

STATE OF RHODE ISLAND
PROVIDENCE, SC

DEPARTMENT OF EDUCATION

IN THE MATTER OF A.J.

LL 18-03

AND

BARRINGTON SCHOOL DISTRICT

ADMINISTRATIVE DECISION

Maureen A. Hobson, Esq.
Impartial Due Process Hearing Officer

Dated: March 12, 2018

HELD: The look back period for claims made is 2 years from the date of filing of the complaint. Parents' claim for 5 years reimbursement is denied on that basis. Parents have also failed to detail any actual expenses incurred for tuition and related services. Parents claim that LEA is refusing FAPE is premature in light of the testing that is presently being undertaken by the LEA at the specific request of the parents.

ISSUE PRESENTED:

Whether the Barrington School District has failed to provide FAPE for A.J. from July 2014 through the present date.

The within case appears to have had a long and tortured past. The student is presently 18 years of age and has not received any formal educational services since July of 2014 when his parents unilaterally removed him from Pathways Strategic Teaching Center (Pathways), his publicly funded placement. He has an autism diagnosis with associated disorders. The record presently consists of the parents' complaint, the LEA's response and motion to dismiss. For reasons stated below, no hearing is necessary at present.

According to the pleadings of both parties to this complaint, there have been several prior complaints for due process filed by the parents with RIDE. There has been Family Court action initiated by the LEA against the parents alleging negligence under the truancy law. There has been involvement with the Office of the Child Advocate and Department of Children, Youth and Family (DCYF). The parents have filed at least one case in the Federal District Court for the district of Rhode Island.

This hearing officer's jurisdiction is limited to the review of what has transpired in the two year period preceding the filing of this complaint (February 13, 2018) and the present and future educational services for AJ.

From the pleadings, it is clear that both parties have engaged each other since AJ left Pathways in July 2014. The allegations of both the parents and LEA indicate that the LEA offered 7 or more educational settings, all of which were rejected by the parents.

From the pleadings, it appears that numerous IEP meetings were scheduled by the LEA and the parents did not attend the meetings, which resulted in truancy proceedings.

In June 2016, the parents did attend a meeting with their former legal counsel. The LEA had not had educational involvement with AJ since he left school in 2014. The LEA requested permission to conduct a comprehensive evaluation in order to determine appropriate services and placement. The parents indicated their willingness to subject AJ to an evaluation, but only if it were to be carried out by one of two providers who were located in Massachusetts. At the parents' request, the LEA agreed to engage the services of The Morgens Group located in Wellesley, MA. However, the LEA did not receive the parents' permission to release AJ's records to The Morgens Group until October 31, 2017. Thereafter, a representative of The Morgens Group, Liana Pena Morgens, Phd. contacted the LEA to arrange a testing schedule for AJ and follow-up report to the LEA.

The current testing and report are necessary to the determination by the IEP team of appropriate services to be afforded AJ and an appropriate setting in which to provide the services. The scheduled testing dates for AJ with The Morgens Group are February 28, March 1 and March 7, 2018. In other words, the testing necessary to AJ's IEP team's recommendations is being undertaken presently. The LEA cannot blindly provide an IEP.

Based on the foregoing, this hearing officer finds that the due process complaint that was filed on February 13, 2018 is premature for hearing at this time. Since the child was removed from school by the parents in 2014 and has not been evaluated since then, there are no services that the LEA has offered or could offer now that would be deemed FAPE without reviewing the test results and report from The Morgens Group.

Following receipt of the aforementioned test results and report, it is the duty of the LEA to convene an IEP team and to develop a plan for educational services for AJ. * If the LEA fails to do so, or the parents disagree with the proposed services, the parents can renew their complaint and proceed to hearing at that time. The within matter is dismissed without prejudice.

ENTERED THIS 12th DAY OF MARCH 2018

/S/ Maureen A. Hobson, Esq.

*The parents have alleged that AJ is homeless. It is not clear from the pleadings where he is presently staying. The only address indicated on the pleadings is an East Providence post office box. His last educational services were delivered by Barrington.

Certification

I certify that a copy of the within Administrative Decision was mailed postage pre-paid to [REDACTED] and to Sara Rapport, Esq., Whelan, Corrente, Flanders, Kinder & Siket, LLP, 100 Westminster Street, Suite 710, Providence, RI 02903 on the 12th day of March 2018.

/s/ Maureen A. Hobson