

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Enfield Board of Education v. Student

Appearing on behalf of the Board: Attorney Christine Chinni
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Hartford, CT 06103-2819

Appearing on behalf of the Parents: The Parents proceeded *pro se*.

Appearing before: Attorney Mary Elizabeth Oppenheim
Hearing Officer

FINAL DECISION AND ORDER

ISSUE:

1. Whether the Board is entitled to conduct a speech and language evaluation of the Student.

PROCEDURAL HISTORY:

This hearing was assigned on February 14, 2003. A prehearing conference was held on February 20, and the hearing convened on March 3.

The Board's witnesses were Donna Gittleman, Pupil Services Director and Laurie Seigel, Board Department Chair and speech pathologist. The Parents' witness was the Mother.

To the extent that the procedural history, summary and findings of fact actually represent conclusions of law, they should be so considered, and vice versa. Bonnie Ann F. v. Callallen Independent School Board, 835 F. Supp. 340 (S.D. Tex. 1993)

SUMMARY:

The Board offered to conduct its own speech and language evaluation after the Parents raised concerns that the Student needed such an evaluation. The Parents provided the Board with a speech and language evaluation conducted by their evaluator, which the Board indicated was not appropriately comprehensive and reliable. The Parents refused to consent to the Board conducting its own speech and language evaluation of the Student.

FINDINGS OF FACT:

1. The Student is 14 years old, and currently in ninth grade, enrolled in the AgriScience program at Suffield High School. [Exhibit B-21].
2. On November 15, 2002, the Parents provided the Board with a copy of a speech and language evaluation of the Student completed by Susan M. Stone for the Parents. [Exhibit B-14]
3. Prior to the Board receiving a copy of the Parents' speech and language evaluation, the Parents never requested that a speech and language evaluation be completed by the Board. [Testimony Ms. Gittleman]
4. In reviewing the evaluation completed by Ms. Stone, the Board Director and Board speech pathologist were concerned with several aspects of the testing, including: (1) that the qualifications of the evaluator were unknown, (2) that only one test was given, (3) that no classroom observations were completed, (4) that no discussions/communications with classroom teachers were noted in the report, (5) that the some of the subtests were incorrectly scored, (6) that inappropriate discussion was set forth in the summary apparently analyzing/interpreting WISC-III scores which is not appropriate for a speech and language evaluation, (7) that the recommendations included recommendations on pragmatics and social skills which were not assessed, and (8) that the recommendations included a recommendation of a speech and language "tutor," incorrect terminology for a speech and language pathologist. [Testimony Ms. Gittleman, Ms. Seigel, Exhibit B-14]
5. Due to the concerns raised by the Parents, the Board offered to complete a speech and language evaluation of the Student. The Parents refused to consent to the evaluation and, at the Planning and Placement Team Meeting held on December 19, 2002, the Mother walked out of the PPT meeting when the Board offered to complete the evaluation. [Testimony Ms. Gittleman, Exhibit B-21]

CONCLUSIONS OF LAW:

1. The Board is seeking a speech and language evaluation of the Student to determine eligibility and to develop an appropriate program for the Student if necessary. In conducting its evaluation, the Board shall ensure that a complete evaluation study is conducted. Conn. Agencies Regs. Sec. 10-76h-9(a) The evaluation study shall include reports concerning the child's educational progress, structured observation and such psychological, medical, developmental and social evaluations as may be appropriate in determining the nature and scope of the child's exceptionality. Conn. Agencies Regs. Sec. 10-76-9(a)

2. It is the obligation of the PPT to review existing assessment data regarding a child and to determine whether additional information is necessary in order to program for the child. Initially the PPT reviews existing evaluation data and identifies:

what additional data, if any, are needed to determine –

- (i) Whether the child has a particular category of disability, as described in Sec. 300.7, or, in the case of a reevaluation of a child, whether the child continues to have such a disability;
- (ii) The present levels of performance and educational needs of the child;
- (iii) Whether the child needs special education and related services, or, in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
- (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.

34 C.F.R. Sec. 300.533(a)

3. In this case, in response to the Parents' concerns, the Board proposed that it complete a speech and language evaluation of the Student. In reviewing the evaluation completed by Ms. Stone, the Board reasonably concluded that the evaluation was incomplete and not appropriate. Additional assessment information is needed to make the determination on whether the Student may be eligible for special education and related services.
4. The Parents have refused to consent to the speech and language evaluation. The Board is entitled to the requested evaluation in order to fulfill the need to have current assessment data to ascertain the child's disability and level of functioning pursuant to 34 C.F.R. Section 300.533(a)(2)
5. In the absence of parental consent for evaluations, hearing officers may order special education evaluations without the consent of the parent. Conn. General Statutes Sec. 10-76h(d)(1) The federal regulations specifically indicate that when the parents of a child with a disability refuse consent for initial evaluation or a reevaluation, the Board may continue to pursue the evaluations through the due process procedures. 34 C.F.R. Sec. 300.505(b) The Board has appropriately brought such a request, and the evidence supports that the speech and language evaluation is necessary so that the evaluation of the Student is sufficiently comprehensive to identify all of the child's special education and related services needs. 34 C.F. R. Sec. 300.532(h) The speech and language evaluation shall be completed.

FINAL DECISION AND ORDER:

1. The Board shall be permitted to conduct a speech and language evaluation of the Student by the Board's speech and language pathologist.