

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student v. Westport Board of Education¹

Appearing on behalf of Student: Student's Father, *Pro Se*

Appearing on behalf of the Board of Education: Attorney Marsha Belman Moses
Berchem, Moses & Devlin, P.C.
75 Broad Street
Milford, Connecticut 06460

Appearing before: Janis C. Jerman
Hearing Officer

FINAL DECISION AND ORDER

A special education hearing in the above-captioned matter was requested by Student's Father via Request for Impartial Special Education Hearing dated February 6, 2018.² It was received by the Due Process Unit on February 8. If received by the Board of Education ("BOE") on the same date, the 30-day resolution period ended March 10 and the deadline to mail the final decision and order is April 24.

The issues identified in the Request for Hearing are:

1. Was Student's transfer to CES in Trumbull an appropriate placement?
2. If the answer to Issue #1 is in the negative, is Coleytown Middle School an appropriate placement?

A telephonic pre-hearing conference was scheduled for February 20. BOE's Attorney indicated she was unavailable that date and would coordinate with Student's Father to reschedule. BOE's Attorney later indicated that Student's Father did not respond to her outreach to reschedule. Neither party appeared for the February 20 pre-hearing conference.

The pre-hearing conference was rescheduled for March 9. Neither party appeared for the March 9 pre-hearing conference. The following business day, BOE's Attorney indicated that she was unable to access a phone at the scheduled time and reported that the parties met in a resolution meeting and that she had been advised that an agreement had been reached and was in

¹ In order to comply with the confidentiality requirements of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g ("FERPA") and related regulations at 34 CFR § 99, this decision uses "Student," "Parents," and titles of certain school staff members and witnesses in place of names and other personally-identifiable information.

² All dates are 2018 unless otherwise indicated.

the process of being finalized. She requested a week to finalize the agreement before rescheduling the pre-hearing conference.

The pre-hearing conference was then rescheduled for March 21. In the scheduling order, the parties were instructed as follows: “If the matter is resolved prior to the rescheduled pre-hearing conference date, [the parties] may request a withdrawal. If the matter is not resolved and if Student’s Father or other representative does not appear for the rescheduled prehearing conference, the matter will be dismissed for failure to prosecute.”

BOE’s Attorney appeared for the pre-hearing conference. Student’s Father did not appear. BOE’s Attorney represented that the settlement agreement was drafted and had been delivered to Student’s Father that day; that she emailed Student’s Father asking him to participate in the pre-hearing conference; and that she received no response from him.

The undersigned Hearing Officer sent the parties a notice stating: “No later than 5:00 on Monday, March 26, Student’s Father shall indicate the status of the case and any reason why he feels the case should not be dismissed for failure to prosecute. If no response is provided by that date and time, the matter will be dismissed for failure to prosecute. If a timely response is provided, it will be considered accordingly.”

On March 26, BOE’s Attorney indicated that it was her understanding that Student’s Father was not prepared to execute the settlement agreement and requested that the matter be dismissed with prejudice for failure to prosecute.

Student’s Father did not respond to the notice and request for a status report.

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Based on the above facts, the case is dismissed.