

July 17, 2014

Final Decision and Order 14-0551

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. New Haven Board of Education

Appearing on behalf of the Parent:

Parent *pro se*

Appearing on behalf of the Board:

Michelle Laubin, Esq.  
Megan Buxton, Esq.  
Berchem, Moses and Devlin, PC  
75 Broad Street  
Milford, CT 06460

Appearing before:

Sylvia Ho, Esq., Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

Did the Board provide appropriate programs in the 2013-2014 and 2014-2015 school years?

**PROCEDURAL HISTORY/SUMMARY:**

The Parent filed the Due Process Complaint and Request for Hearing on May 20, 2014. The Hearing Officer was appointed on May 21, 2014 and conducted a Prehearing Conference on May 29, 2014. At the Prehearing Conference, the Board's attorney raised the issue of sufficiency concerning the lack of factual allegations in the Complaint. The Hearing Officer agreed that the Complaint lacked sufficient details to which the Board could respond. The issue above was identified generally in anticipation of an amended complaint. The Parent stated that she was on her way to a Resolution session with the Board and that if the matter did not settle, she would be retaining counsel. The Hearing Officer advised the Parent that if the matter was not resolved, the Parent's counsel should file an appearance and file an Amended Complaint (See May 29, 2014 Amended Memorandum to Parties). The hearing was scheduled for July 28, 2014. On July 3, 2014, the Board's attorney reported to the Hearing Officer that the parties did not reach an agreement at the Resolution session held without counsel and that no Parent counsel had contacted her. She also had not received an Amended Complaint as ordered by the Hearing Officer in the Memorandum to Parties. The Board's attorney requested an order from the Hearing Officer that the Parent file an Amended Complaint with sufficient details to which the Board could respond. In response to the Board's request, the Hearing Officer wrote the Parent and ordered the Parent to have counsel contact the Board's attorney and for either the attorney or the Parent, if unrepresented, to file an Amended Complaint by July 11, 2014. If neither the Parent nor her attorney responded by July 15, 2014, the Hearing Officer would dismiss the Due Process Complaint/Hearing Request. The Board was ordered to file a Motion to Dismiss on the issue of sufficiency. The Parent did not comply with this Order. The Complaint was not amended. The Board filed a Motion to Dismiss with accompanying memorandum of law on July 14, 2014. The Board's Motion to Dismiss is GRANTED. The Due Process Complaint/Hearing Request does not meet the requirements of 34 CFR §508(b)(5).

**FINAL DECISION AND ORDER:**

The matter is **DISMISSED**.

If the local or regional board of education or the unified school district responsible for providing special education for the student requiring special education does not take action on the findings or prescription of the hearing officer within fifteen days after receipt thereof, the State Board of Education shall take appropriate action to enforce the findings or prescription of the hearing officer.

Appeals from the hearing decision of the hearing officer may be made to state or federal court by either party in accordance with the provisions of Section 4-183, Connecticut General Statutes, and Title 20, United States Code 1415(i)(2)(A).

  
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Hearing Officer Signature

Sylvia Ho  
Hearing Officer      Name in Print