

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Canton Board of Education

Appearing on Behalf of the Parents: Nora A. Belanger, Esq.
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Appearing on Behalf of the Board: Susan Gunderson, Esq.
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Appearing Before: Attorney Justino Rosado, Hearing Officer

FINAL ORDER AND DECISION

The student is a 3 year-old young boy who has been identified as autistic and is entitled to receive a free appropriate public education as defined in 20 U.S.C. §§1401 et seq. The Board in compliance with 34 C.F.R. 300.343, in January, February and again on or about March 7, 2005, prior to the student attaining the age of 3 years old, conducted a Planning and Placement Team (hereafter "PPT") meeting at which an Individualized Educational Program (hereafter "IEP") was developed for the student. The Parents objected to the program developed for the student at the PPT and requested a Due Process Hearing on or about March 10, 2005. On or about March 11, 2005 the Board also filed a request for Due Process based on their denial of the Parents' request for independent psychological evaluation and an independent evaluation of the preschool program developed for the student.

On or about March 14, 2005 an impartial hearing officer was appointed for the due process hearing. On or about March 21, 2005 a pre-hearing conference was conducted and hearing dates of April 6, 7, 11 and 12, 2005 were chosen by the parties. At the pre-hearing conference, the Parents insisted on a hearing decision within the 45 day period as provided by the Individuals with Disabilities Education Act (hereafter "IDEA"). At the pre-hearing conference the hearing officer was appraised that the student was not receiving any educational program because the Parents had rejected the IEP and the student was being provided services through the Department of Mental Retardation's "Birth to Three Program" pursuant to Connecticut General Statutes §17a-240. Since the parties could not agree to a stay put for the student, the hearing officer provided the

parties with a briefing schedule on the issue of stay put and informed the parties that this would be the first issue at the first day of hearing.

On or about March 22, 2005, the Parents filed a motion accompanied by a brief on the issue of stay put. The Board filed a timely objection accompanied by a brief and the Parents on or about March 28, 2005 filed a reply brief to the Board's objection. On April 6, 2005, a hearing was conducted on the issue of stay put. After a review of the briefs and all evidence presented, it was this hearing officer's ruling that the IEP offered by the Board at the student's March 7, 2005 PPT and rejected by the Parents is the student's stay put.

The decision on stay put did not address or state that the IEP offers the student FAPE, only that the IEP offered by the Board is the student's stay put.

In a facsimile transmission sent to the hearing officer and again at the first day of hearing, the Parents requested the cancellation of the April 7, 11 and 12 hearing dates and the extension of the date for the Final Order and Decision for 30 days, in order to allow the Parents time to retain an attorney. The hearing officer and the parties agreed to the cancellation of the hearing dates and the extension of the order and decision date for 30 days. The Parents retained an attorney and another pre-hearing conference was conducted at which time hearing dates of May 3, 9, 11 and 17, 2005 were chosen by the parties and the Final Order and Decision date was extended to June 25, 2005.

At the May 9, 2005 hearing date, the parties informed the hearing officer that they had reached an agreement and no further hearing dates were required. The Parents and the Board sent the hearing officer facsimile transmissions withdrawing their requests for due process hearings with prejudice.

FINAL ORDER AND DECISION:

THE MATTER IS DISMISSED WITH PREJUDICE.