

SAMPLE FACTUAL FINDINGS

NOTE: FOR PURPOSES OF THIS EXERCISE, REFERENCES TO THE HEARING RECORD TO SUPPORT THE FACTUAL FINDINGS ARE OMITTED.

Timely Notice:

1. On May 26, 2014, the CSE met to review Student's IEP.
2. At the meeting, Parent was visibly "upset" regarding the CSE's refusal to place Student in a special class and threatened to place Student in a private school.
3. Although inferably rejecting the District's proposed placement, Parent did not communicate that their threatened placement would be at public expense.¹
4. On August 25, 2014, Student started attending the Exemplary Academy.
5. On October 15, 2014, the Parent filed for the hearing in this case.

FAPE:

6. The proposed IEP of May 26, 2014 denied the Student a FAPE.

Appropriateness of the Exemplary Academy:

7. Having average intelligence, Student has identifiable needs in working memory, processing speed, word attack, reading comprehension, spelling, mathematics, receptive and expressive language, and organization.
8. Exemplary is a non-approved school in New York City. Only students with severe learning disabilities attend. It does not provide opportunities for its students to interact with students without disabilities.
9. Though not all staff members have special education certification or formal credentials in the Bloss-Tinker methodology, they all have basic training in this methodology, with supervision by those with special education certification and with formal Bloss-Tinker credentials.
10. Exemplary addresses Student's identified needs. For example, Exemplary addresses his organizational needs through small group instruction and structure, and it addresses his working memory, academic, and language deficits through the use of previewing, to-do lists, breaking tasks down into manageable steps, technology, preferential seating, and one-on-one support.
11. Student's grades and attitude about school have improved since he started at Exemplary. During the seven weeks Student has attended Exemplary, he has significantly advanced in reading, writing and math.

¹ Whereas the Parent summarily testified that she "must have" provided this information, she did not provide specific support for the threatened placement being at public expense. In contrast, the middle school principal credibly testified that, having forewarning of the Parent's possible threat, she paid close attention to what the Parent "stated," and clearly recollects that it did not include any indication of the threatened placement being at public expense.

Equities:

The parties agree that the Parent's conduct, other than the timely notice issue, was not unreasonable.