

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student v. Darien Board of Education and Norwalk Board of Education

Appearing on behalf of the Parent: *Pro Se*

Appearing on behalf of the
Darien Board of Education: Attorney Susan C. Freedman
Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103-1919

Appearing on behalf of the
Norwalk Board of Education: Attorney Marsha Belman Moses
Berchem, Moses & Devlin
75 Broad Street
Milford, CT 06460

Appearing before: Attorney Janis C. Jerman, Hearing Officer

FINAL DECISION AND ORDER

A special education hearing in the above-captioned matter was requested by Student via Request for Impartial Special Education Hearing.¹ It was received by the Due Process Unit of the State Department of Education on November 9, 2009. There was a question by the Darien Board of Education as to whether Student was filing a complaint, request for mediation, or request for due process hearing. Student hand-delivered the Request for Impartial Special Education Hearing to the Darien and Norwalk Boards of Education on November 10, 2009.

The case assigned to this Hearing Officer initially only identified the Darien Board of Education as a party. The 30-day resolution period as to the Darien Board of Education ran through December 10, 2009 and the original deadline for mailing the final decision and order was January 24, 2010. The Norwalk Board of Education was joined as a party by order of this Hearing Officer on December 27, 2009.

A pre-hearing conference was held on January 8. Parent appeared on behalf of Student, Attorney Freedman appeared on behalf of the Darien Board of Education, and Attorney Moses appeared on behalf of the Norwalk Board of Education. The following issues were identified:

1. Did the Darien Board of Education propose an appropriate program for Student for the 2009-10 school year?

¹ All dates are 2010 unless otherwise indicated.

2. Did the Norwalk Board of Education appropriately implement the Student's IEP for the 2009-10 school year?
3. If the answer to either of the above issues one through two is no, what shall be the remedy?

Via letter dated January 8, the Norwalk Board of Education requested a thirty-day extension of the mailing date to permit the parties to engage in mediation in an attempt to resolve the outstanding issues. After full consideration of the positions of the parties, the request was granted and the deadline for mailing the final decision and order was extended to February 23.

The Norwalk Board of Education indicated an intention to file a motion to dismiss on the basis that the Hearing Officer does not have jurisdiction over the question of implementation, if the matter is not resolved in mediation. The Norwalk Board of Education was given until January 26 to file such a motion and was advised that the filing of a motion to dismiss will not be permitted to delay the proceedings. The Norwalk Board of Education did not file a motion to dismiss.

The hearing was scheduled to convene on February 9, 11, and 12, 2010. Via letter dated January 13, the Norwalk Board of Education requested a postponement of the February 9 hearing and an extension of the deadline for mailing the final decision. After full consideration of the positions of the parties, the request was granted, the February 9 hearing was postponed and the deadline for mailing the final decision and order was extended to March 25.

Via letter dated January 20, the Norwalk Board of Education requested that the February 11 and 12 hearing dates also be postponed to permit the parties to focus their attention on the February 9 mediation. After full consideration of the positions of the parties, the request was granted and the February 11 and 12 hearings were also postponed. In the Hearing Officer's January 20 Order granting the postponement, the parties were instructed 1) to notify the Hearing Officer immediately if the entire case or certain issues are resolved; 2) that if the request for hearing is to be withdrawn, the party who requested the hearing must submit a written request for withdrawal; and 3) to notify the Hearing Officer of their availability for hearing on certain dates no later than February 10. The parties did not indicate their availability by the deadline and did not indicate whether some or all of the issues are resolved.

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In light of the above facts, the above-captioned case is hereby dismissed for failure to prosecute.