

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Westport Board of Education

Appearing for the Student: Attorney Alyce L. Alfano
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Appearing for the Board: Attorney Marsha Moses
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Appearing Before: Scott Myers, J.D., M.A. (Clinical Psychology), Hearing Officer

FINAL DECISION AND ORDER

This matter was commenced by request for due process dated January 13, 2009, directed to the Board's Special Education Director. The undersigned was appointed as Hearing Officer on January 23, 2009. Assuming that the Board received the request for due process on January 14, 2009, absent modification by the Hearing Officer the date for mailing of the Final Decision and Order would have been March 30, 2009. The request for due process indicates that the Student was an 8 year old 3rd grader at the time the request was filed, that she has been diagnosed with Turner Syndrome and Specific Learning Disability, and that the Parents are challenging the District's refusal at an IEP team meeting held on September 18, 2008 to fund a placement of the Student at Eagle Hill School in Southport for the 2008/2009 school year. The Board did not file an answer or a sufficiency challenge, and it does not appear from the materials submitted in this matter that a resolution meeting was convened.

By notice dated February 6, 2009, a telephonic pre-hearing conference ("PHC") was scheduled for February 24, 2009. Each party participated in the PHC through counsel. Both parties indicated an interest in attempting to resolve their dispute by settlement. Accordingly, by agreement of the parties and as reflected in a scheduling order issued on February 25, 2009, the date for mailing of the Final Decision and Order was extended through and including May 15, 2009 and a second PHC was scheduled for April 10, 2009. Hearing dates were set for April 27, 2009 and May 5, 2009 and a schedule for the exchange of witness lists and records was established. As reflected in the February 25,

2009 scheduling order and subsequent e-mails exchanged with the Hearing Officer, the issues set for hearing were framed as follows:

1. Did the Board offer the Student an IEP for the 2008/2009 school year which provided the Student with a free appropriate education (“FAPE”) in the least restrictive environment (“LRE”)?
2. If not, does the Student’s program at Eagle Hill School for the 2008/2009 school year provide the Student with a FAPE in the LRE?
3. If so, is the Board responsible for payment of the Student’s placement at Eagle Hill School for the 2008/2009 school year?

On April 6, 2009, counsel for the parties advised that they had reached an agreement resolving this dispute to be reflected and finalized in a written settlement agreement, which counsel for the Board advised would take approximately 3 weeks to complete. The parties requested that the dates set forth in the February 25, 2009 scheduling order be suspended. By e-mail dated April 7, 2009, the Hearing Officer granted that request and directed that unless the matter was reported settled and withdrawn on or by May 6, 2009, another PHC would be convened to reset the procedural schedule for a hearing.

On May 5, 2009, counsel for the Parents reported that this matter had been resolved by settlement but that the written settlement agreement had not yet been executed. In light of that report, the May 6, 2009 PHC was cancelled. On June 2, 2009, counsel for the Parents reported that a final written settlement had been executed and that this matter was being withdrawn with prejudice.

Accordingly, by this Final Decision and Order the date for the mailing of the Final Decision and Order is extended to and including June 4, 2009, and this matter is hereby DISMISSED.