

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Hartford Board of Education

Appearing on behalf of the Parent: Biological Mother, *pro se*

Appearing on behalf of the Board: Julia Wilde, Esq.
Office of Corporation Counsel
City of Hartford

Appearing before: Sylvia Ho, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES

Should the Hearing Request be dismissed because the Biological Mother who filed the Hearing Request does not have legal rights as a Parent under the IDEA?

PROCEDURAL HISTORY:

The Biological Mother filed a Request for Due Process Hearing on March 11, 2017. The Hearing Officer was appointed on March 22, 2017 and scheduled a Prehearing Conference for March 28, 2017. The Board filed a Motion to Dismiss with Memorandum of Law before the Prehearing Conference. During the Prehearing Conference, the Board asserted that the Student who is the subject of this Hearing Request had been adopted and that the person who filed the Hearing Request was the Biological Mother whose parental rights had been terminated. The Board argued that the Biological Mother did not have the legal right to bring the Hearing Request and that the Hearing Request should be dismissed. The Biological Mother disagreed and stated that she had full parental rights.

The Hearing Officer held an evidentiary hearing on April 21, 2017 to determine whether the Biological Mother was a “parent” with rights to bring a Due Process Complaint under the Individuals with Disabilities Education Act (“IDEA”). The Hearing Request was entered into evidence as Exhibit HO-1. Board Exhibits B-1 to B-3 were also entered as full exhibits. The Board presented Karen Annis, an adoption worker from UConn Health Center, as a witness. The Biological Mother was present and presented her position that she had a legal right to bring the Hearing Request.

The findings of fact and conclusions of law set forth herein, which reference certain exhibits and offers of proof, are not meant to exclude other supported evidence admitted into the record. All evidence presented was considered in deciding this matter. All motions and objections not previously ruled upon, if any, are hereby overruled. To the extent a procedural claim raised by the

Parent is not specifically addressed herein, the Hearing Officer has concluded that the claim lacked merit.

To the extent that any portion of this Final Decision and Order states a Finding of Fact or a Conclusion of Law, the statement should be so considered without regard to the given label of the section of this Final Decision and Order in which that statement is found. See, e.g., *SAS Institute, Inc. v. S. & H. Computer Systems, Inc.*, 605 F. Supp. 816 (M.D. Tenn. 1985); *Bonnie Ann F. v. Callalen Independent School Board*, 835 F.Supp. 340 (S.D. Tex. 1993).

SUMMARY:

The Biological Mother brought a Due Process Complaint/Hearing Request. The Board moved to dismiss asserting that the Biological Mother did not have legal standing to bring the Due Process Complaint/Hearing Request. The Biological Mother disputed the Board's assertion. The Hearing Officer heard evidence to determine whether the Biological Mother is a "parent" entitled to bring a Due Process Complaint within the definition of the IDEA.

STATEMENT OF JURISDICTION:

This matter was heard as a contested case pursuant to Connecticut General Statutes (C.G.S.) §10-76h and related regulations, 20 United States Code §1415(f) and related regulations, and in accordance with the Uniform Administrative Procedure Act (U.A.P.A.), C.G.S. §§4-176e to 4-178, inclusive, §§4-181a and 4-186.

FINDINGS OF FACT:

After an evidentiary hearing, I find as follows:

1. The Student was born on November 23, 1999. The Student and her brother lived with the Biological Mother in Windsor and later lived in Hartford. The biological father did not live with the Student, brother and Biological Mother. During the time they lived in Hartford, the Biological Mother and Student and her brother were under the supervision by Department of Children and Family ("DCF") social workers. (Exhibit B-1, Testimony, Mother)
2. In April of 2014, the Superior Court, Child Protection Session for the Judicial District of Middlesex held a hearing on the petition of DCF to terminate the biological parents' parental rights. At the evidentiary hearing on April 21, 2017, the Biological Mother confirmed that she attended a hearing with DCF concerning her children and that the hearing lasted several days and was told after the hearing that her "part was disposed of".
3. Exhibit B-1 is a copy of an Order, Termination of Parental Rights and Appointment of Statutory Parent/Guardian certified by the Clerk of the Superior Court on April 30, 2014. The court order identifies the name of the petitioner as "DCF" and identifies the name of the Mother as the Biological Mother. The Order states that "[t]he court finds clear and convincing evidence that the termination of parental rights is in the best interest of the child or youth [and] it is therefore ordered that parental rights of the mother...named above in the child or youth are terminated in

accordance with the Connecticut General Statutes. The statutory parent for the child or youth shall be the Commissioner of Children and Families.”

4. Karen Annis, an adoption worker from UConn Health Center testified that she is familiar with the adoption process involving DCF and is contacted by adoptive parents to testify about the adoption process. The adoptive parents of the Student contacted her to testify at this hearing.
5. Exhibit B-2 is a copy of the certification of an Adoption Decree dated November 21, 2014. The docket number of the Adoption Decree is the same as the docket number on Exhibit B-1 and concerns the same child. The Adoption Decree was issued by the Superior Court Juvenile Matters in Hartford and identifies DCF as the petitioner and two adopting parents. The decree states that the minor child, identified as the Student, is free for adoption, approved an Adoption Agreement between DCF and adopting parents, and ordered the Student’s last name to be changed to the same last name as the adopting parents. (Testimony, K. Annis; Exhibit B-1 & B-2)
6. The Adoption Decree further states that “[f]or the biological parent of the adopted person, it means that... [t]he biological parent or parents of the adopted person will not be considered a parent or parents of the adopted person. The biological parent or parents do not have any parental rights and responsibilities for the adopted person except for some specific purposes.” (Exhibit B-2)
7. Exhibit B-3 is a birth certificate issued by the Department of Public Health on April 17, 2015. Ms. Annis testified that the Department of Public Health issues a new birth certificate for an adopted child and identifies the adoptive parents as the parent after an adoption has been decreed so that the adoptive parents are treated as though they are the biological parents with full parental rights. (Testimony, K. Annis)

CONCLUSIONS OF LAW AND DISCUSSION:

1. This administrative hearing was commenced pursuant to the IDEA and applicable Connecticut special education law. Pursuant to the IDEA, a local educational agency ("LEA") is responsible for providing disabled children within its jurisdiction with a free and appropriate public education program ("FAPE") in the least restrictive environment ("LRE"). See 20 U.S.C. §§ 1412(a)(1); 1412(a)(5)(A). When there is a disagreement between the parents of such a child and the LEA over whether the LEA has satisfied its obligations under the IDEA, the parents may commence a special education due process hearing and thereafter seek review of the hearing officer's decision by a court if they are aggrieved by that decision.
2. IDEA regulations at 34 C.F.R. 300.30, defines a “parent” entitled to bring a hearing request as a biological parent of a child unless the biological parent “does not have legal authority to make educational decisions for the child.” 34 CFR §300.30 (b)(1) and (2). The Biological Mother’s parental rights were terminated in 2014 and hence, she is not a parent entitled to bring the present Due Process Complaint /Hearing Request pursuant to the IDEA. See Findings of Fact No. 2 and 3.

Final Decision and Order

The Motion to Dismiss is GRANTED and the matter is DISMISSED.