

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

East Hartford Board of Education and Student

Appearing on behalf of the Student: Parent, *Pro Se*

Appearing on behalf of the Board: Attorney Linda Yoder  
Shipman & Goodwin LLP  
One Constitution Plaza  
Hartford, CT 06103-5717

Appearing before: Attorney Ann F. Bird  
Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

The following are identified for determination at the hearing:

1. Is the Student’s claim moot?
2. If not, is the Board of Education’s evaluation appropriate?
3. If not, is the Student entitled to an independent psycho-educational evaluation at public expense?

**PROCEDURAL HISTORY:**

The Board of Education initiated this special education due process case on June 16, 2021. This Impartial Hearing Officer was assigned to the case on June 22, 2021. The Student’s Parent submitted a Power of Attorney signed by the Student on June 27, 2021 appointing her as his representatives for all educational matters. A Prehearing Conference was convened on July 7, 2021. The Student’s parent appeared on behalf of the Student and Attorney Linda Yoder appeared on behalf of the Board of Education. The Student’s parent acknowledged that the Student had graduated from high school with a regular diploma. It was established that the initial deadline for filing the final decision in this case was July 30, 2021. An evidentiary hearing was scheduled for August 11, 2021.

On July 8, 2021, the Hearing Officer issued an Order Extending the deadline for filing the final decision to August 28, 2021.

On July 19, 2021, the Board of Education filed a Motion to Dismiss the case on the ground that the Student is an adult who has graduated from high school and is not

eligible for special education or related services, rendering the request for an independent evaluation moot and the hearing officer without jurisdiction. The Student's parent opposed the Motion to Dismiss on July 30, 2021. The Student opposed dismissal despite his graduation from high school. The Student did not dispute any of the material facts relevant to this decision.

The Board of Education's Motion to Dismiss is hereby granted without an evidentiary hearing and without leave to amend, as the undisputed material facts establish that the case is moot and the Hearing Officer lacks jurisdiction.

### **SUMMARY:**

The Student requested an independent educational evaluation. The Student then became an adult. The Board of Education denied the request for an independent evaluation. The Student graduated from high school shortly thereafter. The Student is no longer eligible for special education or related services. The appropriateness of the Board of Education's evaluations is moot and the Hearing Officer lacks jurisdiction. Accordingly, the case is dismissed without leave to amend.

### **STATEMENT OF JURISDICTION:**

This matter was heard as a contested case pursuant to Connecticut General Statutes ("C.G.S.") Section 10-76h and related regulations contained in the Regulations of Connecticut State Agencies ("R.C.S.A."), as well as the Individuals with Disabilities Education Act ("IDEA"), 20 United States Code ("U.S.C.") Sections 1400 *et seq.*, and related regulations, and in accordance with the Uniform Administrative Procedure Act ("U.A.P.A."), C.G.S. Sections 4-176e to 4-178 inclusive, Section 4-181a and Section 4-186.

### **FINDINGS OF FACT:**

1. The Student was born on June 6, 2003. (Power of Attorney executed by Student on June 27, 2021; Allegation of Request for Due Process not disputed by Student)
2. On June 3, 2021, the Student's parents requested an independent psycho-educational evaluation at public expense claiming that the Board of Education's evaluations were not comprehensive and therefore not appropriate. (Allegation of Request for Due Process not disputed by Student)
3. The Student attained the age of eighteen and became an adult on June 6, 2021. (Allegation of Request for Due Process not disputed by Student)
4. The Board of Education denied the request for an independent educational evaluation on June 9, 2021. (Allegation of Request for Due Process not disputed by Student)

5. The Board of Education filed this Request for Due Process in order to prove that its evaluations were appropriate. (Request for Due Process)

6. The Student graduated from high school sometime before July 7, 2021. (Representation of Parent at Prehearing Conference)

**CONCLUSIONS OF LAW AND DISCUSSION:**

1. The purpose of the Individuals with Disabilities Education Act, 20 U.S.C. Sections 1400 *et seq* (“IDEA”) is to open the door of public education to students with disabilities by requiring school systems to offer them a free appropriate public education (“FAPE”). *Board of Education v. Rowley*, 458 U.S. 176, 192 (1982) (“*Rowley*”).

3. IDEA provides an administrative process for review of certain board of education decisions relating to a disabled student’s public education program. Relevant here is that a student may request an independent educational evaluation (“IEE”) at public expense if he or she disagrees with the board of education’s evaluation. In response, the board of education must either pay for such an IEE or initiate an administrative due process hearing before the state board of education in order to prove the appropriateness of its evaluation. 34 C.F.R. Section 300.502(b).

4. Educational evaluations are conducted for the purposes of determining whether a student is or continues to be eligible for special education or related services and guiding the education program and services that are provided. 34 C.F.C. Section 300.304(b)(1)

5. The due process hearing officer’s jurisdiction is limited to adjudicating active, live disputes or controversies concerning a student’s educational program or evaluation. *Russman v. Board of Education of Enlarged City of Watervliet*, 260 F.3d 114, 118019 (2d Cir. 2001)

6. Students who graduate from high school with a regular diploma are no longer eligible to receive, and boards of education are no longer obligated to provide, special education or related services under IDEA or state law. 34 C.F.R. Section 300.102(a)(3)(i)(2); *A.R. v. Connecticut State Board of Education*, No. 20-2255, 2021 WL 2833031 at \*1(July 8, 2021);

7. Once the Student here was no longer eligible to receive special education or related services by virtue of his graduation, there was no reason to evaluate him and the request for evaluation became moot. Once the request for evaluation became moot, there was no live controversy for the Hearing Officer to adjudicate and the Hearing Officer lost jurisdiction. Accordingly, the case must be dismissed. The Student is not afforded leave to amend the request for due process because the jurisdictional defect cannot be cured.

**FINAL DECISION AND ORDER:**

The Student's request for an independent educational evaluation became moot once he graduated from high school and was no longer eligible to receive special education or related services. As a result, the Hearing Officer lacks jurisdiction and the case is dismissed without leave to amend.