The University of the State of New York

The State Education Department
State Review Officer
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No. 13-010

Application of a STUDENT WITH A DISABILITY, by his parents, for review of a determination of a hearing officer relating to the provision of educational services by the New York City Department of Education

Appearances:
Law Offices of Neal H. Rosenberg, attorneys for petitioner, Jenna Pantel, Esq., of counsel

Michael A. Cardozo, Corporation Counsel, and Courtenaye Jackson-Chase, Special Assistant Corporation Counsel, attorneys for respondent, Neha Dewan, Esq. of Counsel

DECISION

I. Introduction

This proceeding arises under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400-1482) and Article 89 of the New York State Education Law. Petitioners (the parents) appeal from the decision of an impartial hearing officer (IHO) which denied their request to be reimbursed for the costs of the student's tuition at the Ha'or Beacon School (Beacon) for the 2011-12 school year. The Respondent (the district) cross-appeals and requests that the SRO affirm the IHO's finding which determined that the student was provided a FAPE, and that Beacon was inappropriate for A.G. However, the DOE cross-appeals that portion of the IHO's decision which found that the equities favored the Parent. The appeal must be dismissed. The cross-appeal must be dismissed.

II. Overview—Administrative Procedures

When a student in New York is eligible for special education services, the IDEA calls for the creation of an individualized education program (IEP), which is delegated to a local Committee on Special Education (CSE) that includes, but is not limited to, parents, teachers, a school psychologist, and a district representative (Educ. Law § 4402; see 20 U.S.C. § 1414[d][1][A]-[B]; 34 CFR 300.320, 300.321; 8 NYCRR 200.3, 200.4[d][2]). If disputes occur between parents and school districts, incorporated among the procedural protections is the opportunity to engage in

mediation, present State complaints, and initiate an impartial due process hearing (20 U.S.C. §§ 1221e-3, 1415[e]-[f]; Educ. Law § 4404[1]; 34 CFR 300.151-300.152, 300.506, 300.511; 8 NYCRR 200.5[h]-[*l*]).

New York State has implemented a two-tiered system of administrative review to address disputed matters between parents and school districts regarding "any matter relating to the identification, evaluation or educational placement of a student with a disability, or a student suspected of having a disability, or the provision of a free appropriate public education to such student" (8 NYCRR 200.5[i][1]; see 20 U.S.C. § 1415[b][6]-[7]; 34 CFR 300.503[a][1]-[2], 300.507[a][1]). First, after an opportunity to engage in a resolution process, the parties appear at an impartial hearing conducted at the local level before an IHO (Educ. Law § 4404[1][a]; 8 NYCRR 200.5[j]). An IHO typically conducts a trial-type hearing regarding the matters in dispute in which the parties have the right to be accompanied and advised by counsel and certain other individuals with special knowledge or training; present evidence and confront, cross-examine, and compel the attendance of witnesses; prohibit the introduction of any evidence at the hearing that has not been disclosed five business days before the hearing; and obtain a verbatim record of the proceeding (20 U.S.C. § 1415[f][2][A], [h][1]-[3]; 34 CFR 300.512[a][1]-[4]; 8 NYCRR 200.5[j][3][v], [vii], [xii]). The IHO must render and transmit a final written decision in the matter to the parties not later than 45 days after the expiration period or adjusted period for the resolution process (34 CFR 300.510[b][2], [c], 300.515[a]; 8 NYCRR 200.5[j][5]). A party may seek a specific extension of time of the 45-day timeline, which the IHO may grant in accordance with State and federal regulations (34 CFR 300.515[c]; 8 NYCRR 200.5[j][5]). The decision of the IHO is binding upon both parties unless appealed (Educ. Law § 4404[1]).

A party aggrieved by the decision of an IHO may subsequently appeal to a State Review Officer (SRO) (Educ. Law § 4404[2]; see 20 U.S.C. § 1415[g][1]; 34 CFR 300.514[b][1]; 8 NYCRR 200.5[k]). The appealing party or parties must identify the findings, conclusions, and orders of the IHO with which they disagree and indicate the relief that they would like the SRO to grant (8 NYCRR 279.4). The opposing party is entitled to respond to an appeal or cross-appeal in an answer (8 NYCRR 279.5). The SRO conducts an impartial review of the IHO's findings, conclusions, and decision and is required to examine the entire hearing record; ensure that the procedures at the hearing were consistent with the requirements of due process; seek additional evidence if necessary; and render an independent decision based upon the hearing record (34 CFR 300.514[b][2]; 8 NYCRR 279.12[a]). The SRO must ensure that a final decision is reached in the review and that a copy of the decision is mailed to each of the parties not later than 30 days after the receipt of a request for a review, except that a party may seek a specific extension of time of the 30-day timeline, which the SRO may grant in accordance with State and federal regulations (34 CFR 300.515[b], [c]; 8 NYCRR 200.5[k][2]).

