

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student vs. Meriden Board of Education

Appearing on behalf of the Parent: Pro-Se

Appearing on behalf of the Board: Attorney Leander Dolphin
Shipman & Goodwin, LLP
One Constitution Plaza
Hartford, CT 06103-1919

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

FINAL DECISION AND ORDER

ISSUES:

1. The time period for this due process complaint is from the start of school (August, 2014) continuing to the 2014-2015 academic period.
2. Whether the Meriden Board of Education (“Board”) failed to implement the October 20, 2014 individualized education program (“IEP”) as written?
3. If the answer to Issue number 2 is “NO”, then did the Board fail to provide the Student with a free and appropriate public education (“FAPE”) for the 2014-2015 academic years?
4. If the answer to Issue number 2 is “YES”, did the Board fail to provide the Student with a FAPE by failing to provide a proper IEP for the 2014-2015 academic years?
5. If the Board failed to provide the Student with a FAPE for the time period in question, what is the proper remedy for that failure to provide FAPE?

PROCEDURAL HISTORY:

The Parent filed this request for due process which was dated February 14, 2015 but not received until February 23, 2015. The Meriden Board of Education (“Board”) filed both a Sufficiency Challenge and a Motion to Dismiss on March 5, 2015. A Prehearing Conference was set for March 6, 2015 and mailed to the Parties. Notice was provided via U.S. Mail, First Class, postage prepaid as the Parent stated in her complaint that she does not have access to email on a regular or consistent basis. The conference notice was mailed on February 28, 2015. The Prehearing conference was opened on March 6, 2015 at 1:00 PM. The Hearing Officer and the Board were present; the Parent was not. The Parent subsequently informed the Parties that the notice was not received by her until March 6, 2015, after 3:00PM, when her mail is delivered and after she got home. She requested a longer period of notice. The prehearing conference was eventually held on April 10, 2015 from which the issues for hearing were identified. The Board’s Sufficiency motion was denied. The Board had also filed a Motion to Dismiss at the same time. The Motion to Dismiss alleged that certain portions of the hearing complaint that dealt with information contained within the Student’s records as well as allegations of retaliation against the Parent, were improperly before the hearing officer. The Board’s Motion to Dismiss was

denied in part and allowed in part. The allegations concerning the information contained in the records were dismissed as more properly being resolved in a FERPA hearing; the issues in the complaint regarding retaliation were dismissed pending the facts and exhibits to be provided through the hearing itself. As the issue of retaliation would be fact specific, then any subsequent effect on the denial or change in services offered in an IEP, or the failure of an IEP to be developed as a result of the retaliation, would involve the identification, evaluation or placement under the IDEIA and would be appropriate for this forum. The Board, through a letter to the hearing officer, also raised a concern about the inclusion of an issue that the Board felt was not appropriate. The hearing officer had included in the issues to be heard Issue Number 3 which raised the possibility that the Board could NOT have implemented the questioned IEP as written and STILL have provided the Student with a FAPE because the part that was not implemented did not impact the provision of FAPE sufficiently to deny FAPE to the Student. The Board did not want that possibility to be part of the hearing; their request was denied. The Parties participated in a resolution meeting on April 27, 2015 where an agreement was reached. The Board provided the hearing officer with a letter, written by the Board, relating to the resolution meeting, saying simply that an agreement had been reached, declared confidential, and that the due process hearing complaint should be dismissed with prejudice. The Board's letter had also been sent to the pro se Parent as well. No communication was received from the Parent since prior to the resolution meeting. The Parent did not provide any communication with the hearing officer to deny that an agreement had been reached.

FINAL DECISION AND ORDER:

Based on the assertion by the Board that an agreement had been reached between the Parties, and given that the agreement had been declared confidential by the Parties and could not be verified by the provision of the agreement, this matter is being dismissed without prejudice for failure of the Parent to prosecute this matter.

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