

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Regional School District No. 12 v. Student

Appearing on Behalf of the Parent: Parent, Pro Se

Appearing on Behalf of the Board: F. Joseph Boyle
Director of Pupil Personnel Services
Regional School District No. 12
11A School Street, P.O. Box 386
Washington Depot, CT 06794

Appearing Before: Attorney Gail K. Mangs, Hearing Officer

FINAL DECISION AND ORDER

ISSUE:

Are the Parents entitled to an independent speech and language evaluation of the Student?

SUMMARY/PROCEDURAL HISTORY:

The Student is fifteen years old and in the tenth grade at the school district high school. The Student has not been identified as eligible to receive special education and related services. The hearing was requested by the school district on October 30, 2003 after the Parents' request for an independent speech and language evaluation was denied at a PPT convened on October 23, 2003. A prehearing conference notice setting a conference date for November 4, 2003 was sent to both parties; the school district responded but the Parents did not. A second prehearing conference notice was sent resetting the conference date for November 12, 2003. The prehearing conference convened on November 12, 2003; the school district representative was present by telephone; the Parents could not be reached. A hearing date was set for December 4, 2003. A hearing notice and letter was sent to the Parents indicating that the prehearing conference had been held and a hearing date set; they did not respond to the letter or hearing notice. The hearing convened on December 4, 2003. The Parents did not attend the hearing. Prior to convening the hearing, calls were made to the Parents' home, place of employment, and cellphone. Messages were left but no response was received. A busy signal was received at the Parents' home; the appropriate number was left for an automatic callback

when the phone was no longer busy but a callback did not occur. At the close of the hearing, the hearing officer stated that the hearing would be left open for one week to allow the Parents to submit documentation; a letter was sent to the Parents indicating this plan. On Monday, December 8, 2003, the Student's Mother left a message on the Hearing Officer's answering machine stating that she had received the letter; she also stated that she had obtained an independent speech and language evaluation and wished to be reimbursed for the cost. The Hearing Officer left a telephone message for the Parents requesting that this be put in writing and received by the close of the business on December 11, 2003. Such documentation from the Parents was not received as of 5:00 p.m. on that date. The school district presented two witnesses: Abbie K. McGough, school district speech and language pathologist, and F. Joseph Boyle, school district Director of Pupil Personnel Services.

FINDINGS OF FACT:

1. The Student, whose date of birth is June 23, 1988, is currently in the tenth grade at the school district's high school. She has not been identified as a student eligible to receive special education and related services. (Exhibit B-1, Testimony of Mr. Boyle)
2. A PPT was convened on May 19, 2003. Low test scores and difficulty with writing were noted. The PPT recommended a psychoeducational evaluation; the Parents consented to the evaluation. (Exhibits B-3, B-4, B-5)
3. A psychoeducational evaluation was conducted by a licensed psychologist during July and August of 2003. He concluded that the Student's general intellectual ability was in the average range although the verbal-oral language profile, working memory and broad attention fell within the low average range. The psychologist recommended a speech and language evaluation, special services for academic work and oral expression deficits and extra time for examinations. The psychologist also recommended that the Student not be penalized for lack of class participation due to the Student's oral expression disorder. (Exhibit B-6)
4. The psychoeducational evaluation was reviewed by the PPT on October 23, 2003. The PPT determined that the Student did not meet the criteria as a student with a disability. They recommended a speech and language evaluation by a school district speech and language pathologist and continuing tutorial services on alternate days. The Parents' request for an independent speech and language evaluation was denied. The Parents did not consent to the school district's proposed speech and language evaluation. (Exhibit B-7, B-8, Testimony of Ms. McGough, Mr. Boyle)
5. The school district's proposed speech and language pathologist is a licensed speech and language pathologist and a certified professional educator (as a speech and language pathologist). When she performs speech and language evaluations, she includes classroom observations and speaks with all members of a student's team. This allows the evaluation to be carried out within the student's natural setting. (Exhibits B-9, B-10, B-11, Testimony of Ms. McGough, Mr. Boyle)

6. The Student received passing grades for the first quarter of the 2003-2004 school year. (Exhibit B-1)

CONCLUSIONS OF LAW:

1. Under 34 C.F.R. Section 300.502, parents of a child with a disability have the right to obtain an independent educational evaluation of their child, at public expense, if the parent disagrees with an evaluation performed by the public agency. For the reasons stated below, the Parents are not entitled to an independent evaluation at public expense.
2. First, the Parents have not stated any disagreement with the psychoeducational evaluation, which is the only evaluation the school district has performed.
3. Second, the Parents have not shown that the evaluation that was performed, or the speech and language evaluation proposed by the school district, is or would be deficient with regard to any of the requirements for evaluations as set forth in 34 C.F.R. Section 300.532 and 300.533.
4. Third, the Student is not a child with a disability. Parents did not raise identification as an issue.
5. Finally, the Parents did not appear at the hearing. A telephone message can not be accepted as testimony or evidence and, in any case, the message was unsupported by any accompanying documentation.
6. The school district bears the burden of proving that their evaluation (here, the proposed evaluation) is appropriate. The school district has done so.

FINAL DECISION AND ORDER:

The Parents are not entitled to an independent speech and language evaluation of the Student.