

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Appearing on behalf of the Parent: Parent, Pro se

Appearing on behalf of the Board: Attorney Linda Yoder
Shipman & Goodwin, LLP
One Constitution Plaza
Hartford, CT 06103

Appearing before: Robert L. Skelley, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUE:

The Board reported that an agreement had been reached prior to the holding of the Pre-hearing Conference, thus no issues were identified and agreed upon by the Parties.

PROCEDURAL HISTORY:

The complaint was filed on December 10, 2012 by the Parent. The date for the final decision and order was originally set for February 22, 2013.

Prior to the Pre-hearing Conference being held and issues identified, Dr. Bremner, acting for the East Hartford Board of Education ("Board"), emailed the State Department of Education, who then forwarded a document to the Hearing Officer, a document purporting to be an agreement between the Parties. The document is signed by Dr. Bremner and purportedly the Parent. The agreement is reported to have been reached through the resolution process, and in part, calls for the self-represented Parent to rescind the hearing request. To date the Hearing Officer has not received any communication from the Parent rescinding the hearing request or for any further steps.

On February 19, 2013 this Hearing Officer gave notice to the Parties that absent a written withdrawal of the complaint by the Parent, which was required as part of the resolution agreement provided to the Hearing Officer; a Due Process Hearing was scheduled for February 22, 2013. The Parties were instructed that providing the written withdrawal by close of business on February 20, 2013 would subsequently cancel the Due Process Hearing. No withdrawal was received by the Hearing Officer and the hearing was held on February 22, 2013.

The Parent did not appear for the Due Process hearing.

The Board was represented by Attorney Linda Yoder. The Board presented one witness, Dr. Sharon A. Bremner, Director of Pupil Personnel Services ("Dir.") for the East Hartford Board of Education.

Dir. testified that on December 18, 2012 the Board held a resolution meeting with the Parent and that a resolution was reached. That resolution was presented as Board Exhibit #1 and was accepted as a full exhibit.

Dir. further testified that the Board had attempted to obtain a written withdrawal from the Parent and that the Parent had refused to provide a written withdrawal, claiming that the Board Exhibit #1 was her withdrawal.

Dir. testified that she had made sure the Parent was notified of the Due Process Hearing scheduled for today, and that the Parent was aware and notified.

Dir. stated that she had attempted to find out if the Parent was located in the building for the hearing but was unable to locate the Parent.

Dir. stated that despite the Parent not providing the written withdrawal, the Board intended to proceed with the resolution agreement as agreed and that they believed that the Parent was satisfied with the agreement and the services being provided as a result of the agreement.

There were no further witnesses. The Hearing Officer entered the Complaint and the Hearing Officer appointment as exhibits HO #1 and HO#2 respectively.

All motions and objections not previously ruled upon, if any, are hereby overruled. To the extent a procedural claim raised by the Parent is not specifically addressed herein, the Hearing Officer has concluded that the claim lacked merit.

To the extent that the procedural history, summary, and findings of fact actually represent conclusions of law, they should be so considered, and vice versa. For reference, *see SAS Institute, Inc. v. S & H Computer Systems, Inc.*, 605 F.Supp. 816 (M.D. Tenn. 1985) and *Bonnie Ann F. v. Calallen Independent School District*, 835 F.Supp. 340, 20 IDELR 736 (S.D. Tex. 1993).

SUMMARY:

The Student is enrolled in the East Hartford Public Schools. The Parent filed a complaint on December 10, 2012, a resolution meeting was held on December 18, 2012 in which a resolution to the complaint was reached and reduced to writing. No formal written withdrawal was provided by the Parent. A Due Process Hearing was held on February 22, 2013 in which the Board witness testified as to the written agreement being accepted by both the Board and the Parent and that the Board was proceeding to implement that agreement and would continue to do so.

STATEMENT OF JURISDICTION:

This matter was heard as a contested case pursuant to Connecticut General Statutes (C.G.S.) §10-76h and related regulations, 20 United States Code §1415(f) and related regulations, and in accordance with the Uniform Administrative Procedure Act (U.A.P.A.), C.G.S. §§4-176e to 4-178, inclusive, §§4-181a and 4-186.

FINDINGS OF FACT:

1. The Student is enrolled in the East Hartford Public Schools.
2. The Parent filed a complaint on December 10, 2012.
3. A resolution meeting was held on December 18, 2012, in which a written resolution was reached between the Parties.
4. The intent of the Parties was to have the written resolution, Board Exhibit #1, resolve the complaint of the Parent.
5. The Board is complying with the resolution agreement and intends to continue to do so despite the failure of the Parent to provide a separate written withdrawal of the complaint as required in the resolution agreement.
6. The Parent (who was not present) did not provide any witnesses or exhibits that were contrary to the belief that the resolution agreement was accepted by both parties and intended to resolve the complaint.

CONCLUSIONS OF LAW AND DISCUSSION:

1. The standard for review of special education programs for individual students with disabilities was established by the U.S. Supreme Court in the case of *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176 (1982). That case established two tests: 1) were the procedural requirements of the Act complied with; and 2) was the educational program developed for the child reasonably expected to provide educational benefit.

FINAL DECISION AND ORDER:

Based upon the written resolution agreement provided in evidence, and the testimony of the Board witness that the Parties reached agreement and that agreement was in effect and intended to resolve the complaint, I find that there are no other issues before the Hearing Officer and that the complaint was withdrawn through the written resolution agreement. This matter is dismissed without prejudice.