

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student v. Stratford Board of Education

Appearing on behalf of Student: Attorney Jennifer Laviano
Law Offices of Jennifer Laviano, LLC
76 Route 37 South
Sherman, CT 06784

Appearing on behalf of the Board: Attorney Michelle Laubin
Berchem Moses & Devlin, P.C.
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's Attorney via Letter dated September 3, 2010.¹ It was received by the Board of Education ("BOE") on September 3. The thirty-day resolution period ran through October 3 and the original deadline for mailing the final decision and order was November 17.

A pre-hearing conference was held on September 23. Attorney Laviano appeared on behalf of Student and Attorney Laubin appeared on behalf of BOE. The following issues were identified:

1. Did the Board of Education fail to provide a free appropriate public education for Student for the 2008-09 school year?
2. Did the Board of Education fail to provide a free appropriate public education for Student for the 2009 extended school year?
3. Did the Board of Education fail to provide a free appropriate public education for Student for the 2009-10 school year?
4. Did the Board of Education fail to provide a free appropriate public education for Student for the 2010 extended school year?
5. Did the Board of Education fail to propose a free appropriate public education for Student for the 2010-11 school year?
6. If the answer to any of the issues one through five above is in the negative, is Student's private placement an appropriate placement for Student?

¹ All dates are 2010 unless otherwise indicated.

7. If the answer to issue six above is in the affirmative, should the Board of Education reimburse Student's Parents for costs associated with Student's private placement?

The parties waived a resolution session and participated in mediation on October 6. The parties were given thirteen potential hearing dates but were not mutually available on any of those dates. On October 6, Student's Attorney requested an extension of the mailing date to permit the parties to schedule a mutually available hearing date. After fully considering the positions of the parties, the request was granted and the deadline to mail the final decision order was extended to December 17. A hearing was scheduled for November 23.

On November 11, Student's Attorney indicated in writing that the parties came to an agreement which would be reduced to writing and executed in the next few weeks. Student's Attorney indicated that some details require additional discussion and that they believe that the best course of action is to withdraw the request for due process without prejudice to avoid having to prepare exhibits for hearing. BOE's Attorney indicated that they would like to keep the case open until a final settlement is drafted and signed and the case can be withdrawn with prejudice. Student's Attorney agreed with that procedure.

The November 23 hearing was postponed and Student's Attorney was given until December 10 to either request a withdrawal with prejudice or to request an extension of the mailing date to proceed with the case. The parties were notified that if those terms were not satisfied or another appropriate request made by December 10, the matter would be dismissed for failure to prosecute.

On December 10, Student's Attorney indicated that the parties' attorneys had drafted a settlement agreement but that Student's Parents had not indicated whether they would execute it and that she thought that such execution was imminent. She further indicated that she could either request a few additional days and then withdraw with prejudice or withdraw without prejudice immediately. Student's Attorney did not make a specific request either way.

On December 14, the Hearing Officer requested an update on the status of the case and asked for the parties to indicate whether they would be requesting an extension or whether the case would be withdrawn without prejudice. Student's Attorney responded that the parties were extremely close to resolution and withdrew the request for due process without prejudice.

FINAL DECISION AND ORDER

In light of the above facts, the above-captioned case is hereby dismissed without prejudice.