

STATE OF RHODE ISLAND
DEPARTMENT OF EDUCATION
SPECIAL EDUCATION DUE PROCESS HEARING

J [REDACTED] A by his parent
Z [REDACTED] A

V

Case No. 23-06

Pawtucket School Department

DECISION

This decision is issued pursuant to the Individual with Disabilities Act (“IDEA”) (20 U.S.C. § 1400 et seq.), state special education law (R.I. Gen. § 16-24-1 et seq.) and the regulations promulgated under these enabling statutes. Parent, Z [REDACTED] A, filed a due process complaint which was received by the Rhode Island Department of Education (“RIDE”) Office of Student, Community and Academic Supports (“OSCAS”) on March 16, 2023. The parent chose not to participate in a resolution meeting. The undersigned hearing officer was assigned to this matter by RIDE on March 29, 2023. A hearing was held on April 24, 2023. Pursuant to State and Federal Law, the due date of the decision was May 30, 2023, 45 days following receipt of the initial request.

SUMMARY

In the parent’s due process complaint, the parent alleged the following matters:

1. J [REDACTED] A is currently still not receiving IEP services required by state; even when an intervention class was placed on December 16
2. J [REDACTED] A IEP was submitted by Pawtucket without my knowledge, review, or approval.

3. Dr ██████ provided “false documentation” to RIDE on the state investigation that took place back in November 2022 in order for Pawtucket’s outcome to be “in-compliance” regarding J. ██████ IEP services.
4. Dr ██████ edited documentation and misinformed RIDE regarding J. ██████ IEP services.

As a proposed resolution the parent requested:

1. Compensatory Education from September to present.
2. Extra reading and math support
3. IEP written in parent friendly wording.
4. IEP is based on test scores and actual performance.
5. Weekly reports to be sent to parent.

PRELIMINARY ISSUES

Prior to the start of the hearing, the undersigned explained to the parent that as part of the due process, the parent needed to prove that J. ██████ A was not receiving FAPE. Parent was further told that the hearing would not address “false documentation” or writing an IEP in a parent friendly manner. The request for compensatory education and the need for extra reading and math would be addressed if the evidence supported those requests based on the evidence regarding FAPE.

TESTIMONY

The first witness that was called was J. ██████ C. ██████ daughter of the parent. According to her, when asking him if he is getting the help he needs, he says not I’m on TikTok in class. (Transcript p 17). She further stated that from the word of the student, he is not receiving intensive intervention (Transcript p. 17). She stated that he is not receiving vocabulary strategies. (Transcript p. 21). She is not aware that he is receiving the services in his IEP. (Transcript p. 23). When asked what background she has to

determine the student is not making progress, she states that in Fall River, they were able to see him grow in his work, and he was not as frustrated. (Transcript, p 25).

The second witness is M [REDACTED] M [REDACTED] who is the parent's partner. She makes jewelry and fixes machines. (Transcript p. 28). She testified that the student needed one-on-one. (Transcript, p 29). But she could not identify any service in the IEP that the student is not receiving. (Transcript p 30).

The parent then testified that the Fall River IEP was put in place when the student came to Pawtucket (Transcript p 31). In October, Pawtucket had an IEP meeting to review the IEP and write an IEP for Pawtucket. (Transcript p 33). She does not believe that the services in the IEP are being implemented. (Transcript p 35). There is nothing to show that he is making progress. (Transcript p. 36).

Dr [REDACTED], the Director of Student Personnel Services testified. He testified that the student is receiving the services as outlined in his IEP (Transcript 40-44). He also testified that the Fall River IEP was in effect until the IEP from December went into effect. (Transcript p. 45).

DECISION

The burden in a due process hearing "lies where it usually falls, upon the party seeking relief." *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 58 (2005). The parent has the burden of proof. In this matter, the parent, through credible evidence needs to prove to the hearing officer that the student is not receiving FAPE, that services of the IEP were not provided, and that the student should receive compensatory education.

The parent called two witnesses in addition to herself, her daughter, and her partner. None of the witnesses had any background or credentials to give an opinion as to whether the student was receiving FAPE. The witnesses basically stated that it was their opinion that the student was not receiving FAPE, that the services of the IEP were not being delivered, yet there was no clear evidence presented to support

that opinion. Furthermore, the witnesses do not have the background to provide an opinion that would justify their position.

The parent in her complaint stated that he should receive compensatory time, yet in testimony, she stated that his Fall River IEP was in effect until a new IEP was developed by Pawtucket. She presented no evidence that the student did not receive services. Therefore, there is no basis to consider compensatory time.

I hereby deny the parent's due process request and I find in favor of the Pawtucket School Department.

Presented by
Hearing Officer



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