

THE CASE:

F: Our daughter, Zoe, is eligible for special ed services as a child with ID, ASD and OHI. She enrolled in K as ASD and OHI from EI. In grade 2 the SD did a RR and identified her with ASD and SLI. The RR included a NV IQ 42. All adaptive behaviors were noted to be 'extremely low'. In grade 5 another RR was done, and the SD retained the ASD and SLI identification. In grade 7 the FBA process was done via another RR. Same identifications were indicated as previous RRs. A PBSP was added to her IEP. In grade 8 another RR was done at the request of the SD to update her cognitive and adaptive behavior data. This RR showed a NV IQ 43. As in the past, caution was given about the interpretation of the scores due to Zoe's needs in communication, motor skills and tolerance levels. In grade 10 we filed a DPH complaint due to identification, programming, and placement. The SD agreed to place Zoe in a private school for the rest of the year. That spring we had an IEP meeting with the SD. Zoe's IEP had 13 goals with STOs. The IEP addressed functional academics, ILS, S&L, OT, attention/focus and other behaviors. Staff ratio was 3:1 (teacher, behavior aide, health aide). She received ESY. Progress was inconsistent across the many goals. In grade 11 another RR was conducted that did not include cognitive or adaptive behavior assessments. Again, same result: ASD and SLI. The RR recommended that Zoe remain at the private school in an AS class. At that time the SD team and private school had an IEP meeting. She remained at the private school. We were not pleased with her progress and pushed for more goals to be added. The IEP had 19 goals with STOs. Staff ratio was 2:1 (teacher and school aide). ESY included. Due to our frustration with Zoe's inconsistent progress, we had an IEE completed. It included cognitive and adaptive behavior assessments. FS IQ 30 and adaptive behavior "extremely low". Results indicated ID, ASD, SLI and OHI.

We have filed for DPH because we claim the SD should have identified Zoe with ID sooner and as a result, she was denied FAPE.

LEA: We do not agree with the parents that we denied Zoe FAPE even if we did not identify Zoe with ID. Throughout her educational programming we completed RRs as needed and adjusted her IEP per the data we had on hand. We included the parents at all points of the decision-making process. We do not believe that an identification of ID would have made a difference in how we provided special education programming and related services. We also believe our agreement to place her in a private school for grade 10 and then into the next year showed our willingness to work with the family to help Zoe. However, we do wish to point out the private school's efforts did not yield the consistent progress expected. Although the private school was given the proper documentation, it should be noted the school never inquired about Zoe's IEP or identification; nor did they conduct a RR. Based on the history of the SD's actions with this case, we do not feel we denied Zoe FAPE.

THE QUESTION(s):

1. Should the District have identified the student as a student with an intellectual disability prior to the IEE that the parents had completed?
2. If so, did the SD deny student FAPE?
3. In addition, did the SD deny FAPE to Zoe while at the private school? (Grades 10 and 11)

WHAT DO YOU THINK?

1. **YES:** The SD failed to provide FAPE due to her lack of progress and she is entitled to a remedy
2. **YES:** the SD failed to provide Zoe with FAPE due to the lack of determining ID and is entitled to a remedy
3. **NO:** the SD provided FAPE through their design and implementation of Zoe's IEPs, including the one used at the private school. The lack of the ID identification did not cause a denial of FAPE.

Discussion in Your Breakout Room:

1. As you head into Breakout Rooms, **note your Room Number.**
2. Find the slide with that number once in the room.
3. You will have **15 minutes** to discuss the case and the questions before you.
4. Remember you have only key parts of the case that is 21 pages.
5. Assign someone to be a note taker to enter onto your room's slide.
6. Assign someone to be the time watcher.
7. As a group, decide which option under What Do You Think is the outcome of this case based on the information provided in the scenario.
8. Document your group's choice on the slide.
9. Then discuss at least 2 recommendations/learnings you might take to your school teams based on the case.
10. Record the suggestions/learning on the slide
11. Be prepared to share in the main room by knowing the Letter of the Option you have chosen and the recommendations you would make to school teams.