

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. Hamden Board of Education

Appearing on Behalf of the Parents: Pro Se

Appearing on Behalf of the Board: Attorney Marsha B. Moses  
Berchem, Moses & Devlin, P.C.  
75 Broad Street  
Milford, Ct 06460

Appearing Before: Attorney Justino Rosado, Hearing Officer

**FINAL DECISION AND ORDER**

**SUMMARY and PROCEDURAL HISTORY:**

The Student is 18 years and 11 months old, has been identified as Learning Disabled and is entitled to receive a free and appropriate public education ("FAPE") as defined in the Individuals with Disabilities Education Act (IDEA) 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a. The Parents filed for due process after the Board rejected their position that the Student was not ready to exit special education and that the testing relied upon to make that decision was over a year old.

On or about June 10, 2009, the Board received notice of the Parents' request for due process. A resolution meeting was held on or about June 24, 2009. An impartial hearing officer was appointed on June 17, 2009 and a pre-hearing conference was held on June 25, 2009. At the prehearing conference the Parents informed the hearing officer that the matter seemed resolved at the resolution meeting. However, in a letter from the Parents, the hearing officer was informed that there were still issues that needed to be resolved and the matter should go forward if what had been decided at the resolution meeting did not occur. The parties did not contact the hearing officer as to the status of the matter and the hearing officer sent the parties notice of a September 24, 2009 hearing date. On September 16, 2009 the Board requested that the date be cancelled due to another commitment. On or about September 22, 2009 the Board filed a Motion to Dismiss alleging that 1) the Parents have failed to state a claim over which the hearing officer has jurisdiction and/or upon which relief might be granted, 2) had failed to prosecute their complaint and 3) the Student is over the age of 18 and parental right had transferred to him.

On or about October 1, 2009, a letter was e-mailed to the Parents advising them of the Board's motion and the Parents' need to respond. The Parents did not respond to the Motion to Dismiss and on October 23, 2009 a letter was sent to the Parents giving them until November 2, 2009 to respond to the Board's motion or the matter would be dismissed. On October 30, 2009, the Parents advised the hearing officer that they were looking for an attorney to represent them. On November 2, 2009, the Parents responded to the Board's Motion to dismiss, 26 business days after the Board had filed their motion and 20 business days after the hearing officer had first inquired about any objection to the Motion to Dismiss.

20 U.S.C. § 1415(m) (1)(B) states that all rights accorded to the parents transfer to the student when he reaches the age of majority. The Student in this matter reached the age of majority on November 23, 2008. Neither the Parents nor the Student have provided the hearing officer with an affidavit or a letter signed by the Student authorizing the Parents to proceed in the due process matter as his representative, nor did the Student sign the request for due process. The Parents have not provided the hearing officer with a letter from any court making them conservators of the Student. Without a letter authorizing the Parents to proceed in this matter; the Parents lack standing to prosecute the matter.

At the request of the parties, in order to accommodate the filing of a final order and decision after the filing of the Motion and response, the date for the filing of the Final Decision and Order was extended. The date for the Final Decision and Order is November 13, 2009.

**FINAL DECISION AND ORDER:**

**THE PARENTS LACK STANDING TO PROSECUTE THE MATTER.  
THE MATTER IS DISMISSED.**