

Scenario: Private School Representative Witness

Alleged Issue:

The parents filed a due process complaint on behalf of their 15 year-old son, Bob. Bob has dyslexia and difficulty focusing. He is eligible under IDEA as learning disabled. The claims in the complaint present a traditional tuition reimbursement case, i.e., the district's proposed IEP is inappropriate, the parents' unilateral placement at the XYZ School is appropriate, and therefore, reimbursement is warranted. The school district in its response asserts its proposed IEP is appropriate, the parent's unilateral placement is inappropriate, and therefore, the parents should be denied any relief.

At the prehearing conference (PHC):

The PHC is held over the phone. Counsel represents both parties.

During the PHC, the IHO learns that the parents will rely solely on the testimony of the XYZ School's Academic Dean regarding the private school being an appropriate placement for Bob.

Q1: Would you make any further inquiries of the parents' attorney regarding having just the one witness testifying about the appropriateness of the private placement? If so, what would they be? If not, why not?

Q2: Regardless of whether you make any further inquiries, what concerns, if any, might be running through your head at this point in time?

At the hearing:

Various witnesses have testified that Bob: a) has severely delayed academic skills in language areas (3 to 5 years below grade level), reading, writing, and math; b) needs more intensive individualized specialized instruction in order to begin making academic progress, due, in part, to auditory processing problems; c) has organizational difficulties, writing deficits, and attentional difficulties; d) needs speech and language therapy; and, e) could benefit from assistive technology. His parents testified the XYZ School is an appropriate placement because it was exclusively designed and implemented for students with learning disabilities.

The Academic Dean takes the witness stand and testifies that: a) as the promotional materials explain (and which are in evidence), the XYZ School is dedicated to the needs of dyslexic students; b) it utilizes the Orton-Gillingham approach to reading instruction; c) it structures academic courses to meet the needs of its dyslexic students; d) all classes are small; and, e) all students receive one-to-one instruction. Regarding Bob specifically, the Academic Dean stated:

a) he had done well the three years he has been with them but still has progress to make in their program; b) he had made gains on a daily basis in acquiring basic language skills; c) he was taught keyboarding and spell checking; d) his organizational difficulties, writing deficits, and attentional difficulties are addressed by the entire program; e) his grades improved this past year; and, f) he was “the perfect fit” at the XYZ School.

Counsel for the school district had an opportunity to cross-examine the Academic Dean. But, the examination did not expand beyond what is stated above.

Q3: Do you believe that you have sufficient information in the hearing record to determine the appropriateness of the XYZ School as it relates to Bob? If so, why? If not, what additional information would you need?

Q4: If you believe additional information is needed, how would you address the apparent void in the hearing record?