

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Fairfield Board of Education

Appearing for the Student: Parent, *pro se*

Appearing for the Board: Michelle Laubin
Berchem, Moses & Devlin, PC
75 Broad Street
Milford, CT 06460

Appearing Before: Scott Myers, J.D., M.A. (Clinical Psychology),
Hearing Officer

FINAL DECISION AND ORDER

This matter was commenced by request for due process dated December 4, 2008 sent by the Student's father (the "Parent") to the Connecticut Department of Education's Bureau of Special Education, Due Process Unit on that date. Accordingly, absent modification by the Hearing Officer the date for mailing of the Final Decision and Order would have been February 17, 2009. The request for due process indicates that the Student is in high school, challenges the outcome of a November 3, 2008 IEP team meeting and asserts claims of a denial of FAPE within the meaning of the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, *et. seq.* (the "IDEIA"), with respect to the 2007/2008 and 2008/2009 school years. More specifically:

1. Is the "alternative high school program" the Student attends providing him with a FAPE in the LRE?
2. Should the District have provided a classroom aide to "mitigate concerns regarding [the Student's] classroom behavior?"
3. Is it "appropriate for the [D]istrict to emphasize subjective and changing behavioral criteria at the expense of [the Student] being provided a meaningful educational benefit?"
4. [Have any of the special education services provided by Fairfield benefited [the Student]? If so, have they outweighed the costs to [the Student]?"

As the Hearing Officer understands it, the Parent is primarily seeking a determination that the Student's home high school is the Student's LRE placement.

The Board did not file a sufficiency challenge or an answer to the due process request. The undersigned was appointed as Hearing Officer on December 8, 2008. A telephonic pre-hearing conference ("PHC") scheduled for January 7, 2009 was not completed as the Parent became unavailable due to the cancellation of school that morning associated with severe winter weather.

The PHC was rescheduled to January 14, 2009. On January 13, 2009, the Parent sent an e-mail indicating that he was withdrawing his due process request in light of agreements reached at an IEP team meeting convened that day. The Board's counsel appeared at the January 14, 2009 PHC but the Parent did not. The Board's counsel had not yet been apprised of the outcome of the January 13, 2009 IEP team meeting by her client. It is the Hearing Officer's understanding from a subsequent conversation with the Parent that day that the agreements reached at the IEP team meeting resolving the concerns that prompted him to commence this proceeding will be reflected in the minutes and other materials associated with the IEP team meeting rather than a settlement agreement and that he was withdrawing his request for due process based on the discussions at the IEP team meeting.

Accordingly, this matter is hereby **DISMISSED WITHOUT PREJUDICE** as to the issues raised by the Parent in the request for due process.