

June 5, 2014

Final Decision and Order Case No. 14-0490

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Enfield Board of Education

Appearing on behalf of the Surrogate Parent:

Attorney Joel Rottner
Skelley Rottner, PC
433 South Main Street, #305
West Hartford, CT 06110

Appearing on behalf of the Board:

Attorney Christine L. Chinni
Chinni & Meuser LLC
30 Avon Meadow Lane
Avon, CT 06001

Appearing before:

Justino Rosado, Esq., Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Was the Student's behavior, which resulted in disciplinary action by the Board, a manifestation of his disability?
2. Was the conduct that resulted in the disciplinary action, a result of the Board's failure to properly implement the Student's individualized education plan (IEP)?

SUMMARY AND PROCEDURAL HISTORY:

The Student has been identified as Other Health Impaired and is entitled to receive a free and appropriate public education (FAPE) as defined in the Individuals With Disabilities Education Improvement Act (IDEA) 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a et seq.

At a planning and placement team (PPT) meeting, the Surrogate Parent did not agree with the PPT's determination that the conduct that resulted in the disciplinary action was not a result of the Student's disability. The Surrogate Parent requested that the conduct be determined as a manifestation of his disability. The Board refused the Surrogate Parent's request. The Surrogate Parent requested an expedited hearing.

An impartial hearing officer was appointed on May 6, 2014 and a pre-hearing conference was scheduled for May 9, 2014. The Board received notice of the request for an expedited due process hearing on May 5, 2014. The Parent's attorney was not available at the scheduled time; a phone message was left and an electronic transmission was sent. The Board's attorney advised the hearing officer that the matter was resolved. The Surrogate Parent's attorney contacted the hearing officer, as requested in the electronic transmission, and stated that the matter had not been resolved. The attorney requested a pre-hearing conference at an alternate time.

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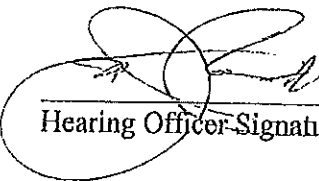
On May 9, 2014, the parties informed the hearing officer that they were able to execute an agreement and the Surrogate Parent's attorney withdrew the matter without prejudice. The mailing date for the Final Decision and Order is June 17, 2014.

FINAL DECISION AND ORDER:

THE MATTER IS DISMISSED WITHOUT PREJUDICE.

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).



Hearing Officer Signature

Justino Rosado
Hearing Officer Name in Print