

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Board of Education v. Student

Appearing on behalf of the Parent: Parents, *Pro se*

Appearing on behalf of the Board: Attorney Michelle C. Laubin  
Berchem, Moses & Devlin, P.C.  
75 Broad Street  
Milford, CT 06460

Appearing before: Attorney Mary H.B. Gelfman, Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUE:**

Whether the Board's refusal to fund an independent evaluation requested by the Parents shall be sustained?

**PROCEDURAL HISTORY:**

This hearing was requested by the Board on March 10, 2009, and the Hearing Officer was appointed on March 13, 2009. Because the Board had also requested an Advisory Opinion, the pre-hearing conference was deferred until after that proceeding. Meanwhile, another Planning and Placement Team meeting was held on March 31, 2009, at which time the programmatic issues in dispute were resolved through modifications in the Student's Individualized Education Program (IEP). The Board did not consider the matter settled because the Parents had not specifically written their withdrawal of a request for an independent evaluation.

When the Hearing Officer notified the Parties that a pre-hearing conference would be held on May 8, 2009 the Board's Attorney responded by FAX on May 8, approximately ten minutes prior to the scheduled pre-hearing conference, that the dispute had been resolved and enclosed a copy of relevant portions of the March 31, 2009, IEP and a short letter from the Parents, dated May 4, 2009, stating that they were satisfied with the revised IEP and had been advised of their rights. The Board was unwilling to withdraw its request for a hearing until it received a written statement from the Parents withdrawing their request for an independent evaluation. The Board's Attorney also stated that she could not be available for the pre-hearing conference on that date, and asked that it be postponed to May 11, 2009.

Upon receiving the Board's letter and copies of the March 31, 2009, IEP and Parents' letter, the Hearing Officer telephoned the Parents at the time scheduled for the pre-hearing conference to notify them that the conference was deferred. At that time, Parents assured the Hearing Officer that their letter of May 4, 2009, was intended to convey that they were satisfied with the revised IEP and would not be pursuing an independent evaluation at this time.

Based on the Parents' May 4, 2009, letter and the telephone conversation on May 8, 2009, the Hearing Officer determined that a pre-hearing conference was unnecessary because there were no longer issues in dispute and that the case should be dismissed.

All motions and objections not previously ruled upon, if any, are hereby overruled.

**SUMMARY:**

Parents requested an independent evaluation because they believed that the Student should be identified as being on the autism spectrum, rather than speech/language impaired, and they questioned some elements of the Student's IEP. Although still concerned about the classification of their daughter, Parents agreed to modifications of the IEP on March 31, 2009, and agreed to withdraw their request for an independent evaluation at this time.

In order to comply with the confidentiality requirements of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g and related regulations at 34 C.F.R. § 99, the following decision uses "Student", "School", "Parent". And titles of school staff members and other witnesses in place of names and other personally identifiable information.

**CONCLUSION OF LAW:**

Section 10-76h, Connecticut General Statutes (C.G.S.), and related regulations at Section 10-76h, Regulations of Connecticut State Agencies, authorize an impartial hearing officer to conduct a special education hearing and to render a final decision in accordance with Sections 4-176e through 4-180a, inclusive, and Sections 4-181a of the C.G.S. Section 20 U.S.C. § 1415(f) and related regulations at 34 C.F.R. § 300.511 through § 300.520 also authorize special education hearings.

**FINAL DECISION AND ORDER:**

There being no current issues remaining in dispute, this matter is DISMISSED without prejudice.