

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Regional School District No. 1

Parent Attorney: Deborah G. Stevenson, Esq.
226 East Flag Swamp Road
Southbury, CT 06488

Board Attorney: Craig S. Meuser
Chinni & Meuser, LLC
30 Avon Meadow Lane
Avon, CT 06002

Appearing before: Stacy M. Owens
70 Ellsworth Drive
Bloomfield, CT 06002-2845

Issues

1. Whether the individualized education plan (“IEP”) developed for the Student’s 2005-2006 school provided a free and appropriate public education (“FAPE”) to meet the Student’s special needs.
2. If not, whether the Parents’ unilateral placement of the Student at the Maplebrook School is appropriate, thereby entitling the Parents to reimbursement for costs associated with the child’s enrollment for the 2005-2006 school year.
3. Whether the individualized education program (“IEP”) developed for the Student’s 2006-2007 school provided a free and appropriate public education (“FAPE”) to meet the Student’s special needs.
4. If not, whether the Parents’ unilateral placement of the Student at the Maplebrook School is appropriate, thereby entitling the Parents to reimbursement for costs associated with the child’s enrollment for the 2006-2007 school year.

Procedural History:

The Parents in the above-referenced matter filed a request for hearing dated May 8, 2007.

On June 21, 2007, a prehearing conference was held, during which, Attorney Stevenson appeared on behalf of the Parents and Attorney Meuser appeared on behalf of the Board. The issues were discussed and the hearing was scheduled for September 10, 13, and 14, 2007, accommodating an extension of time for the parties to engage in mediation.

The September 10, 13, and 14, 2007, hearing dates were postponed based on requests by both counsel resulting from scheduling conflicts and a pending decision in United States District Court (Docket No. 3:06CV1410(JCH)). The hearing was postponed until October 22, 24, and 29, 2007.

On October 2, 2007, Attorney Stevenson, in agreement with Attorney Meuser, requested a continuance of the hearing until January 2008. The request for continuance was denied by the Hearing Officer.

On October 12, 2008, Attorney Meuser requested reconsideration of the Hearing Officer's decision to deny the request for continuance of the hearing until January 2008. On October 18, 2008, Attorney Stevenson requested reconsideration of the Hearing Officer's decision to deny the request for continuance until January 2008. Counsel for both parties strongly asserted that proceeding with this matter prior to the cessation of the District Court case could adversely impact the "interests of justice," and the potential outcome could render issues in this matter moot.

On October 18, 2007, Attorney Meuser's and Attorney Stevenson's requests for reconsideration were granted and the hearing was rescheduled for January 16, 17 and 18, 2008.

On January 3, 2008, Attorney Stevenson, in agreement with Attorney Meuser, requested a continuance of the hearing. Attorney Stevenson indicated that the District Court issued a decision on December 27, 2007, and the parties need to engage in settlement discussions on the remaining issues. The request for continuance was granted and the hearing was rescheduled for February 28 and 29, and March 2, 2008.

By letter dated February 20, 2008, Attorney Stevenson, in agreement with Attorney Meuser, requested a continuance of the hearing, indicating that the District Court granted their Motion for a Settlement Conference. The request for continuance was granted and the hearing was rescheduled for April 4, 10 and 11, 2008.

On March 31, 2008, Attorney Stevenson informed the Hearing Officer that the District Court held a Settlement Conference "in which issues before the court and the issues that are the subject of the due process hearing before [the Hearing Officer] were discussed." Attorney Stevenson, in agreement with Attorney Meuser, requested a continuance of the hearing. The request for continuance was granted and the hearing was rescheduled for May 6, 7 and 8, 2008.

On May 1, 2008, Attorney Stevenson informed the Hearing Officer that no agreement was reached during the Settlement Conference, but the District Court took the matter under further consideration. Attorney Stevenson, in agreement with Attorney Meuser, requested a continuance of the hearing. The request for continuance was granted and the hearing was rescheduled for June 12 and 13, 2008.

Findings of Fact:

1. The Parents are the moving party in this matter.

2. The hearing convened on June 12, 2008. Tr. 6/12/08
3. Neither party was prepared and/or appeared for the hearing.
4. The Parents failed to withdraw their request for hearing.
5. No request for continuance of the hearing was submitted.¹

Discussion and Conclusions of Law:

In accordance with Section 10-76h-18(a)(7) of the Regulations for Connecticut State Agencies “. . . the hearing officer may order, sua sponte, an entry of . . . dismissal of a hearing for failure of any party . . . to appear at a properly noticed scheduled hearing.”

On May 2, 2008, the parties were properly issued notice of the hearing scheduled for June 12 and 13, 2008. The hearing convened, but the parties failed to appear and/or were not prepared to move forward. Although the parties settled the matter, there was no notice of such settlement prior to the hearing or a withdrawal of the matter to close the case.

Final Decision and Order

Based on the foregoing facts and conclusions of law, this matter is hereby **DISMISSED without prejudice.**

¹ Theresa Terry, Director of Pupil Personnel for the Board, indicated the matter was settled by the Parties through the District Court process.