

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Hamden Board of Education v. Student

Appearing on behalf of the Parent (Mother): Attorney Marisa A. Mascolo
Klebanoff & Alfano, P.C.
433 South Main Street, Suite 102
West Hartford, CT 06110

Appearing on behalf of the Board: 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

ISSUE:

1. Should the Board be required to provide an independent educational evaluation of the Student at public expense?

PROCEDURAL HISTORY:

The Board's Director of Pupil Personnel Services requested this hearing by mailing a form to the State Department of Education ("SDE"). The SDE received the request on October 22, 2009. This Hearing Officer was assigned to the case on that date. On October 26, 2009 the Board's attorney filed an appearance. On November 6, 2009, a prehearing conference was held with the Parent and the Board's attorney. The Parent stated that she disagreed with all evaluations conducted by the Board in October 2008 because they were not comprehensive. Hearing dates were agreed on for December 11, 2009 and December 18, 2009. The Board's attorney requested an extension of the December 7, 2009 mailing date for the final decision to January 11, 2010 to accommodate the hearing dates, which was granted.

On December 8, 2009, Attorney Mascolo filed an appearance for the Parent and requested a 30-day postponement so that she could review the records and prepare for the hearing. The request was granted with consent of the Board's attorney. Hearing dates were scheduled for January 8, 2010 and January 15, 2010 and the mailing date for the final decision was extended to February 8, 2010. On January 5, the Board's attorney wrote to the Hearing Officer regarding a conflict about who presents evidence first. She stated that the parties agreed at the prehearing conference that the Parent would present her case on the first hearing date. On January 6, 2010, the Parent's attorney objected to presenting the Parent's case first and, if required to do so, asked for a brief continuance to secure the

presence of expert witnesses. On January 7, 2010, the Hearing Officer confirmed the agreement at the prehearing conference, denied the Parent's postponement request and stated that if additional hearing dates were needed to schedule expert witnesses, the request would be considered at that time. The hearing convened on January 8, 2010 after a discussion off the record. The Parent agreed to withdraw her request for an independent evaluation. The Board agreed to withdraw the hearing request without prejudice if the Parent would agree that if it became necessary to refile, the case would be assigned to this Hearing Officer. The Parent's attorney stated that she wanted to make that decision at the time a case is filed. The Board's attorney was not willing to withdraw the case under those circumstances. A recess was taken so that the Parent's attorney could confer with her client. The hearing reconvened on the record with the Parent's agreement to the Board's request.

FINAL DECISION AND ORDER:

It is ordered that this case shall be dismissed without prejudice.