

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. East Hartford Board of Education

Appearing on behalf of the Parent:

Pro se

Appearing on behalf of the Board:

Linda Yoder, Esq.
Shipman & Goodwin, LLP
One Constitution Plaza
Hartford, CT 06103-1919

Appearing before:

Patrick L. Kennedy, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Is the proposed relocation of Student's program to East Hartford Middle School appropriate?
2. If not, is the existing location of Student's program at Sunset Ridge School appropriate?

SUMMARY AND PROCEDURAL HISTORY:

Case 20-0247 was commenced by the Parents by request received by the Board on December 9, 2019. A prehearing conference was held on January 6, 2020. At the prehearing conference, a hearing date was set for February 11, 2020 and the decision date was determined to be February 21, 2020. The hearing date was later cancelled and the decision date extended to March 23, 2020.

On February 25, 2020, the District filed a motion to dismiss on the grounds that hearing officers in IDEA cases do not have jurisdiction over challenges to the physical location of the provision of services to students with disabilities. The Parents responded by moving that their hearing request be amended to assert other issues, an amendment request to which the District subsequently objected.

MOTION TO AMEND:

As a threshold matter, the undersigned considers it appropriate to rule on the Parents' motion to amend as it may, if allowed, provide an alternative basis for jurisdiction over this hearing request.

The actual claims of additional violations by the District appear to be the passage in the motion which states, "...[T]here has [sic] been times where he has been violations [sic] of his rights and responsibilities as a student with a disability and he has and continues to get [sic] discriminated against. There have been many occasions where the school and the district have failed to send proper notices and there has [sic] been HIPPA [sic] violations throughout the past which the Board is aware of."

If the motion to amend were to be granted, it would bring up completely new issues which were not present in the original request. The resolution of the matter would be further delayed as the allegations are very vague and a more definite statement of the claim would have to be filed in order to proceed. Additionally, as the District points out, Parents' HIPAA claim would be the subject of a motion to dismiss as that issue does not appear to be within the jurisdiction of IDEA hearing officers. Since Parents' additional claims seem to be separate and distinct from this action concerning the physical location of the Student's schooling, it does not appear that there is any reason that Parents could not file a separate hearing request to address those issues.

Accordingly, the Parents' motion to amend is denied and the undersigned will proceed to evaluate jurisdiction over the existing issues.

DISCUSSION:

As noted by the District in its motion, the Second Circuit has held that the change in location of the provision of services, without any change in the actual program, does not constitute a change in placement which would trigger the procedural requirements of the IDEA. *Concerned Parents & Citizens for the Continuing Ed. at Malcolm X (PS 79) v. New York City Bd. Of Ed.*, 629 F.2d 751 (2d Cir. 1980). As this case constitutes binding authority in this circuit, it is clear that the undersigned has no jurisdiction over the issues raised in this hearing request, which challenges only a proposal to change the physical placement of the Student and not any actual changes in the Student's program.

FINAL DECISION AND ORDER:

The matter is dismissed.