

Due Process: Case Study

Amelia is a 4th grade student with a disability with the classification of Emotional Disturbance at Roosevelt. She has the following services and accommodations listed in her IEP:

- Extended Time
- Medication Management
- Dedicated Aid
- Behavior Intervention Plan
- 120 minutes of group behavior support services (BSS) (counseling) per month
- 10 hours of specialized instruction per week in a pull-out setting

Though her annual is not due for another two months, Amelia's school schedules a meeting on September 10th to propose removing the extended time accommodation based upon her progress and teacher observations during ESY.

The school meeting notes reflect the following:

- Amelia's mother vehemently opposed this suggestion and requested that Amelia be provided more time in a pull-out setting based upon conversations she has had with Amelia's teacher the past week.
- Upon showing Amelia's mother Amelia's report card, Amelia's mother expressed concern that Roosevelt artificially boosted Amelia's grades.
- Roosevelt ultimately declines to increase Amelia's service hours but agrees to maintain her extended time accommodation.

On September 17th, the school nurse tells Roosevelt's special education coordinator that she has not had Amelia's medication in stock for about two weeks. The nurse reports that she tried to contact Mom repeatedly for medication refills but has received no response. The special education coordinator asks the nurse to keep records of her request to contact Mom for the medication.

The school team tries to contact Mom repeatedly to schedule her annual IEP meeting before it expires on November 10th. However, they are unable to get in contact with Mom until late November. They schedule the IEP meeting for December 2nd.

At Amelia's annual IEP meeting on December 2nd, the school team provides Amelia's mother with a copy of the following documents:

- Draft IEP
- Behavior Support Services Service Trackers
- IEP Progress Reports
- Report Card

At the meeting, Amelia's mother again expresses concern that her daughter needs additional service hours. The team agrees to add 5 hours of specialized instruction outside the general education setting to Amelia's IEP (total of 15 hours). The special education coordinator asks

Mom during the meeting about the missing medication refills the school nurse mentioned. Mom denies having ever been contacted by the school nurse.

Throughout the school year Amelia engages in various incidents that get her suspended for a day or two here and there. On Friday March 3rd, Amelia gets into a fight with another student, and the disciplinary team proposed a five-day suspension that the school team believed would constitute Amelia's 9th-13th days of suspension that school year, triggering the MDR requirement. The team schedules an MDR for the next school day, March 6th, which is the Monday before spring break. They find that the behavior warranting suspension is a manifestation of Amelia's disability and decide not to move forward with the proposed suspension. On March 10th, the Friday of that same week Roosevelt receives a due process complaint filed by Amelia's mother claiming the LEA failed to provide Amelia a FAPE.

Specifically, the complaint alleges that Roosevelt:

- 1) Had enough information to warrant recommending a nonpublic placement for Amelia in September
- 2) Failed to provide Amelia with medication management services required by her IEP
- 3) Failed to provide Amelia with behavior support services as required by her IEP
- 4) Failed to hold a timely MDR upon Amelia's 10th day of suspension during the school year

The day the complaint was filed, March 10th, also happened to be the last day of the 3rd report card period and the last day that Ms. Anderson, Amelia's general education teacher, worked at Roosevelt. Ms. Anderson, who was responsible for determining Amelia's grades for all subjects, moved cross country that weekend and left Roosevelt on less than best terms with school administration. As the hearing approaches, the school nurse is hospitalized and informs you that she will be unable to testify.