

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Board of Education v. Student

Appearing on behalf of the Parent: *Pro Se*

Appearing on behalf of the Board: Christine Chinni, Esq.
Chinni and Associates, LLC
14 Station Street
Simsbury, CT 06070

Appearing before: Sylvia Ho, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Was the Board's initial evaluation appropriate?
2. Is the Board obligated to fund an Individual Educational Evaluation at public expense?

PROCEDURAL HISTORY/SUMMARY:

The Board brought the Due Process Complaint and Hearing Request on May 26, 2023 to defend the appropriateness of its initial evaluation of the Student . The Hearing Officer was appointed on May 30, 2023. The Hearing Officer conducted a Prehearing Conference on June 3, 2023. The hearing was scheduled for June 28, 2023. The Board did not file a list of witnesses nor exhibits in compliance with R.C.S.A. §10-16h-12. On June 27, 2023, the Board's attorney informed the Hearing Officer that Board was not going forward with the hearing request but did not withdraw the hearing.

The hearing convened on June 28, 2023. The Parent was in attendance. No representative of the Board was present. The Parent informed the Hearing Officer that she has not withdrawn her request for an Independent Educational Evaluation.

RULINGS OF LAW

1. The purpose of the initial evaluation is to determine if the Student is a child with a disability and eligible for special education and to determine the educational needs of the child. 34 C.F.R. §300.301(c)(2).

2. A child is determined to be eligible after an “appropriate” education. An appropriate education is one that complies with the IDEA and Connecticut regulations to produce information to determine whether the student is eligible for special education services and to develop the student’s individualized education program. (“IEP”). 34 C.F.R. §300.301-§300.305; R.C.S.A. §10-76d-9(a) and (b).
3. If a student receives an evaluation with which the parent disagrees, a parent has a right to an independent educational evaluation (“IEE”) at public expense, which means at no cost to the parent. 34 C.F.R. §300.502, R.C.S.A. §10-76d-9(c)(1) and (2).
4. If the parent requests an IEE at public expense, the school district must, without unnecessary delay, ensure either an IEE is provided at public expense or initial an impartial hearing to show that its evaluation is appropriate or that the evaluation obtained by the parent does not meet the school district criteria. 34 C.F.R. §300.502; R.C.S.A. §10-76d-9(c)(2).
5. R.C.S.A. §10-76h-18 grants the Hearing Officer the authority *sua sponte* to default a party for failing to prosecute a hearing, and upon the granting of the default, take evidence and issue such orders as necessary.
6. The Board did not withdraw the request for hearing nor go forward to defend its evaluation. No representative was present at the hearing.
7. The Parent has not withdrawn her request for an IEE.
8. The Hearing Officer hereby issues an Order of Default and grants the Parent an IEE at public expense.

FINAL DECISION AND ORDER:

The Parent’s request for an IEE is hereby GRANTED. The Board shall contact the Parent and commence the process providing Parent with a publicly funded IEE within 10 days of receiving this Order.

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

Sylvia Ho

Hearing Officer

Name in Print