STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student v. Norwalk Board of Education

Appearing on behalf of Student: Attorney Alyce Alfano
                                                   Klebanoff & Alfano PC
                                                   433 South Main Street, Suite 105
                                                   West Hartford, CT 06110

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

Appearing before: 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 April 5, 2011.[1] It was received by Board of Education's ("BOE's") Attorney on April 6. The thirty-day resolution period ended May 6 and the original deadline to mail the final decision and order was June 20.

A telephonic pre-hearing conference was held on April 18. Attorney Alfano appeared on behalf of Student and Attorney Moses appeared on behalf of BOE. The following issue was identified: Should BOE be required to fund Student's placement at Devereux Glenholme School from November 30, 2010 through the end of the 2010-11 school year and/or for the 2011-12 school year?

Via letter dated April 18, Student's Attorney requested a 60-day extension of the deadline to mail the final decision and order to accommodate mediation on June 1. After fully considering the positions of the parties and consistent with Connecticut State Regulations Section 10-76h-9(a), a 30-day extension of the mailing date was granted and the deadline to mail the final decision and order was extended to July 20.

The parties participated in mediation on June 1. They did not resolve the case in mediation. Student's Parents were not available to participate in a hearing from June 20 through July 11. Via letter dated June 14, Student's Attorney requested a forty-five day extension of the

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[1] All dates are 2011 unless otherwise indicated.

mailing date to accommodate Student's Parents' work commitments. After fully considering the positions of the parties and the above state regulation, a 30-day extension of the mailing date was granted and the deadline to mail the final decision and order was extended until August 19.

The parties were given until June 30 to indicate dates on which the parties were mutually available for hearing. Student's Attorney indicated the need for three hearing dates to put on her case and BOE's Attorney indicated the need for two to three hearing dates. The parties offered one mutually available hearing date: August 4.

Via letter dated July 14, Student's Attorney requested a 45-day postponement of the August 4 hearing date on the bases that a PPT meeting was scheduled for August 1 and might influence the status of the case and that Student's Parents were unavailable on August 4. The request for postponement was treated as a request to postpone the August 4 hearing and to extend the mailing date. After fully considering the positions of the parties and the relevant state regulations, the request for postponement was denied.

Given that Student's Parents did not appear to be prepared to proceed to hearing, that they had been granted multiple extensions of the mailing date, that they had indicated limited availability for hearing, and that they anticipated that the PPT meeting might impact the status of the case, the Hearing Officer determined that proceeding to hearing might be premature.

The Hearing Officer indicated an inclination to dismiss the case without prejudice and allow Student's Parents to re-file the case. Student's Parents appear to anticipate that the August 1 PPT meeting may impact the status of the case if not resolved and at a time when they are available to proceed to hearing. Prior to such dismissal, the Hearing Officer granted the parties an opportunity to show cause why such dismissal should not be issued. The parties made no written statement showing cause why the case should not be dismissed without prejudice.

FINAL DECISION AND ORDER

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