



Utah State
Board of
Education

Special
Education
Services

SPECIAL EDUCATION DUE PROCESS HEARING DECISION SUMMARIES

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Special Education Due Process Hearing Decision Summaries

Introduction

When local education agencies (LEAs) and parents have disputes regarding special education, a due process hearing request may be filed. A due process hearing request may consider matters related to the identification, evaluation, or educational placement of a student with a disability, or the provision of a student's free appropriate public education (FAPE).

Due process hearings allow the LEA and parent(s) or adult students to present their concerns and seek a legal ruling from an independent hearing officer. The hearing officer will make a decision about how to resolve the conflict, based upon the evidence and the law. The final outcome is a legally binding decision by the due process hearing officer (DPHO). Any party who feels the findings and decision causes them harm has the right to bring a civil action in a State court of competent jurisdiction or in a district court of the United States.

The following due process hearing decisions are summarized to assist the public in accessing due process hearing information. These are brief summaries of the decisions. For the full facts of each case, please read the complete decisions which are accessible on USBE's website.

Acronyms Used in this Document

Due process hearing officer (DPHO)
Free appropriate public education (FAPE)
Independent educational evaluation (IEE)
Individualized education program (IEP)
Individuals with Disabilities Education Act (IDEA)
Least restrictive environment (LRE)
Local education agency (LEA)
Occupational Therapy (OT)

DP – 2425-09 Noah Webster Academy

The DPHO determined the parent of a nonverbal student with severe autism was unsuccessful in proving allegations that the LEA violated the IDEA by failing to implement the student's IEP as follows: a) failing to provide all accommodations in the student's IEPs; b) failing to fully implement the student's IEP service minutes; c) failing to provide a Special Education teacher in the student's classroom to provide

the student's services; d) using behavioral techniques not provided for in the student's IEPs; and e) failing to have appropriately trained special education staff implement the Student's IEP. On a separate allegation, the DPHO determined that the LEA failed to provide an IEE at public expense after the parent notified the LEA she disagreed with the results of the LEA's evaluation. The DPHO ordered the LEA to conduct OT and Speech Language evaluations without undue delay. The DPHO also determined that the student's current placement was the student's LRE and rejected the parent's argument that the student's LRE was homebound placement. In addition, the DPHO barred any claims for alleged violations outside the two year statutory period.

DP-2425-04 – Jordan School District

The DPHO determined that an LEA violated the IDEA when it predetermined the educational placement of a grade school student with autism. The DPHO also found the LEA failed to develop an appropriate IEP that offered the student FAPE in the LRE. The DPHO ordered the LEA to fund an IEE, hold a facilitated IEP meeting, and provide the student with compensatory education.

DP-2425-06 – Canyons School District

The parents of a middle schooler with autism established that the LEA violated its child find obligations by unreasonably delaying its evaluation of the student for approximately six weeks. However, the DPHO determined that the parents could not establish a denial of FAPE, given that they withdrew the student from school before the district could implement the student's new IEP, which outweighed any harm stemming from a short delay in the decision to reevaluate the student.

DP-2425-03 – Jordan School District

The DPHO determined the parent of a nonverbal student with multiple disabilities failed to establish that an LEA engaged in predetermination in violation of the IDEA. The LEA's documentation of efforts to engage the parent enabled it to successfully defend the parent's predetermination claim. The DPHO officer dismissed the parent's complaint after finding that the parent was notified of each hearing, attended, meaningfully participated in the IEP process.

DP-2324-05 – Iron County School District

The DPHO found the LEA had reason to suspect the student had a qualifying disability and did not make reasonable efforts to obtain parental consent for an evaluation. The DPHO found the LEA failed to meet its child find obligations under the IDEA. As

a remedy, the DPHO ordered the LEA to provide the student compensatory education services.

DP-2223-09 – Davis School District

The DPHO determined the LEA improperly transferred a student with a disability from one school to another school without proper consideration of student's disability or positive behavior interventions and supports. The DPHO concluded the transfer denied the student FAPE. However, the LEA did not violate its child find duty under the IDEA. As a remedy, the DPHO ordered the LEA to reenroll the student, conduct a functional behavioral assessment, and reconvene the IEP team.

