

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

[Student] v. Southington Board of Education

Appearing on behalf of the Parent: Attorney David C. Shaw
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179 Allyn Street – Suite 407
Hartford, CT 06103

Appearing on behalf of the Board: Attorney Lawrence J. Campana
Sullivan, Schoen, Campana
& Connon, LLC
646 Prospect Avenue
Hartford, CT 06105-4286

Appearing Before: Attorney Margaret J. Slez, Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Has the Board failed to implement the IEP developed at IEP meetings on September 21, October 12, and November 15, 2001?

PROCEDURAL HISTORY:

The parents requested a due process hearing by letter dated December 6, 2001 (H.O.-1), and the hearing officer was appointed December 7, 2001. The prehearing conference took place on December 11, 2001, at which time the parents requested that the hearing officer issue an interim order directing the Board to implement the IEP dated October 17, 2001, (Exhibit B-6), including but not limited to recommendations and services agreed to by the parties in discussion and amendments to the IEP on October 12, 2001, and November 15, 2001. The Board had no objection to the request for interim order and the request for interim order was granted on December 11, 2001. (H.O.-2)

The original date for mailing of the final decision and order was January 22, 2002, which was also scheduled as the date for hearing of this matter. On December 13, 2002, the parents' attorney gave notice that he was not available on January 22, 2002. The hearing officer agreed to set January 29, 2002, as the date for hearing this matter. All parties were present and prepared to go forward on January 29, 2002.

As opening argument, the Board's attorney questioned the purpose of the hearing in light of agreement by the parties that the subject IEP was appropriate and a proposal from Luddy & Associates (Exhibit B-70), received the morning of the hearing, had been reviewed and accepted for implementation by the Board. In response, the parents' attorney stated that the Luddy & Associates proposal is acceptable to the parents and that although the October 17, 2001, IEP had been accepted by the parents, a new IEP has to be developed with the Luddy & Associates consultant. The parents' attorney stated that the parents are here asking that the hearing officer order the Board to implement the agreed-upon IEP, award \$100,000.00 in money damages for the Board's failure to implement the IEP dated October 17, 2001, and order the Board to provide legible, comprehensive IEP meeting minutes.

Pursuant to Conn. Gen. Sta. Section 10-76h(a), the hearing officer has the authority "to confirm, modify, or reject the identification, evaluation or educational placement of or the provision of a free appropriate public education to the child . . . , to determine the appropriateness of an educational placement where the parent . . . has placed the child . . . in a program other than that prescribed by the planning and placement team, or to prescribe alternate special education programs for the child or pupil."

First, the hearing officer is unaware of any statute or regulation which requires that the parents receive minutes of an IEP meeting. Second, notwithstanding the fact that no testimony was taken from which it could be determined whether or not the Board failed to implement the IEP as the parents claim, the hearing officer is without authority to grant or deny a request for relief in the form of money damages. Third, if the IEP developed by the PPT in conjunction with the Luddy & Associates consultant is deemed by the parents to be inappropriate, a request for due process hearing may be filed at that time. Because the parties have agreed to the appropriateness of the IEP dated October 17, 2001, as evidenced by the parents' request for an interim order of implementation of that IEP, and because the parties have agreed to the Luddy & Associates proposal dated January 28, 2002, it is the opinion of the hearing officer that there are no matters in dispute over which the hearing officer has authority to decide at this time.

FINAL DECISION AND ORDER:

This matter is **dismissed** without prejudice.