

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Weston Board of Education¹

Appearing for the Student: Pamela Pollak, Esq.
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Southport, CT 06890

Appearing for the Parents: Pamela Pollak, Esq.
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Appearing for the Board: Andreana R. Bellach, Esq.
Julie C. Fay, Esq.
Shipman & Goodwin LLP
300 Atlantic Street
Stamford, Connecticut 06901-3522

Appearing Before: Scott Myers, J.D., M.A. (Clinical Psychology), Hearing Officer

FINAL DECISION AND ORDER

This matter was commenced by a letter entitled “Request for Impartial Special Education Hearing” dated June 19, 2009, supplemented by a filing dated June 22, 2009 (collectively, the “Request”). The undersigned was appointed as Hearing Officer on June 24, 2009. Assuming that the Request was received on June 22, 2009, the date for mailing of the Final Decision and Order would have been September 4, 2009.

The Request states that Attorney Pollak has been retained both by the Student and his parents (the “Parents”), that this due process hearing is being commenced by the Student and the Parents, and that in the 2009/2010 school year the Student turned 18 years of age and was a senior attending the Board’s public high school. The Request states further that the Student and Parents have also commenced, by a filing dated June 17, 2009, a “complaint” proceeding with the Connecticut Department of Education (“CTDOE”) Bureau of Special Education. That filing was not put before this Hearing Officer and counsel for the Board states that neither she nor her client has seen the June 17, 2009 complaint.

The Board on July 6, 2009 filed a motion to dismiss and, in the alternative, a sufficiency challenge.

¹ In prior communications, the Hearing Officer had incorrectly identified the respondent board of education as the Westport Board of Education, when in fact the respondent is the Weston Board of Education.

By agreement of the parties a telephonic pre-hearing conference (“PHC”) was convened on July 10, 2009 at 10:00 a.m. Each party participated through counsel. At the PHC, the parties reported that a resolution meeting had not convened. The Student/Parents claim that the District attempted to convene a resolution meeting after the time limit for doing so and in a manner that did not provide them with sufficient notice. The Board disagrees with those claims. Both parties expressed an interest in resolving their dispute through a CTDOE-facilitated mediation.

At the PHC, Attorney Pollak also represented that the forum in which the Student and Parents were seeking substantive relief was the CTDOE complaint proceeding and that they had commenced this request for due process for the sole purpose of having an expedited hearing to obtain an order in the nature of a temporary restraining order precluding the District from awarding the Student a regular high school diploma at graduation ceremonies scheduled for June 22, 2009, and to trigger the stay put protections of the IDEIA. As noted above this Hearing Officer was not appointed in this matter until June 24, 2009. Attorney Pollak stated that the relief that the Student and Parents sought to obtain through this due process hearing (as described above) had been mooted and that there was no purpose in proceeding with a hearing.

Accordingly, this proceeding is hereby **DISMISSED WITHOUT PREJUDICE**. The Hearing Officer is not herein making any ruling or determination on the merits of any factual or legal claims, theories or arguments stated at the PHC or included in any of the filings and submissions made to the Hearing Officer by either party, including but not limited to the Request and to the Board’s motion to dismiss and sufficiency challenge. This proceeding is being dismissed based solely on Attorney Pollak’s representation at the PHC that the relief her clients were seeking in the due process hearing has been mooted and they will pursue relief through the mediation and/or complaint process.