

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. Stamford Board of Education

Appearing on Behalf of the Parents: Pro Se

Appearing on Behalf of the Board: Attorney Andreana Bellach  
Shipman & Goodwin, LLP  
300 Atlantic Street  
Greenwich, CT 06901

Appearing Before: Attorney Justino Rosado, Hearing Officer

**ISSUES:**

1. Is the Student eligible to receive special education and related services as defined in the Individuals with Disabilities Education Act (IDEA) 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a?

**DECISION ON BOARD'S MOTION TO DISMISS  
AND FINAL DECISION AND ORDER**

**SUMMARY and PROCEDURAL HISTORY:**

The Student has been identified with Multiple Disabilities and has been entitled to receive a free and appropriate public education ("FAPE") as defined in IDEIA 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a. The Parents stated that the Student missed a lot of school days due to illness and early dismissal and requested that the days be made up. The Board refused the Parents' request. On or about August 4, 2010, the Board received notice of the Parents' request for due process. An impartial hearing officer was appointed on August 5, 2010 and a pre-hearing conference was held on August 9, 2010. The Board requested that the matter be dismissed as the Student was over the age of 21 and had graduated from the Board's School. A hearing schedule was set and a Motion to Dismiss was filed by the Board on or about August 11, 2010 and on or about August 25, 2010 an Objection to the Motion to Dismiss was filed by the Parents.

This Final Decision and Order sets forth the Hearing Officer's summary, findings of fact and conclusions of law. The findings of fact and conclusions of law set forth herein, which reference certain exhibits are not meant to exclude other supported evidence. To the extent that the summary, procedural history and findings of fact actually represent conclusions of law, they should be so considered and vice versa. SAS Institute Inc. v. S. & H. Computer Systems, Inc., 605 F.Supp. 816 (M.D.Tenn. 1985) and Bonnie Ann F.v. Callallen Independent School Board, 835 F.Supp. 340 (S.D.Tex. 1993).

The date for the mailing of the Final Decision and Order is September 24, 2010.

**FTNDINGS OF FACTS:**

1. The Student is a student diagnosed with Multiple Disabilities and had been eligible to receive special education and related services as defined in the Individuals with Disabilities Education Improvement Act (IDEIA) 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a. (Board's Exhibit<sup>1</sup> # 4)
2. The Student is over the age of 21 and has graduated and received his diploma from the Board's High School. (B-2 and Parent's Objection to Motion to Dismiss)
3. The Parents has been appointed as the Student's guardian. (Board's Motion to Dismiss p. 1)
4. The Parents allege that the Student missed days of school because he was sick and missed education time because he was brought home early. The Parent did not know what resolution could be given to this issue because the Student had graduated. (Hearing Officer's Exhibit #2)
5. The Student's January 15, 2010 IEP states that the Student would be exited from Special Education upon meeting the graduation requirements. The date noted for exiting was June 24, 2010. (B-4)
6. The Student was graduated and exited from special education and related services on or about June 24, 2010.

**CONCLUSIONS OF LAW:**

1. Pursuant to 34 CFR 300.101(a), a free appropriate public education must be available to all children residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in 34 CFR section 300.530(d) .
2. IDEIA eligibility ends when a student graduates from high school with a regular high school diploma. 34 CFR 300.102 (a)(3)(i). See, e.g., *Letter to Richards*, 17 IDELR 288 (OSERS 1990). The Student in this matter has graduated from the Board's High School with a diploma and is also over 21 years of age. (Findings of Fact # 2) The Student has aged out of IDEIA and has also attained a high school diploma allowing the Board to exit him from the IDEIA.
3. IDEIA is very specific regarding what a hearing officer can decide. 34 CFR § 303.445 (a) Decision of hearing officer. (1)Subject to paragraph (a)(2) of this section, a hearing officer must make a determination, based on substantive grounds, of whether the child was appropriately identified, placed, or evaluated, or whether the infant or toddler with a disability and his or her family were appropriately provided early intervention services under Part C of the Act.  
(2) In matters alleging a procedural violation, a hearing officer may find that a child did not receive appropriate identification, evaluation, placement, or provision of early intervention services for the child and that child's family under Part C of the Act only if the procedural inadequacies—  
(i) Impeded the child's right to identification, evaluation, and placement or provision of early intervention services for the child and that child's family under Part C of the Act;

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<sup>1</sup> Hereafter Board's Exhibit shall be noted as "B" followed by the exhibit number.

(ii) Significantly impeded the parents' opportunity to participate in the decision-making process regarding identification, evaluation, placement or provision of early intervention services for the child and that child's family under Part C of the Act; or

(iii) Caused a deprivation of educational or developmental benefit.

The Parent has not stated any claim for which the hearing officer could grant relief. (Findings of Fact # 4)

**FINAL DECISION AND ORDER:**

**THE MOTION TO DISMISS IS GRANTED FOR FAILURE TO STATE A CLAIM FOR WHICH RELIEF CAN BE GRANTED. CONN. AGENCIES REGS. § 10-76H-18 (A) (5).**

**THE MATTER IS DISMISSED WITH PREJUDICE.**