

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Enfield Board of Education v. Student

Appearing on behalf of Student: *Pro Se*

Appearing on behalf of the Board: Attorney Christine L. Chinni
Chinni & Meuser LLC
30 Avon Meadow Lane
Avon, CT 06001

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 Board of Education (“BOE”) via letter dated October 18, 2010.¹ It was received by Student’s Mother on October 20. Therefore, the thirty-day resolution period ran through November 19 and the deadline for mailing the final decision and order is January 3, 2011.

The following issues are identified from the request for hearing:

1. Are BOE’s recent evaluations of Student appropriate?
2. If the answer to issue one above is “no”, is Student entitled to an independent educational evaluation at public expense?

A pre-hearing conference was scheduled for November 10. Neither BOE’s Attorney nor Student’s Mother appeared. The Hearing Officer issued a Memorandum to the Parties and Orders on November 10 indicating that, upon the request of either party, another pre-hearing conference would be scheduled and gave the parties a deadline to indicate their availability for hearing on certain enumerated dates.

Student’s Mother responded indicating that she misunderstood the pre-hearing conference notice and thought that someone would call her and did not understand that she had to call into the conference call service. Student’s Mother further indicated that, if BOE intends to move forward, she would like to schedule another pre-hearing conference. BOE’s Attorney did not respond to the Orders, which also indicated that “If a party does not respond with their availability by November 15, the Hearing Officer will assume that all such dates are acceptable and will schedule the hearing accordingly.”

BOE’s Attorney did not indicate availability for hearing, did not respond to the notice that she missed the pre-hearing conference, and did not respond to Student’s Mother’s e-mail inquiring as to

¹ All dates are 2010 unless otherwise indicated.

whether they intend to proceed with the case. On November 15, BOE's Attorney was ordered to indicate whether BOE intended to proceed in this matter and that if there was no response by November 18, the matter would be dismissed for failure to prosecute.

No response was received by November 18. On November 19, BOE's Attorney indicated via e-mail that she had been out of state for a family emergency and indicated her availability for a pre-hearing conference the following week. A pre-hearing conference was scheduled for November 30 and then rescheduled to December 6 to accommodate Student's Mother's prescheduled personal commitments.

The pre-hearing conference convened on December 6. Student's Mother timely appeared. The Hearing Officer waited ten minutes for BOE's Attorney to appear. As the Hearing Officer was preparing to hang up, BOE's Attorney appeared. The parties agreed to January 12 and 17, 2011 as hearing dates with the understanding that BOE's Attorney would make a written request for an extension of the mailing date.

Via e-mail dated December 10, BOE's Attorney sent an e-mail indicating that the mailing date is December 23 and requesting a 30-day extension to January 23, 2011. BOE's Attorney also indicated that January 17, 2011, the second hearing date selected, is Martin Luther King Day and that state law mandates that BOE be closed.

On December 14, the Hearing Officer responded by asking BOE's Attorney to resubmit the request for an extension of the mailing date in compliance with Connecticut State Regulations Section 10-76h-7 and 10-76h-9 and in compliance with the Hearing Officer's November 10 Order regarding filing documents via e-mail. BOE's Attorney did not resubmit the request in compliance with the regulations or Order of the Hearing Officer. As a result, the parties were informed that the case would be dismissed without prejudice for failure to prosecute.

FINAL DECISION AND ORDER

In light of the above facts, the above-captioned case is hereby dismissed without prejudice, for failure to prosecute.