

THE CASE:

My son, Liam, is an elementary school student living with autism. In spring prior to starting K, the LEA presented an IEP to transition Liam. The IEP had 4 goals: social, attention, pragmatics & expressive language). He was not identified as having behavioral needs at this time and we agree he did not show any significant disruptive behaviors. His IEP included SDI for sensory that included access to a sensory room and was assigned a 1-on-1 para. He also had a TSS from wrap services. The IEP had him in gen ed 84% of his day. In spring of K, Liam began to exhibit behavior concerns: physical aggression, threatening, property destruction, elopement from task & location. In fall of 1st grade, we agreed to the FBA and to the revised IEP with the added PBSP. My concern with the PBSP is the step to remove him to the hall table when unable to remain in the room. The para would be seated behind him or standing behind him. Blocking him from eloping.

Furthermore, in the fall of 1st grade, I learned of social media postings by the former para, Liam's dad and the latest para. The postings were alarming to me as the content seemed include content about Liam. I believe the postings were derogatory and unprofessional

In April of 1st grade, Liam's doctor prescribed homebound instruction for the rest of the year which occurred at the community based mental health center with a TSS. His behavior was poor there.

For second grade I have enrolled Liam in another LEA.

I have filed for DPH due to the LEA not offering FAPE as there were deficiencies in the programming for his behavioral & sensory needs in school. Even though the IEP had provisions for sensory needs, I do not believe the para or team was implementing them on a regular basis. The PBSP was not very effective in managing his behaviors or teaching him expected behaviors. In addition, I claim that the LEA discriminated against Liam due to his autism. I am seeking comp ed as a remedy.

We have countered that our programming met Liam's needs in school and thus, provided FAPE at all times. At no time did the LEA discriminate against Liam. We have met all obligations under both IDEA and Section 504. We created an IEP for his transition to K that was based on the information we had at the time of its development. There was no concern with Liam's behavior at that time as it did not begin to be evident until spring of K. We sought permission to do the FBA by a BCBA in early fall when his behaviors began to escalate. We completed a new RR and revised the IEP with the PBSP. We implemented the PBSP as described in the IEP to which the parent agreed. The PBSP protocol for the manifestation of the behaviors included that once Liam was brought to a calm state for 40 seconds, he could re-engage in the learning environment. As part of the PBSP, if he had to be removed from the classroom after lesser interventions did not work, Liam was to be taken to the hall table and the 40 second protocol put in place there. Multiple adults would be in the hall to supervise him and determine when he was ready to re-enter the classroom to be with his peers. The para would be seated or standing directly behind him. Progress monitoring showed gains on his goals until spring when behaviors

escalated. At the time, we and the family were considering alternative locations. However, the parent has enrolled him in another LEA for grade 2. As for the social media postings, according to the most recent para who was part of it, the postings were about his father for whom he is named. Nothing was improper in regard to Liam, the student. Based on the information and reasoning we have provided, we argue that the family is not entitled to a remedy.

THE QUESTION(s):

1. ***Did the District meet its obligation to provide FAPE in Liam's K year?***
2. ***Did the District meet its obligation to provide FAPE for 1st grade?***
3. ***Did the District discriminate against him due to his disability?***
4. ***If not for either or both grades, is Liam entitled to any comp ed? If so, for what grade? Why?***

WHAT DO YOU THINK?

1. **YES & YES & NO & NO:** The District met its FAPE obligation for K & 1st and he is not entitled to comp ed. There was no deliberate indifference/discrimination evident.
2. **YES & NO & YES & YES:** The District met its FAPE obligation for K grade but *not* for 1st grade. He is only entitled to comp ed for 1st grade. The District did act with deliberate indifference and thus discriminated against him per section 504.
3. **NO & NO & YES & YES:** The District did not meet its FAPE obligation for either K or 1st grade. He is entitled to comp ed for parts of both years. The District did act with deliberate indifference due to Liam's autism.
4. **YES & NO & NO & YES:** The District did not meet its FAPE obligation for 1st grade. He is entitled to comp ed for part of the year. There is no evidence of deliberate indifference by the District due to Liam's autism.

~Please "VOTE" by demonstrating your choice on your response cards and hold up when asked to share your answer with the group~

Additional discussion at your tables:

Based on the information provided, what suggestions would you make to the IEP team?

20925-18-19