

In Re: Dracut Public Schools, BSEA No: 08-5330

Summary

The Massachusetts Disability Law Center has obtained a favorable decision for a 19-year-old Dracut student after three days of hearing before the Bureau of Special Education Appeals (BSEA). In a 44-page decision, Hearing Officer William Crane concluded that Dracut Public Schools failed to provide adequate transition services for the student, as required by the Individuals with Disabilities Education Act (IDEA) and Massachusetts state law. This effectively denied the student a Free and Appropriate Public Education (FAPE), and Mr. Crane has ordered Dracut to provide two years of compensatory services.

Background

The student is a young man diagnosed with Asperger's Syndrome, Attention Deficit Hyperactivity Disorder, and an anxiety disorder. He also has a significant pragmatic language deficit that affects his social skills, and his ability to understand non-verbal cues. Nevertheless, when he passed the MCAS and met all other graduation requirements, Dracut sought to graduate him, thereby terminating his eligibility for special education services. The student and his parents rejected the diploma, asserting that Dracut had never provided the necessary transition services to address his deficits and to prepare him properly for life after high school.

The Hearing Officer agreed with the family, noting that Dracut had declined to evaluate the student properly, plan proper community-based transition services for him, or accept recommendations from highly credentialed experts who had suggested modifications to his Individual Education Program (IEP). He credited testimony offered on behalf of the student, both as to the severity of his deficits, and what was needed to address them. Accordingly, he awarded two years of compensatory transition services, specifically ordering Dracut to:

- extend the student's special education eligibility for an additional two years;
- convene a team meeting in 30 days to develop a new transition plan;
- start providing new transition services within 60 days; and
- hire two of the student's testifying experts as consultants (or accept their recommendations for other appropriate consultants, if they are unavailable).

The decision carefully enumerates the required elements of the student's new IEP transition plan, mandating that it include:

- *systematic, step-by-step pragmatic language instruction;*
- *development of organizational skills;*
- *vocational training;*

- *travel instruction;*
- *a comprehensive social skills assessment; and*
- *training in social skills.*

Discussion

The decision has important implications for the rights of young people with disabilities approaching transition age. It carefully enumerates several legally required elements of the transition process. First, it underscores the need for IEP teams to work collaboratively, to identify students' deficits while they are still eligible for special education services, and to listen to recommendations from properly credentialed experts. This student's parent had presented expert evaluations to his team on several occasions, and the Hearing Officer cited Dracut's continuing failure to accept their suggested modifications to his IEP. (pp. 27, 36.)

The decision also highlights the underlying purpose of transition services, and why Congress added them to the IDEA. It cites Congress's finding that, "when individuals are not prepared to make the transition into the post-school environment '[years of special education will be wasted while these individuals languish at home]'" (p. 37.) It further notes that "transition services are *part of, and not separate from, a school district's responsibility to provide FAPE.*" (p. 24, emphasis added.) In this case, the student's Asperger's Syndrome limits his ability to apply learned skills from one environment to another. Therefore, he needs to experience employment situations within three or four community settings, to develop usable vocational skills. To determine what additional services are necessary, there must be appropriate transition assessments. (p. 27.) Without them, the team has insufficient information to devise an appropriate program, and plans need to be individualized for each student. (p. 36). The decision then underscores that mere academic success is not enough, when other deficits will likely preclude a student from functioning effectively in a post-secondary environment, whether in the community, in college, or when interacting with social and workplace peers. (pp. 35-36.)

Finally, in an issue of first impression, the Hearing Officer concluded that Dracut should award the student his high school diploma, even though his special education eligibility will continue. This ruling provides a process through which a student may oppose a graduation, appeal to the BSEA, and seek compensatory education to be provided *after graduation*, in college or another post-secondary setting.

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