

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Board of Education v. Student

Appearing on behalf of the Parent:

Parent and Grandparent, *pro se*

Appearing on behalf of the Board:

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

Appearing before:

Mary H.B. Gelfman, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

The Board had initiated the hearing because it had denied Mother's request for an independent Speech/Language evaluation. The Board's issues are as follows:

1. Was the April 2009 Speech/Language evaluation of the Student performed by Board staff appropriate?
2. If not, is the Mother entitled to an independent Speech/Language evaluation at Board expense?

The Mother's issue is as follows:

3. Was Student properly exited from special education services for 2010-2011?

PROCEDURAL HISTORY:

This hearing was requested by the Board on September 22, 2010. The Hearing Officer was appointed on September 23, 2010. The date for mailing the decision was December 6, 2010.

A pre-hearing conference was held on October 6, 2010. The hearing was scheduled for November 2 and 12, 2010. The Board notified the Hearing Officer on October 19 that the Parties had agreed to request mediation, which was scheduled for November 12, 2010. The Parties requested an extension of the decision date to accommodate settlement negotiations, and the Hearing Officer granted that request and extended the decision date from December 6, 2010, to January 5, 2011. The Hearing Officer cancelled the November hearing dates and told the Parties she would hold another pre-hearing conference if mediation was not successful.

Mediation was not successful and another pre-hearing conference was held on November 29, 2010. At that time, the hearing was scheduled for December 23, 2010 and January 24 and 27, 2011, and the Parties requested an extension of the decision date to accommodate the additional hearing dates. The Hearing Officer granted that request and extended the decision date from January 5 to February 4, 2011.

On December 22, 2010, the Parent contacted the Hearing Officer, reporting that she was ill and would not be able to appear on December 23, 2010. The Hearing Officer cancelled the December 23 hearing date.

When the hearing convened on January 24, 2011 the Board noted for the record that the Parent had submitted no exhibits and no witness list. The Board presented its case concerning the refusal to fund an independent evaluation. As summarized in an Interim Order dated January 25, 2011, the Parents acknowledged that they had secured an independent evaluation at the SCSU Communication Clinic. The Board's Director of Special Education had not seen the report of this evaluation. After discussion, the Parent agreed to bring the evaluation report to the Board's Director of Special Education and the Parties agreed to hold a Planning and Placement Team meeting to discuss this evaluation. The Board withdrew its request for a hearing after the Parent agreed to withdraw the request for an independent evaluation.

The Hearing Officer postponed the scheduled January 27, 2011, hearing session. A hearing session was scheduled for March 2, 2011, to address the Parent's issue concerning the Board's finding that the Student was no longer in need of special education.

On March 1, 2011, the Hearing Officer received a Motion to Dismiss from the Board and a telephone message from the Parent that her other child was sick and she would be unable to attend the hearing on March 2, 2011. The Hearing Officer postponed the March 2, 2011, hearing session and suggested dates of March 7, 14, 15, 16 or 17. She also requested the Parties to request an extension of the decision date of March 6, 2011.

The Parties were unable to agree on a date to resume the hearing and no request for an extension of the decision date was received.

SUMMARY:

(See Interim Order of January 25, 2011)

In order to comply with the confidentiality requirements of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g and related regulations at 34 C.F.R. § 99, the following decision uses "Student", "School", "Parent" and titles of school staff members and other witnesses in place of names and other personally identifiable information.

CONCLUSIONS OF LAW:

Section 10-76h, Connecticut General Statutes (C.G.S.), and related regulations at Section 10-76h, Regulations of Connecticut State Agencies, authorize an impartial hearing officer to conduct a special education hearing and to render a final decision in accordance with Sections 4-176e through 4-180a, inclusive, and Sections 4-181a of the C.G.S. Section 20 U.S.C. § 1415(f) and related regulations at 34 C.F.R. § 300.511 through § 300.520 also authorize special education hearings.

Pursuant to Section 10-76h-9, the Hearing Officer may grant extensions of the decision date upon request of a Party to a hearing. Having received no such request for an extension beyond March 6, 2011, this case must be dismissed without prejudice.

FINAL DECISION AND ORDER:

Neither Party having requested an extension of the decision date of March 6, 2011, this matter is DISMISSED without prejudice.