STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student v. Fairfield Board of Education

Appearing on behalf of the Parent:	Attorney Jennifer Laviano The 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 on behalf of the Department Of Developmental Services	Attorney Ralph E. Urban Assistant Attorney General 55 Elm Street, P.O. Box 120 Hartford, CT 06141-0120
Appearing before:	Robert L. Skelley, Esq. Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

Pre-hearing Issues:

1. Are all of the proper Parties presented in this complaint? Are there Parties (i.e. DSS; DDS) that can/may be required to be impleaded as necessary Parties?
2. Consent to represent the Student for the Parents and/or Counsel.

Issues for Hearing:

1. What is the proper pendency placement for the Student during the course of this complaint and who is responsible for the payment of that placement?
2. Did the Fairfield Board of Education ("Board") fail to provide the Student with a free and appropriate public education ("FAPE") as of June 26, 2014, inclusive of the extended school year for the summer of 2014?
3. What would be the appropriate program and placement for this Student (residential vs. day program)?
4. Does the Student require an extended school year program?

PROCEDURAL HISTORY:

The Parents filed this complaint on July 1, 2014. A prehearing conference was held on July 3, 2014 from which the issues listed above were identified for hearing. A preliminary hearing was held to resolve the issue of joinder of additional parties. The Fairfield Board of Education ("Board") filed a Motion to Join the Department of Children and Families ("DCF") and the Department of Developmental Services ("DDS") as necessary parties in this matter. Both Agencies subsequently objected to being brought into the matter; the Parents took no position. A hearing regarding the Motion for Joinder was held on July 29, 2014, the results of which dismissed DCF as a necessary party and joined DDS as a necessary party. (Hearing Officer Decision on the Motion for Joinder dated October 4, 2014) DDS filed a Motion to Reconsider, citing primarily that the Hearing Officer did not have authority to join DDS as a Party and as such, should reconsider the order. The Motion to Reconsider was not formally acted upon as the Parties reached agreement prior to the hearing set for that Motion on September 26, 2014. The Parties requested an extension of the hearing date to allow DDS to obtain and review the documents relative to this matter. The hearing date was extended to July 29, 2014. After the hearing for joinder, a further hearing date was set for September 22, 2014. The Parties requested an extension of the hearing date and the final decision and order date. The hearing date was rescheduled to September 26, 2014, and the final decision and order date was extended to October 15, 2014. On September 25, 2014, at approximately 7:00 PM, the hearing officer was notified by Counsel for the Parents that an agreement had been reached by the Parties. Given the short notice of the agreement, the hearing date set for September 26, 2014 was held to allow the Parties to both put the acceptance of an agreement on the record, and to allow any dissenting Parties the opportunity to voice an objection. The hearing was held on September 26, 2014. The signatory parties voiced their acceptance of the agreement (Parent's Counsel did so through communication with the Hearing Officer and confirmation by Counsel for the Board); Counsel for DDS stated for the record that while not a signatory on the Agreement, they were accepting the principle and resolutions in the Agreement; they also reiterated their objection to being made a party to the matter.

FINAL DECISION AND ORDER:

The Parents, through counsel, have requested that this matter be withdrawn with prejudice. All Motions filed that were not heard or decided, are denied. With no further issues to be decided, this matter is DISMISSED with prejudice.

If the local or regional board of education or the unified school district responsible for providing special education for the student requiring special education does not take action on the findings or prescription of the hearing officer within fifteen days after receipt thereof, the State Board of Education shall take appropriate action to enforce the findings or prescription of the hearing officer.

Appeals from the hearing decision of the hearing officer may be made to state or federal court by either party in accordance with the provisions of Section 4-183, Connecticut General Statutes, and Title 20, United States Code 1415(i)(2)(A).

Robert L. Skelley

Hearing Officer Signature

Robert L. Skelley, Esq.

Hearing Officer Name in Print