

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Westport Board of Education v. Student

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

Appearing on behalf of the Parents: The Mother and the Father proceeded *pro se*

Appearing before: Attorney Mary Elizabeth Oppenheim, Hearing Officer

ISSUE:

Whether the Student's evaluation completed by the Board is appropriate.

PROCEDURAL SUMMARY:

This hearing was requested on January 31, 2002. A prehearing conference was held on February 7. Attorney Moses and the Mother participated in the prehearing conference. While a prehearing conference was attempted with the Father, he did not remain on the phone line for the prehearing to commence with counsel for the Board.¹

The hearing convened on February 28, 2002. The Board representative, Board counsel, Mother, Father and maternal grandparents were present at the hearing. Prior to the hearing, the Mother had indicated that she agreed with the evaluation completed by the Board. The preliminary issue at the hearing was whether there continued to be an issue to be heard, or whether the Father was requesting that the Board provide independent evaluations for the Student.

To the extent that the summary and findings of fact actually represent conclusions of law, they should be so considered, and vice versa. Bonnie Ann F. v. Callallen Independent School Board, 835 F. Supp. 340 (S.D.Tex. 1993).

¹ The Parents are involved in divorce proceedings.

FINDINGS OF FACT:

1. The Student is 8 years old, and is currently in second grade. The Student was determined eligible for special education and related services services at the Planning and Placement Team (PPT) meeting on January 31, 2002. [Exhibit B-68]
2. At the PPT, the Father indicated that he disagreed with the evaluations, and requested independent evaluations for the Student. [Exhibit B-68]
3. The Mother agreed with the evaluations and the services that the Board was providing to the Student. [Testimony Mother, Exhibit B-68]
4. At the hearing, the Father initially was equivocating about whether he was seeking independent evaluations in accordance with 34 C.F.R. Sec. 300.502. [Testimony Father]
5. At the hearing, the Mother continued to agree that the evaluations were appropriate, and she was not seeking any independent evaluations of the Student. [Testimony Mother]
6. The Father eventually concluded at the hearing that he was no longer requesting that the Board fund any independent evaluations. [Testimony Father]

CONCLUSIONS OF LAW:

1. Since the testimony concluded that neither parent was seeking an independent evaluation in accordance with 34 C.F.R. Sec. 300.502, the Board is not required to proceed with a hearing in accordance with 34 C.F.R. Sec. 300.507.
2. The case is moot, because, after testimony on the first day of hearing, it is determined that no case or controversy remains in this case. There is no longer a justiciable controversy as neither parent is seeking an independent evaluation.

FINAL DECISION AND ORDER:

The case is **dismissed**, without prejudice.