III. Facts and Procedural History

The student has received special education services since preschool and has a diagnosis of attention deficit hyperactivity disorder (ADHD) for which he takes medication (Tr. p. 447; Dist. Ex. 1 at p. 5). At the time of the hearing, the student was attending Beacon (Tr. p. 6).

The CSE convened on March 15, 2011 to develop the student's IEP for the 2011-12 school year (Dist. Ex. 1 at p. 2). Having determined that the student remained eligible for special

education and related services as a student with a speech or language impairment, the March 2011 CSE recommended a 12:1+1 special class placement at a community school with the following related services: three 30-minute sessions per week of individual speech-language therapy, one 30-minute session per week of individual counseling, one 30-minute session per week of counseling in a group, and two 30-minute sessions per week of individual occupational therapy (OT) (Dist. Ex. 1 at pp. 1, 16).

In a final notice of recommendation (FNR) dated August 3, 2011, the district summarized the special education and related services recommended in the March 2011 IEP, and identified the particular public school site to which the district assigned the student to attend for the 2011-12 school year (see Dist. Ex. 8).

In letters dated August 11, 2011 and October 12, 2011, the parent notified the district that he had "significant concerns" regarding the appropriateness of the recommended program, that he would be placing the student at Beacon for the 2011-12 school year, and that he would be seeking reimbursement for the placement from the district (Parent Ex. C; Dist. Ex. 10). The parent signed a contract with Beacon for the 2011-12 school year on September 12, 2011 (Parent Ex. G).

A. Due Process Complaint Notice

In a due process complaint notice dated March 1, 2012, the parent alleged that the district failed to offer the student a free appropriate public education (FAPE) for the 2011-12 school year (Parent Ex. D). The parent asserted, among other things, that the March 15, 2011 CSE did not consider sufficient evaluative information when preparing the IEP, the IEP failed to accurately reflect the information presented to the CSE, and does not provide sufficient information about the student's needs (Parent Ex D at p. 1). In addition, the parent asserted that the goals in the March 2011 IEP were inappropriate and the 12:1+1 special class recommended by the CSE was too large for the student (Parent Ex. D at p. 1-2).

B. Impartial Hearing Officer Decision

An impartial hearing convened on January 3, 2012 and concluded on October 26, 2012 after six days of proceedings (Tr. pp. 1-561). In a decision dated December 14, 2012, the IHO determined that the district had offered the student a free appropriate public education (FAPE) for the 2011-12 school year (IHO decision p. 17).

IV. Appeal for State-Level Review

The parties' familiarity with the particular issues for review on appeal in the district's petition for review and the parents' answer thereto is also presumed and will not be recited here. The gravamen of the parties' dispute on appeal is whether the March 2011 IEP reflected accurate information about the student's needs and whether the district's use of a witness, who had no independent recollection of the meeting, to support the CSE's recommendation resulted in a failure by the district to satisfy its burden of proof (Petition ¶¶ 11, 12). In addition, the parent contends that the March 2011 IEP does not provide sufficient information about how the student's behavior and attention impacted his academic functioning, (Petition ¶¶ 15-19). Finally, the parent contends that the March 2011 IEP goals and the 12:1+1 special class were inappropriate (Petition ¶¶ 26-29, 32).

V. Applicable Standards

Two purposes of the IDEA (20 U.S.C. §§ 1400-1482) are (1) to ensure that students with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and (2) to ensure that the rights of students with disabilities and parents of such students are protected (20 U.S.C. § 1400[d][1][A]-[B]; see generally Forest Grove Sch. Dist. v. T.A., 557 U.S. 230, 239 [2009]; Bd. of Educ. v. Rowley, 458 U.S. 176, 206-07 [1982]).

