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Due Process Memo

Dear Superintendent Walts,

It has been brought to my attention that the parents of a student at Signal Hill Elementary School have filed for Due Process. The parents have requested that the student be identified with an Other Health Impairment (ADHD). The student has a learning disability in basic reading skill, reading fluency, and written expression since grade three (University of New England, 2012).

Per her IEP, the student is currently in grade eight and receives special education services daily. She is currently reading two years below grade level. The parents and the previous case manager had a positive working relationship. They agreed that the student did not make adequate progress in reading and writing. Her progress on her IEP goals was slow and her grades in her general education classes had fallen. Behavioral issues have increased the last two years, ranging from inappropriate language to failure to complete school work. Her behavior has escalated this year where she was suspended for three days for swearing at a teacher. Shortly thereafter, she was involved in a fight and again suspended, this time for five days. Two weeks after the latest suspension, she again swore at the same teacher and was suspended for three days. An IEP team meeting was then held and conducted a manifestation determination. School personnel then determined that her actions were unrelated to her disability. Her parents disagreed and stated that her frustration with school was at least partly to blame for her behavior. In the absence of consensus, the administrator at the meeting made the determination "that the actions were not caused by the student's disability (University of New England, 2012).

The parents requested that their daughter receive special education services that would address what they feel is her OHI (ADHD). The requested services include a one-on-one aide for all her general education classes, OT services for sensory diet needs that are related to ADHD, and accommodations to address ADHD. "These accommodations included shortening assignments; allowing the student to hand in work late without a penalty; having all regular education teachers provide a weekly syllabus and giving the student the option to retake tests that she had failed" (University of New England, 2012).

Following these requests, the IEP team met and school personnel again determined that the behavioral issues, low grades, and slow progress meeting the IEP goals are the result of a lack of effort and/or interest. The determination was made by the school administrator present at the meeting that the student was not eligible of Other Health Impairment (ADHD). The decision was also made not to offer the additional special education services. A parent requested behavioral plan was also refused by the school.

As mentioned above, the school personnel took the position of denying the parent requested IEP changes, which led to the parents to believe “the school was not providing an adequate IEP for their daughter, and filed for Due Process” (University of New England, 2012). School personnel held to their beliefs that the current IEP was adequate and the reason this student was not making progress on the goals was a result of the student showing little interest and effort. The school’s position of in this matter is emphasized by the following facts. The student was receiving 30 minutes of daily reading instruction and 90 minutes of instruction in writing in a special education setting. Additionally, she has made very little progress (six months) on reading skill and reading fluency in the past year, as well as little progress in written expression.

The school EP team also conducted a manifestation determination, in order to determine whether her behavior was related to her disabilities. The school followed the protocol (Weishaar, 2007, p. 6) by reviewing the IEP, reviewing the list of discipline incidents, and reviewing the parents claims that their daughter’s behavior was partly the result of the student being frustrated with school. The parents again stated that they believe she had ADHD, which they also believed contributed to her behavior. Ultimately the IEP team determined that the student’s actions were not related to her disabilities.

One piece of interesting information that works in the school’s favor is the IEP team noted that in December of the student’s seventh grade year, the IEP was up for annual review. The parents did not request another meeting; therefore the school also did not decide to hold an additional meeting. The case manager at the time asked the parents if they wanted an IEP meeting to determine if their daughter would be eligible for services over the summer. The parents declined, stating that they would be taking an extended trip that summer (University of New England, 2012).

Consequently, the school’s position is not without some weaknesses. The IEP team felt that the current services provided were adequate and the additional requested services would not be provided. However, the fact that the student has made only six months progress in the span of one year in reading skill and reading fluency, indicates that the goals that were written may have been too general or inappropriate for the student. Additionally, the method of measurement or mastery criteria was not provided (<http://www.cec.sped.org>). The parents repeatedly insisted that their daughter has ADHD, yet the IEP team, particularly the administrator, determined that the student’s behavior was not caused by her disabilities and that she was not eligible to be classified as having an Other Health Impairment. The school also refused to offer the additional special education services requested by the parents, which would indicate that there is a failure to involve the parents in developing the IEP. The fact that the school did not, given the facts to date, provide evaluation strategies to gather relevant functional information “that may assist in determining whether the child is a child with a disability” (<http://www.wrightslaw.com>).

Before we progress further, there is additional information I feel is pertinent to this case. Since the parents have repeatedly claimed that their daughter has an Other Health Impairment (ADHD), the student needs to be evaluated for ADHD. The school should allow an Independent Educational evaluation (IEE) to be conducted on this student, to determine the student's needs (<http://www.wrightslaw.com>) rather than dismiss the claim of ADHD by the parents. Secondly, pursuant to the findings of the IEE, if the student is found to be ADHD, a meeting with the occupation therapist (OT) is needed in regard to the sensory diet needs for an ADHD student. The information obtained from the OT screening is vital in this case.

Finally, in order to resolve this case with the parents, a sensible course of action needs to be established. Realistically, the school district should agree with some of the demands brought forth by the parents. We should request that the parents allow an IEE in order to determine if their daughter does have ADHD. The attention-deficit possibility could explain the lack of effort and interest in her classes. The parent request of an on-to-one aide should be granted. It is obvious that this student has organizational issues, which an aide will surely help with organizational skills. Dependent on the OT screening, OT services may be necessary to meet the dietary needs related to ADHD. A private tutor to work on reading and writing with the student is necessary. The lack of progress dictates a change must be made. The tutor can be a teacher within the school, paid for by the parents.

It is my recommendation that the student's IEP remain intact in the area of reading skill, as she has made modest progress. It is my belief that the 30 minutes per day (150 per week) will continue to progress positively. Additionally, I do not recommend that the school hire a behavioral specialist to design a behavioral intervention plan (BIP). The IEP team is fully capable of designing a BIP based on a functional behavioral assessment (FBA).

## References

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