

THREE MEMBER HEARING PANEL

DEPARTMENT OF ELEMENTARY & SECONDARY EDUCATION

STATE OF MISSOURI

_____ by & through his parents, _____, Petitioner, vs. Carrollton R-VII School District,
Respondent

FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION

The hearing in this matter was convened on September 21, 1998, by a duly authorized panel composed of Panel Chairperson Ivan L. Schraeder, and Panel Members Richard Staley and Terry Allee under authority of state and federal law. Petitioner was represented by his father. Respondent was represented by counsel. The hearing was convened as a result of a request filed for due process on August 12, 1998, requiring decision on or before September 28, 1998.

Having heard all of the evidence presented and the arguments made by the parties, the Panel makes the following findings of fact, conclusions of law and decision:

FINDINGS OF FACT

- 1.The only issue to be decided by the Panel is whether Petitioner should have the services of a personal aide continued as a part of the services needed to provide a free appropriate public education.
- 2.Petitioner is a seventh grade male student who resides in Respondent's service territory with his parents.
- 3.Petitioner currently attends Respondent's junior high school in Carrollton, Missouri.
- 4.Petitioner was diagnosed as a disabled student pursuant to the requirements of federal and state law.
- 5.Petitioner is multiply disabled due to cerebral palsy and mental retardation as shown by diagnostic reports.
- 6.Since entry into first grade, Petitioner has been served by Respondent and he has been provided with a personal aide.

7. During school year 1997-98, Petitioner received his education in the junior high school regular classes. He was assigned a personal aide who accompanied him from the time he was brought to school until he left to go home.

8. Testimony of school officials showed that Petitioner received services of a personal aide from Respondent which were agreeable to Petitioner's parents.

9. All of Petitioner's instructional services were provided in conformity with his respective IEPs which were acceptable to Petitioner's parents until the IEP for 1998-99. The 1998-99 IEP was not challenged as to the goals and objectives until August 1998, at which time the IEP was amended by Respondent according to the desires of Petitioner's parents to permit his Math program to be conducted at home.

10. Testimony showed that Petitioner made reasonable progress in meeting the goals of his IEPs.

11. After completion of the IEP for school year 1998-99, Respondent made a determination that a personal aide was still needed for Petitioner in order for him to receive a free appropriate education.

12. The parents of Petitioner received all of the required notices related to the safeguards due to Petitioner.

13. The Director of Special Education for Respondent testified that the personal aide provided the following services for Petitioner that were needed on an ongoing basis:

- assists Petitioner to use his assistive devices;

- assists Petitioner with his movement about the school campus by directing him to each of his classrooms;

- assists Petitioner with his personal hygiene, except toilet functions, including preparing him for lunch meals, cleaning his clothes after lunch, helps with drinking water fountain, and delivers his general educational curriculum;

- serves as a liaison between the regular education classroom teacher and the special education teacher;

- runs the tape recording machines with taped class lectures; and

- modifies classroom work under the supervision of the special education teacher to provide Petitioner with better understanding of assignments.

14.The Special Education Teacher supervises Petitioner's educational program that is delivered in a regular classroom setting.

15.Both the Special Education Director and the Special Education Teacher recommended continued use of a personal aide to provide educational benefit for Petitioner. There was no evidence provided that educational benefit could be provided in the absence of a personal aide.

16.Respondent's witnesses testified that it provides the personal aide to insure that Petitioner receives educational benefit as it is required to provide a free appropriate public education.

CONCLUSIONS OF LAW

17.Respondent is required to provide an educational program reasonably calculated to enable Petitioner to receive educational benefit which the Panel concludes cannot be provided to Petitioner unless a personal aide is provided by Respondent. This conclusion is drawn by the panel because there was uncontroverted evidence of the educational benefit received because of the assignment of the personal aide to Petitioner.

18.The panel concludes that Respondent has appropriately required the assignment of a personal aide in order to meet its objective to provide a free appropriate public education in the least restrictive environment that provides educational benefit to Petitioner.

DECISION

19.Respondent shall continue to assign a personal aide for Petitioner.

20.Respondent should consider continued computer training for the personal aide assigned to Petitioner.

This decision is entered this 25th day of September, 1998 by

Ivan L. Schraeder, Panel Chairperson

Dr. Terry Allee, Panel Member

Dr. Richard Staley, Panel Member