

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Regional School District 17

Appearing on behalf of the Student: Attorney Andrew Feinstein
 Attorney at Law, LLC
 86 Denison Avenue
 Mystic, CT 06355

Appearing on behalf of the Board: Attorney Rebecca Santiago
 Attorney Peter J. Murphy
 Shipman & Goodwin, LLP
 One Constitution Plaza
 Hartford, CT 06103

Appearing before: Attorney Janis C. Jerman, Hearing Officer

FINAL DECISION AND ORDER

A special education hearing in the above-captioned matter was requested by the Student via Letter dated May 11, 2010.¹ It was received by the Board of Education on that same date. The thirty-day resolution period ran through June 10 and the original deadline for mailing the final decision and order was July 25, 2010.

A pre-hearing conference was scheduled for May 24. Pursuant to the agreement of the parties, it was rescheduled for and held on May 20. Attorney Feinstein appeared on behalf of Student and Attorney Santiago appeared on behalf of the Board of Education. The following issues were identified:

1. Did the Board of Education provide Student with a free appropriate public education for the 2009-10 school year?
2. If the answer to issue one is negative, should the Board of Education reimburse Parents for Student's out of district placement for the 2009-10 school year?

Hearings were scheduled for June 29, July 1, and July 2. The parties were scheduled for mediation on June 17. Due to illness of the mediator and the unavailability of another mediator, the parties were not able to proceed to mediation on June 17. The parties agreed to participate in mediation on June 29, the first scheduled hearing date. Via e-mail dated June 18, Student's Attorney, with agreement of the Board of Education, requested that the three scheduled hearings be postponed to permit

¹ All dates are 2010 unless otherwise indicated.

the parties to engage in mediation on June 29. The request for postponement was granted. The hearings scheduled for June 29, July 1, and July 2 were postponed. A hearing was scheduled for July 8.

The parties participated in mediation on June 29. The case was not resolved through mediation.

On June 29, Student's Attorney filed a Motion Re Telephonic Testimony seeking to have four witnesses in Utah testify via telephone. The motion was granted under certain enumerated conditions.

Student's Attorney also indicated that Student's Parents withdrew their claims relating to placement of Student from August 14, 2009 through October 6, 2009. As a result, the statement of issues was amended as follows:

1. Did the Board of Education provide Student with a free appropriate public education from October 6, 2009 through the end of the 2009-10 school year?
2. If the answer to issue one is negative, should the Board of Education reimburse Parents for Student's out of district placement for the 2009-10 school year?

On July 2, the Board of Education filed a Motion to Preclude Testimony and Evidence From Laura Seese on the basis that her testimony and report are irrelevant to the issue in the hearing. Given the holiday weekend preceding the scheduled hearing and the short time frame to address the motion, the Hearing Officer posed the following questions to be addressed by Student's Attorney in his objection to the motion:

1. When and for what purpose was Ms. Seese's evaluation and report prepared?
2. Did Ms. Seese meet with and/or talk to Student, Student's service providers, and/or the Board of Education in the course of her review and report preparation?
3. How is Ms. Seese's testimony and report relevant to the amended issue identified above?

Student's Attorney filed a timely objection to the motion. On July 7, the motion to preclude testimony was denied.

On July 5, Student's Attorney filed a motion to permit four out of state witnesses to testify telephonically. Absent objection from the Board of Education, the request was granted subject to certain enumerated conditions.

The hearing convened on July 8, beginning with presentation and oral argument of evidentiary objections and a request for extension of the deadline to mail the final decision and order. Student's Attorney requested a 45-day extension of the deadline to mail the final decision and order to permit the parties to schedule additional hearing dates. After fully considering the positions of the parties, a 30-day

extension of the mailing date was granted on the record at the hearing and confirmed in writing on July 9. The deadline to mail the final decision and order was extended until August 24, 2010.

The hearing was scheduled to reconvene on July 16 and 30, and August 19 and 20. On July 15, Student's Attorney requested that the July 16 hearing be cancelled because the parties resolved the case through negotiation but had not yet reduced the agreement to writing. Student's Attorney represented that if the agreement is signed, Student will withdraw the case with prejudice prior to July 30. After fully considering the positions of the parties, the request was granted.

On July 28, Student's Attorney withdrew the matter with prejudice.

FINAL DECISION AND ORDER

In light of the above facts, the above-captioned case is hereby dismissed with prejudice.