

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Manchester Board of Education

Appearing on behalf of the Parent: Attorney Ruben Acosta
Law Offices of Ruben Acosta
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Simsbury, CT 06070

Appearing on behalf of the Board: Attorney Linda Yoder
Shipman & Goodwin, LLP
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Appearing before: Justino Rosado, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Does the Hearing Officer have jurisdiction over enforcement and/or interpretation of the parties' Mediation Agreement? If yes;
2. Did the Board fulfill its obligations under the Mediation Agreement during the 2011-2012 and/or the 2012-2013 school year?
3. If the answer to Issue No. 1 is no, what is the appropriate remedy for the 2011-2012 and/or the 2012-2013 school years?
4. Does the Hearing officer have jurisdiction over the parties' dispute concerning the provisions of a free and public appropriate education (FAPE) in the least restrictive environment (LRE) for the 2011-2012 school year?
5. Is the program offered by the Board for the 2012-2013 school year appropriate and does it provide the Student with FAPE in the LRE?

SUMMARY AND PROCEDURAL HISTORY:

The Student has been identified with Emotional Disturbance and is entitled to receive FAPE as defined in The Individuals with Disabilities Education Improvement Act (IDEA) 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a et seq.

At a planning and placement team (PPT) meeting, the Parent rejected the program offered by the Board for the 2012-2013 school year. The Parent requested compliance with a Mediation Agreement. The Board refused the Parent's request.

On September 14, 2012, the Board received notice of the Parent's request for due process. On October 10, 2012 the hearing officer filed a Request for Recusal, which was agreed to by all parties. The current hearing officer was appointed to preside over the matter and on October 19, 2012 a prehearing conference was held with this hearing officer. The parties agreed to mediate the matter rather than attend a resolution session.

At the pre-hearing conference the parties agreed to cancel the hearing dates of November 8 and November 15, 2012, which had been previously chosen by the parties, and new hearing dates were chosen. The new hearing dates were December 20 and 21, 2012. A briefing schedule was agreed to by the parties to address the issue of the hearing officer's jurisdiction to enforce and interpret a mediated agreement. Before the scheduled filing of the briefs, the Parent's attorney requested withdrawal of the jurisdictional issues and to only proceed with Issue No. 5 in this matter. The Parent's attorney's request was denied (Hearing Officer's exhibit No. 10).

In an electronic transmission dated December 11, 2012, the Parent's attorney advised the hearing officer that a family emergency required a request to cancel the hearing dates. The request was denied and a request to withdraw the matter without prejudice was made. There was no objection from the Board and the request was granted.

The date for the mailing of the Final Decision and Order was extended to accommodate the parties' mediation and the hearing dates. The date for mailing the Final Decision and Order is December 28, 2012.

FINAL DECISION AND ORDER:

THE MATTER IS WITHDRAWN WITHOUT PREJUDICE.