

Stephen G. Ulman
P.O. Box 687
Caribou, ME 04736

DATE: August 1, 2000

TO: Parent
Peter Lowe

FROM: Stephen G. Ulman
Hearing Officer

SUBJECT: Hearing Decision #00.192
"Freeport v. Parent"

This is to provide you with my decision in the Special Education Due Process Hearing on behalf of the student.

Either party may appeal this decision by filing a petition for review in Maine Superior Court or Federal District Court within 30 days of receipt of the decision. The petition for review in Superior Court must be filed in the county in which the student resides or the county in which the Administrative Unit is located.

The Administrative Unit shall submit to the Commissioner of the Department of Education, with a copy to the Due Process Consultant, documentation that the Unit has either, complied with this decision or that an appeal is pending. Such documentation shall be submitted no later than 45 days after the completion of the order in this decision. The parent may request the Department to review the Unit's compliance with this decision by filing a written complaint with the Commissioner of the Department of Education.

Any questions regarding this decision or the record of the hearing should be directed to: Due Process Consultant, Division of Special Education, Department of Education, State House Station 23, Augusta, Maine 04333.

cc: Mother
Susan Parks
Peter Lowe
Joan Nason
Robert Lyman

Special Education Due Process

Hearing Decision

“Freeport v. Parent”

CASE NO. #00.192
COUNSEL FOR PARENT: Parent represented herself
COUNSEL FOR SCHOOL: Peter Lowe
HEARING OFFICER: Stephen G. Ulman

THIS HEARING WAS HELD AND THE DECISION WRITTEN PURSUANT TO TITLE 20-A @ 7207, et. seq., 20 USC, @ 1415 et. seq., AND IMPLEMENTING REGULATIONS.

On June 19, 2000, the Department of Education received a request for a Due Process Hearing from the Freeport School Department.

The pre-hearing conference was conducted on July 5, & 10, 2000 by telephone. All documents and witnesses were discussed and agreed to. The Hearing convened on July 13, 2000 at Portland.

Five witnesses gave testimony for the parents and two witnesses testified on behalf of the school.

The record was held open until July 24, 2000 to allow for written closing statements by both parties. The record closed on that date.

I. Preliminary Statement

This Due Process Hearing was held at the request of the Freeport School Department (FSD) following the filing of a complaint by the parent with the Maine Department of Education. The parent has complained that the Pupil Evaluation Team (PET) process was not appropriate and out of compliance with Maine Special Education Regulations (MSER). The FSD identified the issue for hearing as the appropriateness of the 1999-2000 Individualized Educational Program (IEP), which includes the student's Transition Plan (TP).

II. Issue for Hearing

Did Freeport School Department provide the student a Free and Appropriate Public Education (FAPE) during the 1999-2000 school year?

III. Finding of Fact and Stipulations

Facts

- Prior to September 1995 the student was educated off the Freeport School Department (FSD) campus. SW-1
- The student started school at the FSD in September 1995. SW-1
- The student qualified for Vocational Rehabilitation Services in 1995 and started receiving services in 1996. SW-1
- Freeport has worked to create a partnership for the student between the Freeport Public School and Vocational Rehabilitation Services. SW-1
- The student has for many years planned to go to college following high school. SW-1
- The summer of 1999 included some independent living experiences. SW-1
- The October 22, 1999, Pupil Evaluation Team (PET) met to review the student's 1999-2000 program and the Vocational Rehabilitation councilor was present. SW-1, SE-60
- A second PET was held February 10, 2000 and the Vocational Rehabilitation councilor was present. SW-1
- FSD offered to do task analysis on some of the specific areas of student weaknesses, however, the student was not present for the testing. SW-1, SE-55
- The student accumulated 30 credits – students need 20 credits to graduate. SW-1, SE-55

- The student graduated with a cumulative Grade Point Average (GPA) of 92.35. SW-1, SE-75
- The PET has over the years been in agreement with the Transition Plan (TP). SW-1
- The student earned his grades. SW-1
- The student has participated in many extra-curricular activities. SW-1
- The June 24, 1999 Individualized Educational Program (IEP) has a TP which contains 6 transition services. SW-1, SE-55
- The IEP of June 5, 1998 also contained a TP that includes responsibilities for both FSD and Vocational Rehabilitation Services. SW-1, SE-33
- The student was nominated and elected to the National Honor Society. SW-1
- The June 24, 1999 IEP's six transition services, were carried out or attempted. SW-1, SE-55
- The June 5, 1998 IEP's transition services were carried out as written. SW-1, SE-33
- The occupational therapist (OT) reports found self-help skills to be independent. SW-2, SE-50, SE-62
- Areas of weakness included money management and phone use. SW-2, SE-50, SE-62
- FSD offered task analysis and followed up with a second offer through the occupational therapist. SW-2, SE-70, SE-71
- Maine State Licensure for occupational therapist does not specify areas of specialty. SW-2
- The student has strong conceptual skills. PW-1
- The student has difficulty with memory and audio attention. PW-1
- The student's processing speed, organizational skills and visual field of vision and visual motor skills are impacted. PW-1
- The student's primary coping skill is to withdraw or avoidance. PW-1
- The working meeting between the mother, the student, educational technician and neuropsychologist, were useful. PW-1
- The student is charming and has a sense of humor. PW-1
- The Transition Services – Annual Activities are written in very general terms. PW-1, SE-55
- The report written by the neuropsychologist during the 1999-2000 school year was not made available to the FSD because they were not written until a month after the PET was held. PW-1, PW-3
- The student's physical education (PE) teacher talked to the student's educational technician regularly and warned when test were coming. PW-2
- The student participated in the "Little River Project". PW-2
- Vocational Rehabilitation Services have been involved beginning October 1998. PW-3

- The student has been qualified to receive Vocational Rehabilitation Services for Blind/Visually impaired. PW-3
- The Vocational Rehabilitation councilor for Blind/Visually impaired has not seen any of the student's IEP's, but has received PET minutes. PW-3
- The Transition Services – Annual Activities listed in the 1999-2000 IEP, which list Vocational Rehabilitation as the responsible agency, are appropriate.
- PW-3
- Discussions about college transition for student started in the 1998-1999 with some general goals verbally outlined. PW-4
- The student is never a discipline problem. PW-5

IV. Conclusion

Issue

Did Freeport School Department provide the student a Free and Appropriate Public Education (FAPE) during the 1999-2000 school year?

The preponderance of the evidence indicates that the student has had a very successful career at FSD. He has graduated with a Grade Point Average (GPA) of 92.35, earned significantly more credits than the minimum number needed for graduation, and been elected by his teachers and peers to the prestigious National Honor Society. For the student to have achieved this high level of educational success despite a very significant handicap is remarkable and is an indication of the success of the Pupil Evaluation Team which included the parents, Vocational Rehabilitation and school personnel.

The difficulty between the school and parent appears to originate in two significantly different educational standards held by each party. The parent strives to maximize the student's potential, to insure that all transition goals are met, and that the student is totally ready to transition to college. The school is guided by MSER, which set the state standard as educational benefit. MSER 1.3 The preponderance of the evidence demonstrates that although the student has not accomplished every goal on his 1999-2000 IEP (including the transition plan) he has made significant progress toward that end and has benefited from his 1999-2000 school year.

V. Order

As the FSD has provided a beneficial education to the student during 1999-2000 school year there is no order.