A FAPE is offered to a student when (a) the board of education complies with the procedural requirements set forth in the IDEA, and (b) the IEP developed by its CSE through the IDEA's procedures is reasonably calculated to enable the student to receive educational benefits (Rowley, 458 U.S. at 206-07; R.E. v. New York City Dep't of Educ., 694 F.3d 167, 189-90 [2d Cir. 2012]; M.H. v. New York City Dep't of Educ., 685 F.3d 217, 245 [2d Cir. 2012]; Cerra v. Pawling Cent. Sch. Dist., 427 F.3d 186, 192 [2d Cir. 2005]). "'[A]dequate compliance with the procedures prescribed would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP'" (Walczak v. Florida Union Free Sch. Dist., 142 F.3d 119, 129 [2d Cir. 1998], quoting Rowley, 458 U.S. at 206; see T.P. v. Mamaroneck Union Free Sch. Dist., 554 F.3d 247, 253 [2d Cir. 2009]). While the Second Circuit has emphasized that school districts must comply with the checklist of procedures for developing a student's IEP and indicated that "[m]ultiple procedural violations may cumulatively result in the denial of a FAPE even if the violations considered individually do not" (R.E., 694 F.3d at 190-91), the Court has also explained that not all procedural errors render an IEP legally inadequate under the IDEA (M.H., 685 F.3d at 245; A.C. v. Bd. of Educ., 553 F.3d 165, 172 [2d Cir. 2009]; Grim v. Rhinebeck Cent. Sch. Dist., 346 F.3d 377, 381 [2d Cir. 2003]; Perricelli v. Carmel Cent. Sch. Dist., 2007 WL 465211, at *10 [S.D.N.Y. Feb. 9, 2007]). Under the IDEA, if procedural violations are alleged, an administrative officer may find that a student did not receive a FAPE only if the procedural inadequacies (a) impeded the student's right to a FAPE, (b) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a FAPE to the student, or (c) caused a deprivation of educational benefits (20 U.S.C. § 1415[f][3][E][ii]; 34 CFR 300.513[a][2]; 8 NYCRR 200.5[j][4][ii]; Winkelman v. Parma City Sch. Dist., 550 U.S. 516, 525-26 [2007]; R.E., 694 F.3d at 190; M.H., 685 F.3d at 245; A.H. v. Dep't of Educ., 394 Fed. App'x 718, 720, 2010 WL 3242234 [2d Cir. Aug. 16, 2010]; E.H. v. Bd. of Educ., 2008 WL 3930028, at *7 [N.D.N.Y. Aug. 21, 2008], aff'd, 361 Fed. App'x 156, 2009 WL 3326627 [2d Cir. Oct. 16, 2009]; Matrejek v. Brewster Cent. Sch. Dist., 471 F. Supp. 2d 415, 419 [S.D.N.Y. 2007], aff'd, 293 Fed. App'x 20, 2008 WL 3852180 [2d Cir. Aug. 19, 2008]).

The IDEA directs that, in general, an IHO's decision must be made on substantive grounds based on a determination of whether the student received a FAPE (20 U.S.C. § 1415[f][3][E][i]). A school district offers a FAPE "by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction" (Rowley, 458 U.S. at 203). However, the "IDEA does not itself articulate any specific level of educational benefits that must be provided through an IEP" (Walczak, 142 F.3d at 130; see Rowley, 458 U.S. at 189). The statute ensures an "appropriate" education, "not one that provides everything that might be thought desirable by loving parents" (Walczak, 142 F.3d at 132, quoting Tucker v. Bay Shore Union Free Sch. Dist., 873 F.2d 563, 567 [2d Cir. 1989] [citations omitted]; see Grim, 346 F.3d at 379). Additionally, school districts are not required to "maximize" the potential of students with

disabilities (Rowley, 458 U.S. at 189, 199; Grim, 346 F.3d at 379; Walczak, 142 F.3d at 132). Nonetheless, a school district must provide "an IEP that is 'likely to produce progress, not regression,' and . . . affords the student with an opportunity greater than mere 'trivial advancement'" (Cerra, 427 F.3d at 195, quoting Walczak, 142 F.3d at 130 [citations omitted]; see T.P., 554 F.3d at 254; P. v. Newington Bd. of Educ., 546 F.3d 111, 118-19 [2d Cir. 2008]; Perricelli, 2007 WL 465211, at *15). The IEP must be "reasonably calculated to provide some 'meaningful' benefit" (Mrs. B. v. Milford Bd. of Educ., 103 F.3d 1114, 1120 [2d Cir. 1997]; see Rowley, 458 U.S. at 192). The student's recommended program must also be provided in the least restrictive environment (LRE) (20 U.S.C. § 1412[a][5][A]; 34 CFR 300.114[a][2][i], 300.116[a][2]; 8 NYCRR 200.1[cc], 200.6[a][1]; see Newington, 546 F.3d at 114; Gagliardo v. Arlington Cent. Sch. Dist., 489 F.3d 105, 108 [2d Cir. 2007]; Walczak, 142 F.3d at 132; G.B. v. Tuxedo Union Free Sch. Dist., 751 F. Supp. 2d 552, 573-80 [S.D.N.Y. 2010], aff'd, 486 Fed. App'x 954, 2012 WL 4946429 [2d Cir. Oct. 18, 2012]; E.G. v. City Sch. Dist. of New Rochelle, 606 F. Supp. 2d 384, 388 [S.D.N.Y. 2009]; Patskin v. Bd. of Educ., 583 F. Supp. 2d 422, 428 [W.D.N.Y. 2008]).

