

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Enfield Board of Education

Appearing on behalf of the Parent:

Parent *pro se*

Appearing on behalf of the Board:

Christine Chinni, Esq.
Chinni & Meuser, LLC
One Darling Drive
Avon, CT 06001

Appearing before:

Sylvia Ho, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Does the Hearing Officer have jurisdiction to decide the Parent's claims of discrimination under Connecticut General Statutes Sections 46a-71, 46a-58, 46a-82 and the Equal Protection Clause?
2. Does the Hearing Officer have authority to award monetary or treble damages?

PROCEDURAL HISTORY:

The Parent filed a Due Process Complaint and Hearing Request on March 4, 2014. The Hearing Officer was appointed on March 6, 2014 and scheduled a telephonic Prehearing Conference for March 25, 2014 at 9:30am. The Parent requested that Prehearing Conference be rescheduled to 1:00 pm the same day and the Hearing Officer obliged the Parent request.

The Board filed a Sufficiency Challenge on March 10, 2014 and asked the Hearing Officer to dismiss matter. On March 11, 2014, the Hearing Officer granted the Board's Sufficiency Challenge but ordered the Parent to file an Amended Complaint within ten (10) days. The Parent filed a number of documents with the Hearing Officer from March 10 to March 14, 2014, including a completed State of Connecticut "Special Education Complaint Form".

The Prehearing Conference was conducted on March 25, 2014 at 1:00 pm but the Parent did not attend. Shortly, after the commencement of the Prehearing Conference, the Parent sent an electronic mail to the Hearing Officer asking for the conference to be postponed one month. The Prehearing Conference was adjourned due to the Parent's correspondence. Approximately an hour after the first Parent correspondence, the Parent sent a second electronic mail stating that he was on the phone and available for the conference call.

After the Prehearing Conference, the Board filed a second Motion to Dismiss on the grounds that the Hearing Officer lacked jurisdiction to award monetary or treble damages. The Hearing Officer sent an electronic mail asking the Parent to clarify the issues in the Amended Complaint.

The Parent replied stating that he would not clarify the Amended Complaint. He further stated that he planned to bring an action against the Board through the Commission on Human Rights and Opportunities, another state agency.

SUMMARY:

The self-represented Parent filed an Amended Complaint claiming that the School District discriminated against the Parent and/or Student by “forcing [Student] to attend a PPT without the Parent’s consent” in violation of Section 46a of the Connecticut General Statutes. Parent also claims that Parent is entitled to be awarded monetary and treble damages.

STATEMENT OF JURISDICTION:

The Amended Complaint and Parent submissions do not implicate jurisdiction pursuant to Connecticut General Statutes (C.G.S.) §10-76h and related regulations, 20 United States Code §1415(f) and related regulations.

FINDINGS OF FACT:

1. Student is currently fifteen years old and attending Wheeler Academy. The Amended Complaint states that the Student is eligible to receive special education services under the category of Specific Learning Disabilities.
2. The Amended Complaint and Parent submissions allege that on March 4, 2014, the Student, a minor, was forced to attend a PPT without the parent or a legal representative present and that the Board violated C.G.S. §§ 46a-71, 46a-58 and 46a-82 and the “equal protection clause”.
3. The Parent has requested that he be awarded the amount of \$9999.99 within 45 days of the incident March 4, 2014. (Document dated March 12, 2014, labeled Exhibit L).
4. The Parent has also requested relief for “treble damages”. (Document dated March 10, 2014 labeled Exhibit K).

CONCLUSIONS OF LAW AND DISCUSSION:

1. This hearing process is governed by C.G.S. 10-76h and related regulations and 20 United States Code § 1415(f) and related regulations.
2. C.G.S. §10-76h(a)(1) provides that “[a] parent or guardian of a child requiring special education and related services pursuant to sections 10-76a to 10-76g, inclusive... may request a hearing of the local or regional board of education or the unified school district responsible for providing such services whenever such board or district proposes or refuses to initiate or change the identification, evaluation or educational placement of or the provision of a free appropriate public education to such child or pupil” and that “[s]uch

request shall be made by sending a written request to such board or district with a copy to the Department of Education.”

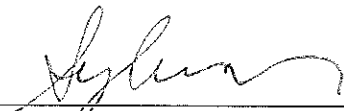
3. C.G.S. § 10-76h(d) (1) provides that “[t]he hearing officer ... shall have the authority (A) to confirm, modify, or reject the identification, evaluation or educational placement of or the provision of a free appropriate public education to the child or pupil, (B) to determine the appropriateness of an educational placement where the parent or guardian of a child requiring special education or the pupil if such pupil is an emancipated minor or eighteen years of age or older, has placed the child or pupil in a program other than that prescribed by the planning and placement team, or (C) to prescribe alternate special educational programs for the child or pupil.
4. The Amended Complaint alleges discrimination under other Connecticut statutes and does not involve the identification, evaluation or education placement of or the provision of a free appropriate education to the student for which the Hearing Officer can grant relief under C.G.S. §10-76h.

FINAL DECISION AND ORDER:

1. The Amended Complaint does not involve the identification, evaluation or education placement of or of a free appropriate education to the student as defined by C.G.S. § 10-76h.
2. The Hearing Officer has no authority to award monetary relief sought by the Amended Complaint.
3. The Amended Complaint is DISMISSED with 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

Sylvia Ho

Hearing Officer Name in Print