

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Fairfield Board of Education and Student

Appearing on behalf of the Board: Attorney Michelle Laubin
Berchem, Moses & Devlin, P.C.
75 Broad St
Fairfield, CT 06825

Appearing on behalf of the Student: Pro Se

Appearing before: Attorney Ann F. Bird, Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

Is the Student entitled to an Independent Academic Evaluation at public expense?

PROCEDURAL HISTORY:

The Board of Education requested a special education hearing in the above-captioned matter on November 7, 2012 in response to the Student's request for an independent evaluation at public expense. This Impartial Hearing Officer was appointed to the case on November 8, 2012.

A prehearing conference was conducted on November 27, 2012. At that time, a hearing date of January 9, 2013 was scheduled. The hearing date of January 9, 2013 was later postponed to February 8, 2013 in order to allow the parties time to attempt a resolution of the dispute.

On January 16, 2013 the Board of Education gave notice that the Student had withdrawn the request for an independent evaluation at public expense. The Board of Education therefore requested that the matter be dismissed.

FINAL DECISION AND ORDER:

It is ordered that the Board of Education's request for dismissal is granted, and this case is dismissed.

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student vs. Ridgefield Board of Education

Appearing on behalf of Student:

Parent, pro se

Appearing on behalf of Board:

Attorney Marsha Moses
Berchem, Moses & Devlin, P.C.
75 Broad Street
Milford, CT 06460

Appearing Before:

Attorney Robert Skelley
Impartial Hearing Officer

FINAL DECISION AND ORDER

Issues:

1. Was the District responsible to, and subsequently fail, to identify and evaluate the Student prior to her third birthday?
2. Did the District fail to provide a free and appropriate public education ("FAPE") to the Student from November 12, 2010 until September 6, 2011?
3. Did the District fail to provide a FAPE to the Student by failing to provide an appropriate Individualized Education Program ("IEP") by placing the Student in the kindergarten program, rather than allowing the Student to remain in her pre-kindergarten placement, and did the IEP provide the appropriate services and program for the Student?
4. If the District failed to provide the Student with an appropriate IEP with appropriate services and program, is the District responsible to reimburse the Parents for the cost of their unilateral placement of the Student and the subsequent services and program costs incurred as a result of that unilateral placement?

Procedural History:

This matter is before the Hearing Officer pursuant to a Request for Due Process hearing, filed by the Parent and received by the Board on October 16, 2012, and identified as Case No. 13-0176. A prehearing conference was held on November 6, 2012.

The issues for the due process hearing were identified at that time and are listed below. The Parties indicated that a resolution meeting would be held on November 7, 2012. The resolution meeting was held and was not successful and the Parties agreed to attempt mediation to resolve the issues. The first Due Process Hearing date was scheduled for December 12, 2012.

On November 14, 2012 the Parties requested a thirty day extension to allow for mediation and to postpone the December 12, 2012 Due Process Hearing date. The request was granted, with the date for the final decision and order extended to January 28, 2013. Mediation was held on December 12, 2012, with the Due Process Hearing being postponed until January 9, 2013.

On December 27, 2012 counsel for the Board indicated via email that mediation had been successful and that an "agreement in principle" had been reached, a request to postpone the January 9, 2013 Due Process Hearing until January 11, 2013 was also requested. The request was granted.

On January 10, 2013 the Parent requested to postpone the Due Process Hearing as no formal agreement had been reached, the Hearing Officer was also notified by the reporting agency that illness was making it difficult to provide staff for that date and a continuance was requested. The hearing date was postponed until January 17, 2013 to accommodate the Parties.

On January 16, 2013, at 12:53pm, the Parent requested via email to "cancel the hearing tomorrow with prejudice". Shortly thereafter Counsel for the Board attempted to clarify that the Parties had a formalized agreement and that they believed the Parent wanted to "withdraw the complaint with prejudice" and requested if the hearing date would be held. Given the short amount of time that notice was provided and the somewhat confusing message by the Parent, the Hearing Officer notified the Parties that the hearing would continue as scheduled in less than 24 hours.

On January 17, 2013 the Hearing was opened and the Parent stated on the record that the Parties had reached an agreement and that the Parent requested to withdraw the complaint with prejudice. The Board had no objection to the request to withdraw. The matter was then dismissed with prejudice and the Hearing was closed.

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 Procedures Act (U.A.P.A.), C.G.S. §§4-176e to 4-178, inclusive. §§4-181a and 4-186.

Final Decision and Order:

It is therefore ordered that:

Pursuant to the request by the Parent to withdraw their request for a Due Process hearing, and with no further issues pending, this matter is dismissed *with prejudice*.