An appropriate educational program begins with an IEP that includes a statement of the student's present levels of academic achievement and functional performance (see 34 CFR 300.320[a][1]; 8 NYCRR 200.4[d][2][i]; Tarlowe v. New York City Bd. of Educ., 2008 WL 2736027, at *6 [S.D.N.Y. July 3, 2008] [noting that a CSE must consider, among other things, the "results of the initial evaluation or most recent evaluation" of the student, as well as the "'academic, developmental, and functional needs'" of the student]), establishes annual goals designed to meet the student's needs resulting from the student's disability and enable him or her to make progress in the general education curriculum (see 34 CFR 300.320[a][2][i], [2][i][A]; 8 NYCRR 200.4[d][2][iii]), and provides for the use of appropriate special education services (see 34 CFR 300.320[a][4]; 8 NYCRR 200.4[d][2][v]; see also Application of the Dep't of Educ., Appeal No. 07-018; Application of a Child with a Disability, Appeal No. 06-059; Application of the Dep't of Educ., Appeal No. 06-029; Application of a Child with a Disability, Appeal No. 04-046; Application of a Child with a Disability, Appeal No. 02-014; Application of a Child with a Disability, Appeal No. 01-095; Application of a Child Suspected of Having a Disability, Appeal No. 93-9).

A board of education may be required to reimburse parents for their expenditures for private educational services obtained for a student by his or her parents, if the services offered by the board of education were inadequate or inappropriate, the services selected by the parents were appropriate, and equitable considerations support the parents' claim (Florence County Sch. Dist. Four v. Carter, 510 U.S. 7 [1993]; Sch. Comm. of Burlington v. Dep't of Educ., 471 U.S. 359, 369-70 [1985]; R.E., 694 F.3d at 184-85; T.P., 554 F.3d at 252). In Burlington, the Court found that Congress intended retroactive reimbursement to parents by school officials as an available remedy in a proper case under the IDEA (471 U.S. at 370-71; see Gagliardo, 489 F.3d at 111; Cerra, 427 F.3d at 192). "Reimbursement merely requires [a district] to belatedly pay expenses that it should have paid all along and would have borne in the first instance" had it offered the student a FAPE (Burlington, 471 U.S. at 370-71; see 20 U.S.C. § 1412[a][10][C][ii]; 34 CFR 300.148).

The final criterion for a reimbursement award is that the parents' claim must be supported by equitable considerations. Equitable considerations are relevant to fashioning relief under the IDEA (Burlington, 471 U.S. at 374; R.E., 694 F.3d at 185, 194; M.C. v. Voluntown Bd. of Educ., 226 F.3d 60, 68 [2d Cir. 2000]; see Carter, 510 U.S. at 16 ["Courts fashioning discretionary

equitable relief under IDEA must consider all relevant factors, including the appropriate and reasonable level of reimbursement that should be required. Total reimbursement will not be appropriate if the court determines that the cost of the private education was unreasonable"]). The IDEA also provides that reimbursement may be reduced or denied when parents fail to challenge the appropriateness of an IEP in a timely manner, fail to make their child available for evaluation by the district, or upon a finding of unreasonableness with respect to the actions taken by the parents (20 U.S.C. § 1412[a][10][C][iii]; 34 CFR 300.148[d]; see S.W. v. New York City Dep't of Educ., 646 F. Supp. 2d 346, 362-64 [S.D.N.Y. 2009]; Thies v. New York City Bd. of Educ., 2008 WL 344728 [S.D.N.Y. Feb. 4, 2008]; M.V. v. Shenendehowa Cent. Sch. Dist., 2008 WL 53181, at *5 [N.D.N.Y. Jan. 2, 2008]; Bettinger v. New York City Bd. of Educ., 2007 WL 4208560, at *4 [S.D.N.Y. Nov. 20, 2007]; Carmel Cent. Sch. Dist. v. V.P., 373 F. Supp. 2d 402, 417-18 [S.D.N.Y. 2005], aff'd, 192 Fed. App'x 62, 2006 WL 2335140 [2d Cir. Aug. 9, 2006]; Werner v. Clarkstown Cent. Sch. Dist., 363 F. Supp. 2d 656, 660-61 [S.D.N.Y. 2005]; see also Voluntown, 226 F.3d at 69 n.9; Wolfe v. Taconic Hills Cent. Sch. Dist., 167 F. Supp. 2d 530, 533 [N.D.N.Y. 2001]).

