

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. Regional School District No. 5

Appearing on behalf of the Parents:           Attorney Penn Rhodeen  
  Attorney at Law  
  2 Lincoln Street  
  New Haven, CT 06510

Appearing on behalf of the Regional No. 5: Attorney Marsha Belman Moses  
  Berchem, Moses & Devlin, P.C.  
  75 Broad Street  
  Milford, CT 06460

Appearing before:                                   Attorney Patricia M. Strong, Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

1. Does the autistic and intellectually disabled Student require, in order to receive a free appropriate public education, a residential placement to reinforce his learning throughout the day and beyond and to safely contain the behaviors (some psychotic and dangerous) that can be triggered by appropriate educational challenges?

**PROCEDURAL HISTORY:**

The Parents' attorney requested this hearing by mailing a form dated June 19, 2009 to the State Department of Education. The Board of Education received a copy of the request on June 23, 2009. This Hearing Officer was assigned to the case on June 24, 2009. A prehearing conference was held on July 16. Hearing dates were agreed on for August 31, 2009 and September 2, 2009 and September 4, 2009. The Parents' attorney, with consent of the Board's attorney, requested that the mailing date for the final decision be extended from September 8, 2009 to September 28, 2009 to allow time to conduct settlement negotiations and schedule mutually convenient hearing dates. The request was granted.

On Friday, August 28, 2009, the Parents' attorney requested that the August 31, 2009 hearing be canceled because the parties were attempting to settle the matter following mediation on August 25, 2009. He also requested that the hearing commence on September 2, 2009, that hearing dates be added on September 15, 2009 and September 18, 2009 and that the mailing date for the final decision be extended. The requests were granted and the mailing date for the final decision was extended to October 13, 2009. On the afternoon of September 1, 2009, the Parents' attorney requested that the September 2, 2009 hearing be canceled and that the hearing commence on September 4, 2009 to permit the parties to finalize the text of a settlement agreement. The request was denied.

The hearing convened on September 2, 2009 with the parties' attorneys. The Parents' attorney renewed his request to postpone the hearing, but to keep the other hearing dates to "keep his options open" until a final written agreement was achieved. The attorneys stated that the settlement depended on information to be provided from the outplacement school. The Hearing Officer canceled the September 4, 2009 hearing and granted a continuance to September 15, 2009. The Parents' attorney was directed to notify the Hearing Officer by the close of business on September 8, 2009 whether the hearing would go forward on September 15, 2009 or was withdrawn. On Friday, September 11, 2009, the Parents' attorney notified the Hearing Officer that the case was not settled and that he would notify the Hearing Officer on Monday, September 14, 2009 whether a hearing would be needed on September 15, 2009. The Hearing Officer advised the parties that the September 15, 2009 hearing was canceled and that the September 18, 2009 hearing would also be canceled unless the Parents' attorney notified her by 9:00 a.m. on September 15, 2009 that he intended to go forward with the hearing. On September 14, 2009, the Parents' attorney withdrew the hearing request with prejudice and stated that the parties had executed a settlement agreement.

**FINAL DECISION AND ORDER:**

It is ordered that this case shall be dismissed with prejudice.