

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. Trumbull Board of Education

Appearing on behalf of the Parents: Parents, pro se

Appearing on behalf of the Board: Attorney Michelle C. Laubin  
Berchem, Moses & Devlin, P.C.  
75 Broad Street  
Milford, CT 06460

Appearing before: Attorney Patricia M. Strong  
Hearing Officer

**FINAL DECISION AND ORDER**

**PROCEDURAL HISTORY**

This hearing was requested on October 1, 2003. This hearing officer was assigned to the case on October 3. A prehearing conference was held on October 10 with the Mother and the Board's attorney. At that time the Board's attorney raised the issue of jurisdiction. Specifically, the Board claimed that the issue raised by the Parents' due process request pertained solely to a Section 504 medical accommodation plan and, therefore, that this Hearing Officer lacked jurisdiction over it. The due process request asked for reimbursement for a private school placement, which the Parents claimed was necessitated by the Board's failure to provide a safe and healthy environment for the Student who has severe allergies. The Mother stated she had another issue. The Parents had sent a note to the Hearing Officer on October 7 regarding a request for reimbursement for an independent education evaluation. The Board attorney's stated she had not received a copy of the Parents' note and the attached letter to the Board official Dr. Minotti. The Mother was advised to send a copy to the Board's attorney immediately. A schedule was set for the Board to file its motion to dismiss by October 24 and for a response by the Parents by October 31, and a hearing date was set for November 17, 2003.

The Board filed a motion to dismiss the original due process request as well as the requested reimbursement for an independent educational evaluation. Although the

Board's attorney stated in her motion that she had not received a copy of the Parents' October 7 note to the Hearing Officer, she sought dismissal based on a settlement agreement entered into by the parties in March 2002 in which the Parents released all claims relating to the Student's education through August 30, 2003. On October 29 the Parents faxed a letter to the Hearing Officer stating that they had decided to withdraw the case without prejudice because the Board's attorney stated at the prehearing conference that the Hearing Officer had no jurisdiction and because they were told that the only issue to be considered at the November 17 hearing would be the request for reimbursement of the independent education evaluation. The Parents expressed surprise that the Board's motion to dismiss could be considered without reviewing documentation regarding the Student. The Hearing Officer wrote to the parties on October 30 and advised the Parents that no ruling had been made on the Board's motion to dismiss and pointed out that they had until 5:00 p.m. on October 31 to file a response to the Board's motion, along with any paperwork they wanted the Hearing Officer to review. As of November 5, the Parents did not file any objection to the motion to dismiss or paperwork, nor did they send a withdrawal of the case based on the facts set forth in the October 30 letter from the Hearing Officer.

#### **FINAL DECISION AND ORDER**

The Parents have failed to answer the Hearing Officer's letter of October 30 and, therefore, it does not appear that they wish to prosecute the hearing. It is ordered that the case shall be dismissed without prejudice pursuant to Regs. of Conn. State Agencies, Section 10-76h-18(a)(1).