The burden of proof is on the school district during an impartial hearing, except that a parent seeking tuition reimbursement for a unilateral placement has the burden of proof regarding the appropriateness of such placement (Educ. Law § 4404[1][c]; see R.E., 694 F.3d at 184-85; M.P.G. v. New York City Dep't of Educ., 2010 WL 3398256, at *7 [S.D.N.Y. Aug. 27, 2010]).

VI. Discussion

Turning first to the issues of whether the March 15, 2011 CSE considered sufficient evaluative information when preparing the IEP, whether the IEP accurately reflected the information presented to the CSE, and whether the IEP provided sufficient information about the student's needs, the evidence in the hearing record shows that the IHO conducted a well-reasoned analysis of the relevant evidence. As noted by the IHO, the CSE considered the most recent psychoeducational evaluation of the student, along with progress reports from the private school and a classroom observation of the student in the private school setting (compare IHO Decision at p. 7 with Tr. pp. 42-44, 61; see Dist. Exs. 2-5). The CSE also relied on the discussion that took place among CSE members, including the principal and the student's special education teacher from Beacon (IHO Decision at p. 7). The IHO correctly noted that the present levels of performance on the student's March 2011 were developed from the conversation which took place at the CSE meeting (IHO Decision at p. 7). Furthermore, the hearing record supports the IHO's conclusion that the IEP included sufficient information to develop an appropriate program to meet the student's needs (IHO Decision at p. 18). An exception is the IHOs reliance on the May 30, 2012 Beacon report which clearly post-dated the May 2011 IEP by over a year (compare Dist. Ex. 1 with Parent Ex. F). Reliance on this report is impermissibly retrospective in view of the Second Circuit's adoption of the prospective IEP analysis principle in R.E. (694 F.3d 167). After careful review of all of the evidence in this case, I agree with the conclusion reached by the IHO with regard to the sufficiency of evaluative data and, with the exception of the retrospective evidence noted above, I adopt the findings of fact and conclusions of law as my own (Tr. pp. 42-44, 46, 48-49, 61, 90, 272, 300, 303-04, 309; See Dist. Exs. 1, 2, 3, 4, 5).

In addition, with regard to the issue of whether the goals in the March 2011 IEP were inappropriate, the IHO conducted a well-reasoned analysis of the relevant evidence. The student's March 2011 IEP contains approximately 13 annual goals developed to address the student's needs

in the areas of writing, attention, social/emotional skills, speech-language, reading, math, and comprehension (Dist. Ex. 1 at pp. 6-13). According to testimony provided by the district representative who participated in the March 2011 CSE meeting, the student's goals were developed by the Beacon related services providers, as well as from input from the members of the CSE (Tr. pp. 52-54, 78-81). As confirmed by the parent's testimony, the goals were discussed at the March 2011 CSE meeting (Tr. pp. 479-81). After careful review of all of the evidence in this case, I agree with the conclusion reached by the IHO and adopt the findings of fact and conclusions of law as my own (Tr. pp. 46-47, 52-54, 57, 66, 78-81, 300-08, 370, 479-81; compare Dist. Ex. 1 at p. 6-13 with Dist. Exs. 2-5).

