

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. New London Board of Education

Appearing on behalf of the Parent: Pro-se

Appearing on behalf of the Board: Attorney Frederick L. Dorsey
Kainen, Escalera & McHale, P.C.
21 Oak Street, Suite 601
Hartford, CT 06106

Appearing before: Robert L. Skelley, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Does the Individualized Education Program (“IEP”) dated October 26, 2014, created by the New London Board of Education (“Board”) offer the Student a free and appropriate public education (“FAPE”) for the 2014-2015 academic years?
2. If the answer to issue number 1 is NO; does the Student require an out-of-district placement in order to receive a FAPE?
3. If the answer to issue number 2 is Yes; is the Intensive Education Academy an appropriate placement for the Student to receive a FAPE?

PROCEDURAL HISTORY:

This complaint was filed by the Parent on November 24, 2014. Due to the holidays the prehearing conference was initially held on December 15, 2014, but the Parent did not appear. A second prehearing conference was held on January 7, 2015 shortly after the resolution period was completed, but the Board was not present due to a misreading of the prehearing notice by Board personnel but from which the issues listed above were identified. An initial due process hearing was scheduled for January 26, 2015. Due to the Board having temporary personnel issues and misreading the scheduling notice, the Board did not attain legal counsel until January 20, 2015 whereupon counsel for the Board requested a change in initial hearing date to allow for proper preparation. The request was not opposed by the Parent and was subsequently granted. The due process hearing was moved to February 20, 2015, with an extension of the final decision and order date to March 6, 2015.

The first day of the due process hearing was held on February 20, 2015. The Parent submitted six exhibits, several of which were objected to by the Board (P3 and P4) as being incomplete exhibits or unidentifiable as to origin or creator. The objection was sustained, P3 as it was also an exhibit of the Board as a complete exhibit, and P4 as it was

hand written in pencil, unsigned and not dated. The Parent had no witnesses to call besides herself, despite having submitted a list of witnesses. The Board, believing that the first day would be utilized by the Parent, did not have witnesses available for that day.

A second day of hearing was scheduled for March 9, 2015. The Parent was reminded of the need to submit exhibits and witness lists five business days before the hearing. On March 9, 2015 the hearing resumed. The Parent called the Student as a witness and then rested her case. The Board began its case in chief and called several witnesses, at which time the Parent announced that she wished to withdraw the complaint. A recess was called and the Parties were instructed to see if a settlement could be reached short of a complete withdrawal. After a thirty minute recess the Board indicated to the hearing officer that no settlement could be reached and that the Parent still wanted to withdraw the complaint. The hearing resumed and the Parent was asked if the decision was of her own volition, without coercion, and made understanding the consequences of a withdrawal. The Parent stated that she understood the consequences, that she was not being coerced and that she still wanted to withdraw the complaint. After being informed by the hearing officer as to the consequences of doing so "with prejudice" or "without prejudice", the Parent withdrew the complaint without prejudice. There was no objection by the Board as to the withdrawal or the status of being "without prejudice".

FINAL DECISION AND ORDER:

With the withdrawal of the complaint by the Parent on March 9, 2015, and with no further issues to be decided, this matter is DISMISSED, without prejudice.

If the local or regional board of education or the unified school district responsible for providing special education for the student requiring special education does not take action on the findings or prescription of the hearing officer within fifteen days after receipt thereof, the State Board of Education shall take appropriate action to enforce the findings or prescription of the hearing officer.

Appeals from the hearing decision of the hearing officer may be made to state or federal court by either party in accordance with the provisions of Section 4-183, Connecticut General Statutes, and Title 20, United States Code 1415(i)(2)(A).


Hearing Officer Signature

Robert L. Skelley, Esq.

Hearing Officer Name in Print