participate in a chamber music performance at the end of May, 2007, a performance open to all students (NT 637).
152. The assistant principal of the HS has occasionally interacted with the student when the student was reluctant to follow a procedure (NT 648).
153. The student has never had a disciplinary problem at the HS (NT 648).
154. IEP's for students receiving Special Education are available with the Special Education resource room teacher for staff to examine (NT 652).
155. The HS does not have a designated transition coordinator for student in Special Education (NT 654).
156. The student is transported individually by cab to and from the HS (NT656).
157. The student requires direct supervision to make transitions from place to place in school (NT 659).
158. As a result of the father's complaint to the State Division of Compliance Monitoring and Planning, the School District provided the student with compensatory, individual music instruction at the music school where the student receives private music lesson (NT 677-678; SD 13).

159. The School District agreed to incorporate recommendations from the parent's private expert on Down Syndrome and inclusion into the student's IEP and the school's educational program (NT683-684, 695).

III ISSUES

1. Is the music instruction offered at the HS included in the student's Individual Educational Program as part of his free, appropriate program of education?
2. Are the accommodations provided for the student in the Arts segment of his educational program appropriate to meet his needs for specially designed instruction?
3. Is the transition plan offered for the student an appropriate one?

IV DISCUSSION AND CONCLUSION OF THE LAW

Student is a xx year old mentally retarded student (34CFR § 300.8(C) (6)) with Down Syndrome. He currently attends the HS of the Philadelphia School District. He was accepted to that special admissions high school, not because of his successful competition in the school's audition process for acceptance, but because of the Legare Consent Decree (C.A. No. 94-CV-4243). In accordance with the Legare Consent Decree, the HS, a special admissions high school program of the Philadelphia School District, must accept a percentage of special needs students equal to the percentage of special needs students in the schools of the Philadelphia School District. While the judges of his audition performance were impressed with his stage presence and the organization of the electronic portfolio which his father prepared for him, the judges rated his piano performance as rudimentary. The student's admission to the HS was ordered by an appeals panel composed of Special Education administrators who did not consider the student's musical performance.

The School District initially requested this hearing to contest the writing of goals for the student's Individual Educational Program for the music component of his school program at the HS. The School District contended that goals for a special needs student's IEP are limited to the academic part of the student's program. The student's father objected to the lack of goals in his son's IEP for musical instruction as well as the lack of a comprehensive vocational and transition plan.

Because there are only a few positions in musical ensembles for pianists at the HS, students of piano are encouraged to study a second instrument at HS so that they may perform with the various instrumental groups at that high school. HS staff members have evaluated the student and have determined that he plays the piano at only a beginner's level and has difficulty in recognizing aurally presented music. Since his level of playing is very basic, the regional Special Education office offered individual piano lessons during his freshman year instead of the student's performing with a school musical group

as do all other HS students. During his sophomore year, individual music lessons were not offered due to budgetary considerations and due to the emphasis at the HS of participating in ensemble rather than individual music lessons.

Because of the student's difficulty in listening to, identifying in writing or reproducing vocally music played, the study of a second instrument would be difficult for this student. Instead of providing instruction with a second instrument, the student was placed in a ceramics class, an art area in which the student had previously expressed an interest.

Because there are so few jobs in the performing arts, and there is great competition for those few jobs, only about 15 percent of the HS graduates go on to pursue a professional career in music. Thus, the HS offers to its students a rigorous academic program as well as an arts program. The student is included in academic classes with accommodations that are provided with the assistance of a certified Special Education, resource room teacher. The student also spends time in the resource room, and the teaching staff has extended time for the student to take academic tests and has modified work assignments.

HS staff created a peer mentoring program for the student; however, the student's age inappropriate social interaction skills caused fellow students to feel uncomfortable alone with the student. There was little peer training or support from HS staff in their peer mentor roles. HS staff members and administrators other than the certified, Special Education resource room teacher, responsible for the student's educational program, had little training or support in dealing with the student's Special Education needs. There was little formal interaction of the staff to plan and coordinate an appropriate educational program for the student. The HS music staff did not confer with the private music school at which the student is also receiving piano lessons.

The student is described as making adequate progress in the academic areas of history, English, mathematics and Spanish. For these subjects, accommodations and modifications are made with the assistance of the certified, Special Education resource room teacher. The student's progress in music is minimal in comparison with the musical progress of his HS classmates. Music instruction for the student does not include accommodations and modifications to prepare the student to perform with one of the school's musical ensemble groups at the student's level of musical knowledge and functioning.

Upon the order of a compliance monitor, individual music lessons for the student have been reinstated, and the father signed a Notice of Recommended Educational Program which states that his son will receive 82 hours of compensatory, individual music instruction at the student's private music school. Yet, the student still does not receive the musical instruction to prepare him to participate with a musical ensemble group of the HS.

The student is repeatedly described as making good progress in his academic subjects. However, it is not clear if that progress reflects the student's level of function with Special Education accommodations and modifications or whether his progress is

compared with the progress of other students at the HS. The student requires training in social interaction with peers. Until recently, the student was accompanied to classes by a therapeutic support staff member to assure that the student arrives at the appropriate location on time and to monitor the student's social interaction.

The student requires development of social interaction skills, community skills, travel skills and vocational skills. The student cannot walk in his neighborhood from place to place independently or make small purchases and count change received from purchases. He cannot use public transportation available to him, and his parents have not allowed him to remain at home without supervision.

The student requires an Individual Educational Program which offers training for everyday activities that include appropriate social interaction, traveling by foot safely in the center city environment, skills of independent, daily living, use of available public transportation as well as music instruction that will prepare the student to play music in an ensemble group of his high school.

As a piano student at the HS, the student should be assessed by music teachers and a Special Education teacher to determine which second instrument the student could learn to play as a usual part of the music program for students at the HS. The School District should enlist the assistance of the Office of Vocational Rehabilitation to perform an occupational assessment to determine potential areas of vocational training for the student. This evaluation must include assessments of vocational skills strengths and needs, not merely his areas of vocational interest.

Thus, while the School District of Philadelphia did accept Student into the HS under the Legare Consent Decree, the School District did not provide a Free Appropriate Education in terms of development of age appropriate social and emotional interaction skills, age appropriate life skills and independence skills, age appropriate community travel and interaction skills and a comprehensive transition plan for the student's post high school educational and vocational pursuits, social skills, independence skills and leisure skills.

V ORDER

In accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** that the School District of Philadelphia will provide for Student , a student of the HS, an Individual Education Plan with specific, objectively measurable goals and benchmarks in all areas requiring Special Education support, including:

- His academic instruction,
- The development of age appropriate social interaction goals,
- The development of age appropriate, independence and self help life skills,
- And for skills in music to foster his playing the piano and a second instrument both as an individual and as a member of one of the school's ensemble groups.

Furthermore, it is **ORDERED** that the School District of Philadelphia will enlist the aid of the Office of Vocational Rehabilitation or use its own resources to provide for Student a vocational assessment of skills and interests to assist in developing a specific, comprehensive transition plan for post high school educational and vocational pursuits, social skills, independence skills and leisure skills.

The School District of Philadelphia is **Ordered** to monitor the student's progress in all areas of his Individual Educational Program in accordance with the Pennsylvania Department of Education's recommended system of progress monitoring. The School District's Individual Education Plan team will adjust goals and objectives for the student's program as is necessary based upon the student's demonstrated, objectively assessed progress in meeting his Individual Education Plan goals at thirteen week intervals during the course of the school year.

Date

Hearing Officer