DP-2223-10 – Early Light Academy

The DPHO found the parent of a student who had not yet been determined eligible to be a student with a disability had intentionally failed to appear at the IDEA due process hearing and did not present any testimony or evidence or support the allegations. Accordingly, the DPHO denied all the parent's requested relief. The DPHO concluded the charter school met its child find obligation, obtained consent to evaluate, conducted evaluations, but was under no obligation to develop programming because the parent effectively withdrew consent.

DP-2223-08 – Park City School District

The DPHO determined the LEA had developed an appropriate IEP for a student with a disability who presented dangerous behaviors at home. He also concluded the LEA complied with its child find duty under the IDEA and appropriately implemented the IEP. The DPHO denied the parents' request for tuition reimbursement.

DP-2122-08 – Park City School District

The parents of a student with a disability sent various staff voluminous emails during the school year. The LEA developed a communication plan which required parents to direct all communication involving the student to the LEA's Special Education Director (Director). The Director would provide responses every two weeks. The parents claimed the communication plan interfered with their right to participate. The DPHO pointed out the plan did not cut off the parents' ability to participate. Instead, it provided for a centralized response to the parents' messages and ensured responses would occur within two weeks. The DPHO found the parents' proof was insufficient to establish either a procedural violation or substantive violation of the IDEA. The LEA demonstrated the student was provided FAPE. Accordingly, the DPHO dismissed the parents' claim.

DP-2122-07 – Thomas Edison Charter School

The DPHO determined a charter school failed to timely evaluate a student with a disability. The DPHO also found the school denied the student FAPE by failing to consider the student's eligibility for extended school year services and failing to provide the parents with timely prior written notice. As a remedy, the DPHO ordered the school to provide the student compensatory education.

DP-2122-09 – Wasatch School District

The DPHO found the LEA violated the IDEA by providing a course of study which was found to be noncompliant with state regulatory requirements. Specifically, no certified teacher was assigned to the medically complex student with multiple disabilities to monitor and supervise the student's course of study. The DPHO granted the petitioner's request to enroll the student in a private program. In addition, the DPHO ordered the LEA to ensure there is a credentialed instructor assigned to the student for delivery of instruction and progress monitoring. Finally, the DPHO ordered the LEA to evaluate the student and measure progress.

DP-2021-18 – Granite School District

The DPHO found the LEA improperly changed the IEP of a student with disabilities to a Section 504 plan. However, this change did not result in a denial of FAPE to the student. The DPHO denied the request for relief and dismissed the due process complaint.

DP-2021-14 – Jordan School District

The DPHO concluded the LEA did not violate the IDEA when it declined to assign a one-to-one registered behavior technician to a grade school student with a disability. The DPHO also determined the LEA offered the student FAPE in the least restrictive environment when it placed the student in a special class for students with autism. The DPHO dismissed the parents' due process complaint.

DP-2021-15 – Salt Lake City School District

The DPHO found the LEA provided a child with a disability FAPE when it determined the student's IEP could not be implemented at the student's neighborhood school and proposed to change the location of the student's services. The DPHO denied the parents' requested relief.

DP-1819-08 – Logan City School District

The DPHO found no evidence the LEA denied a student with multiple disabilities FAPE by failing to provide the student appropriate assistive technology during the 2017-18 school year. The DPHO dismissed the parents' due process complaint, concluding no IDEA violation occurred.

DP-1819-10 – Mountain West Montessori Academy

The DPHO determined a charter school did not deny FAPE to a student with a disability by failing to address the student's behavioral needs. The DPHO also concluded the LEA timely evaluated the student's eligibility, developed an appropriate IEP, and did not disciplinarily change the student's placement without a manifestation determination review. The DPHO dismissed the parents' IDEA due process complaint.

DP -1819-09 – Ogden School District

The DPHO determined the LEA did not violate the IDEA when it declined to pay for an IEE for a student with a disability. The DPHO also concluded the parent was not entitled to a publicly funded IEE.

DP-1415-02 – Provo City School District

A state court issued an order which held the mother of a student with a disability did not have the unilateral right to exit the student from special education services, and the student's LEA could implement the student's IEP with one parent's approval. In light of those facts, the DPHO concluded the mother's argument concerning the LEA's eligibility determination was moot.