

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student v. New Canaan Board of Education

Appearing on behalf of the Parent: *Pro Se*

Appearing on behalf of the Board: Attorney Andreana Bellach
Shipman & Goodwin, LLP
300 Atlantic Street
Stamford, CT 06901

Appearing before: Attorney Janis C. Jerman, Hearing Officer

FINAL DECISION AND ORDER

Via Request for Impartial Special Education Hearing dated November 3, 2009, Student filed a request for due process hearing. The request for hearing was received by the Board of Education on November 3, 2009. The 30-day resolution period ran through December 3, 2009. The deadline for mailing the final decision and order is January 17, 2010.

On November 6, 2009, the Student indicated to the Hearing Officer that she would like the hearing to be put on hold pending a meeting with the Board of Education and that she may then withdraw the case. She made similar requests on November 11, 2009 and November 23, 2009.

On November 29, 2009, the case was still pending and the Hearing Officer issued a notice of pre-hearing conference for December 8, 2009. Via letter dated December 4, 2009, the Board of Education filed a sufficiency challenge claiming that the request for hearing “does not include a sufficient description of the nature of or facts relating to the disagreement the parents have with the program proposed by the Board and it also lacks a proposed resolution.” The Student did not file a response to the Board’s sufficiency challenge.

The parties participated in a pre-hearing conference on December 8, 2009 at which time the Student was asked to clarify the issues and the parties were given an opportunity to address the sufficiency challenge. During the pre-hearing conference, the Student raised the following issues:

1. Is the consultant independent?
2. Was the Parent’s voice heard in the IEP process?
3. Is the Student getting the hours of support as required by the IEP?
4. Is the IEP appropriate?
5. Should the Board of Education be required to pay for an evaluation of Student?
6. Did the Board of Education prevent inclusion?
7. Is the Student entitled to compensatory education?
8. Should the Board of Education provide equipment for Student, including hearing aids?

On December 9, 2009, the Hearing Officer found the request for hearing sufficient with regard to statement of the problem, supporting facts, and a proposed resolution only as to the issue of “whether the Board of Education’s proposed IEP as created at the October 19, 2009 PPT is appropriate.”

Based on the sufficiency of the above stated issue, the matter proceeded. The Hearing Officer granted the Student leave until December 23, 2009 to amend the request for hearing to identify additional issues that are not clear or sufficient in the original request.

A second pre-hearing conference was scheduled for December 15, 2009. On December 18, 2009, the Board of Education requested an extension of the deadline for the Student to file an amended complaint. The parties were working toward a resolution of the case. The Student was given an extension until January 8, 2010 to file an amended complaint or have the case dismissed without prejudice for failure to prosecute.

On January 8, 2010, the Student indicated that the parties came to an agreement on outstanding issues and requested to withdraw the case without prejudice. The Student followed up with a subsequent notice indicating that the matter was resolved and that she “would like to however keep the option of bringing up past issues and therefore would like to withdraw without prejudice.”

FINAL DECISION AND ORDER

In light of the above facts, the above-captioned case is hereby dismissed. It is dismissed with prejudice with regard to the issue of whether the Board of Education’s proposed IEP as created at the October 19, 2009 PPT is appropriate, if the agreement is reduced to writing and signed by both parties.