Further, with regard to the issue of whether the 12:1+1 special class recommended by the CSE was too large for the student, the IHO conducted a well-reasoned analysis of the relevant evidence (IHO Decision at p. 15, 18). The parties dispute on appeal whether the March 2011 IEP's recommendation for a 12:1+1 special class in a community school was appropriate to address the student's needs (Petition ¶ 26). Specifically, the parent argues that the IHO erred in finding that the record does not support the need for a smaller class setting for the student. For the reasons that follow, the hearing record supports a finding that a 12:1+1 class with related services would have met the student's needs. State regulations provide that a 12:1+1 special class placement is designed for students "whose management needs interfere with the instructional process, to the extent that an additional adult is needed within the classroom to assist in the instruction of such students" (8 NYCRR 200.6 [h][4][i]). According to testimony of the district representative at the March 2011 CSE meeting, the decision to recommend a 12:1+1 special class placement was based on the fact that although the student was not severely delayed academically, he did have difficulty with attention which indicated that the student required a small, structured setting (Tr. pp. 105-06). The teacher of the assigned class opined that the student would have been appropriately placed in the 12:1+1 class in the assigned school because the school would have been able to provide the student with the support he needed, and there were other student's "just like" him in the school (Tr. pp. 220-21). The district representative contended that because the 12:1+1 class was small, the student would receive the supports and repetition that he required (Tr. pp. 58-59). Based on the student's IEP indicating full participation in school activities and the student's social behaviors, I find it appropriate for the student to participate in activities and non-academic classes with general education students and that the March 2011 CSE correctly determined that the structure and support offered in the 12:1+1 special class placement was appropriate to address the student's needs. After careful review of all of the evidence in this case, I agree with the conclusion reached by the IHO and adopt the findings of fact and conclusions of law as my own (8 NYCRR 200.6 [h][4][i]; see Tr. pp. 48, 55-56, 58-59, 72, 83-84, 105-06, 159-60, 220-24, 278; Dist. Ex. 1 at pp. 3, 4, 15).

Finally, with regard to the issue of whether the district failed to develop a behavior intervention plan (BIP) for the student the IHO conducted a well-reasoned analysis of the relevant evidence (IHO Decision at pp. 8-9, 13-14). The parents asserted that despite the district's knowledge of the student's interfering behaviors, the district failed to develop a behavior intervention plan (BIP) for the student, resulting in a failure to offer the student a FAPE (Petition ¶ 15-21). Under the IDEA, a CSE may be required to consider special factors in the development of a student's IEP. Among the special factors in the case of a student whose behavior impedes his or her learning or that of others, the CSE shall consider positive behavioral interventions and supports, and other strategies, to address that behavior. The district representative contended that

the March 2011 CSE did not recommend a BIP because the team determined it was not necessary, based on information provided by the January 2011 classroom observation and the student's current Beacon teacher (Tr. pp. 48-49). The district representative further stated that the student was purportedly generally well behaved, and just needed some support to interact more with other students, and to improve his attention skills (Tr. p. 49). In order to address these needs, the March 2011 CSE recommended counseling, and agreed that the student's behaviors could be addressed using "basic classroom management" (Tr. p. 49). After careful review of all of the evidence in this case, I agree with the conclusion reached by the IHO and adopt the findings of fact and conclusions of law as my own (Tr. pp. 48-49, 70-74, 172-73, 179, 270-72, 323-24; Dist. Ex. 1 at pp. 3-4, 6-7)

Upon careful review, the hearing record reflects that the IHO correctly reached the conclusion that the district offered the student a FAPE for the 2011-12 school year (see IHO Decision at p. 17). The IHO accurately recounted the facts of the case and addressed the core issues that were identified in the parents' due process complaint notice (see IHO Decision at pp. 3-15). The decision shows that the IHO considered the testimonial and documentary evidence presented by both parties, and further, that she weighed the evidence and supported her conclusions (see IHO Decision at pp. 3-15). Furthermore, an independent review of the entire hearing record reveals that the impartial hearing was conducted in a manner consistent with the requirements of due process and that there is no reason appearing in the hearing record to modify the determinations of the IHO (see 20 U.S.C. § 1415 [g][2]; 34 CFR 300.514 [b][2]). Thus, while my reasoning may have differed from the IHO's in some respects, the conclusions of the IHO are hereby adopted.

VII. Conclusion

Having determined that the evidence in the hearing record supports the IHO's decision that the district offered the student a FAPE for the 2011-12 school year, the necessary inquiry is at an end and there is no need to reach the issues of whether Beacon was an appropriate unilateral placement or whether equitable considerations weighed in favor of the parents' request for relief. I have considered the parties' remaining contentions and find them to be without merit.

THE APPEAL IS DISMISSED.

THE CROSS-APPEAL IS DISMISSED.

Dated: **Albany, New York**
October 17, 2014

JUSTYN P. BATES
STATE REVIEW OFFICER