

HEARING DECISION

Re: _____ vs. Carrollton R-VII School District

Student:

Date of Birth:

Parents:

Parents' Counsel: Pro Se

School District Counsel: Norman Humphrey, Jr.
Humphrey, Farrington & McClain, P.C.
PO Box 900
Independence, MO 64051

Panel Members: Ms. Julie Fletcher
Dr. Terry Allee

Panel Chair: Mr. Michael Cato
PO Box 668
Advance, MO 63730

Due Process Request Received: October 22, 1998

Due Process Hearing Held: November 20, 1998

BEFORE THE DEPARTMENT OF

ELEMENTARY AND SECONDARY EDUCATION

In the matter of _____, Petitioner, vs. The School District of Carrollton R-VII, Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW,

DECISION AND ORDER

The hearing panel, after hearing the evidence in this matter makes the following findings of fact and conclusions of law and issues the following decision and order:

FINDINGS OF FACT

PARTIES

- 1.The student, at all times relevant to this due process proceeding, resided with his parents within the boundaries of the School District of Carrollton R-VII (hereafter "School District").
- 2.The School district is an urban school district organized pursuant to Section 162.461 RSMo.
- 3.The Hearing Panel Members in this due process proceeding are as follows:

Michael Cato, Hearing Chairperson

Ms. Julie Fletcher, Hearing Panel Member

Dr. Terry Allee, Hearing Panel Member

4.Counsel for parents; None.

5.Counsel for School District is Mr. Norman Humphrey, Jr., of the law firm of Humphrey, Farrington & McClain, P.C., PO Box 900, Independence, MO 64051.

ISSUES AND PURPOSE OF THE HEARING

Parents objected to the Individual Education Program formulated by the Carrollton R-VII School District on behalf of the Petitioner for the 1998-99 school year (Respondent's Exhibit 1). Parents specifically objected to the district's failure to include certain specific language in the student's 1998-99 IEP. Parents requested due process on October 22, 1998. This hearing ensued.

Parents raised the following issues:

1.Should the 1998-99 IEP formulated for the student by the Carrollton R-VII School District contain the following language concerning special services:

"The Carrollton R-VII School District will provide the student with the following services during the 1998 to 1999 school term...Assist the student past architectural barriers. Help him to drink at fountains when there are no accessible drinking fountains available. Hold student up at the toilet when there are no toilets available with handrails which meet his need for support."

TIME LINE INFORMATION

Parents' request for due process was received on October 22, 1998. No requests for continuance were made. Matter set for hearing on November 20, 1998 in the Vocational-Technical School of the Carrollton R-VII School District, Carrollton, Missouri.

FACTS

Based upon the testimony and evidence adduced, the panel finds no facts are in dispute. The parents' sole issue involves the inclusion of certain language in the student's 1998-1999 IEP. During the hearing, the counsel for the school district indicated that the school district had no objection to the inclusion of the language presented by the parents. Further, the school district would reconvene the district's IEP team to modify the student's 1998-1999 IEP to include the language desired by the parents. The parents insisted that a hearing be held to set out this matter on the record.

CONCLUSIONS OF LAW

The Hearing Panel, after hearing the evidence in this matter makes the following Conclusions of Law:

- 1.The Petitioner is a student with a disability, as that term is defined in the Individuals with Disabilities Education Act ("IDEA") regulations, 34 C.F.R. 300.7. Student also meets the criteria in the State Plan for Part B of the Individuals with Disabilities Education Act ("State Plan") for the receipt of special education and related services.
- 2.School district is a school district organized pursuant to Section 162.461 RSMo.
- 3.That based upon the agreement of the parties, the student's 1998-1999 IEP should include the following language;

"The Carrollton R-VII School District will provide the student with the following services during the 1998 to 1999 school term...Assist the student past architectural barriers. Help him to drink at fountains when there are no accessible drinking fountains available. Hold the student up at the toilet when there are no toilets available with handrails which meet his need for support."

DECISION AND ORDER

The hearing panel makes the following decision and order in this case:

1. Parents Issue: The Carrollton R-VII School District is hereby ORDERED to reconvene the district IEP team and make the following modifications to the student's 1998-1999 Individual Education Program: to-wit; the verbatim inclusion of the following language:

"The Carrollton R-VII School District will provide the student with the following services during the 1998 to 1999 school term...Assist the student past architectural barriers. Help him to drink at fountains when there are no accessible drinking fountains available. Hold the student up at the toilet when there are no toilets available with handrails which meet his need for support."

The entire hearing panel joins in this decision without dissent.

APPEAL PROCEDURES

Any party aggrieved by the decision of this panel may, pursuant to Chapter 536 of the Missouri Statutes, appeal this decision to a state court or a federal court, within 30 days of the date of the decision.

For the hearing panel:

J. Michael Cato, Hearing Chairperson

Ms. Julie Fletcher, Panel Member

Dr. Terry Allee, Panel Member

CERTIFICATE OF SERVICE

the undersigned certifies that a copy of the foregoing was served upon each party to this action, TO-WIT;

_____, Natural Parents

Mr. Norman Humphrey, Jr.

Humphrey, Farrington & McClain, P.C.

PO Box 900

Independence, MO 64051

Attorney for School District

by depositing same in the United States Post Office in Advance, Missouri, with sufficient postage,
on this 7th day of December, 1998.