

SUMMARY:

A pre-hearing conference was conducted in this case on November 20, 1998. The issues discussed at that conference centered around J.'s current suspension and possible expulsion from the Board's high school. The Board moved to dismiss the parent's complaint on the grounds that the issues now raised had never been brought before a Planning and Placement Team (PPT) meeting. The parents contended that one of the issues to be brought before the hearing was the Board's refusal to hold a PPT meeting. Considering that the Board had agreed to a "stay put" placement in school, and also, that a subsequent PPT meeting had been scheduled, the hearing officer denied the Board's motion.

At the subsequent PPT meeting, the parties reached agreement on all issues between them. When they announced this to the hearing officer, the parties jointly requested that a meeting be held at which time they would jointly request the hearing officer to adopt their agreement as the decision and order in this case. This, the hearing officer agreed to do.

Although some confusion developed concerning the time and place of the meeting, it is undisputed that on the day the meeting was scheduled, the Board had decided not to participate in such a joint motion. The Board expressed fear that by participating in the establishment of an official decision and order in this case, they would be exposing themselves to liability for attorney fees. However, both parties agreed to no issues remained to be litigated in a due process hearing.

CONCLUSIONS OF LAW:

1. In order for an agreement of the parties to be adopted by a hearing officer as the official decision and order in this case, the request for such adoption must come by way of a **joint** motion of the parties. In the present case, because the Board decided not to join in such a motion, the agreement between the parties must stand on its own merits and be enforced by the usual procedures.
2. A special education hearing officer is without jurisdiction to decide disputes concerning attorney's fees.
3. Where all issues between the parties have been resolved, no justification exists for further due process proceedings.

FINAL DECISION AND ORDER:

1. The issues which gave rise to the request for this due process hearing having been resolved by the parties, this hearing should be and hereby is dismissed.