

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Board of Education

Appearing on Behalf of the Parent: Attorney Michelle N. Holmes
Law Offices of Michelle N. Holmes, LLC
67 Holmes Avenue
Waterbury, CT 06702

Appearing on Behalf of the Board: Attorney Lee Kennedy Tiernan
Office of Corporation Counsel
26 Kendrick Avenue
Waterbury, CT 06702

Appearing before: Attorney Mary H.B. Gelfman, Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Were the Parents' procedural rights violated concerning a Planning and Placement Team (PPT) meeting in May 2005:
 - Failures to send notice of the PPT meeting to both parents, as had been requested.
 - Failure to provide notice that eligibility for special education would be discussed at the PPT meeting.
 - Failure to consider the Student's medical history and continuing medical issues in determining eligibility (or lack of eligibility) for special education.
2. Was the information considered in PPT meetings on October 4, 2007, October 25, 2007, January 17, 2008 and March 20, 2008, accurate and complete?
3. Was the November 22, 2006 re-evaluation appropriate?
4. If the above procedural violations are confirmed, are compensatory educational services an appropriate remedy?
5. Was the Parent's request for an evaluation on October 4, 2007 denied?

6. Were copies of medical records and nurses' notes from the school, requested by the Parent, provided in a timely manner, complete, and accurate?
7. Were both Parents properly notified of meetings concerning the Student on October 4, 2007, October 25, 2007 and January 17, 2008?
8. Is an out-of-district placement necessary in order for the Student to benefit from special education?

PROCEDURAL HISTORY:

This hearing was requested by a letter from the Parent *Pro se* dated June 2, 2008, and received at the State Department of Education on June 10, 2008. The Hearing Officer was appointed on June 10, 2008. A pre-hearing conference by conference telephone call was held on July 8, 2008. Parent appeared *Pro se* and the Board's Assistant Superintendent and Assistant Corporation Counsel appeared for the Board. Six issues in dispute were identified. The hearing was scheduled for July 28, 2008 and the date for mailing the final decision and order was set for August 24, 2008. On July 9, 2008 the Parent requested (by e-mail) that another issue be added, and the Hearing Officer accepted that addition.

On July 18, 2008 the Hearing Officer received a notice of appearance for the Parent from Attorney Holmes, with a request that the hearing be postponed in order to provide time for her to prepare. The Hearing Officer re-scheduled the hearing to September 10, 2008. The date for mailing the final decision was extended from August 24, 2008 to September 24, 2008.

The hearing convened on September 10, 2008. At that time, another hearing session was scheduled for October 2, 2008 and the mailing date for the final decision was extended from September 24, 2008 to October 24, 2008.

When the hearing convened on October 2, 2008 the Parties requested time to attempt to settle their dispute. The Hearing Officer granted this request and adjourned the hearing until October 23, 2008. The mailing date for the decision was extended from October 24, 2008 to November 23, 2008.

On October 15, 2008 Parent's Attorney notified the Hearing Officer that she had a trial scheduled for the next week. She and the Board's Attorney agreed to re-convene the hearing on November 25, 2008 unless the dispute was settled before that date. The Hearing Officer granted the request to re-schedule. The mailing date for the final decision was extended from November 23, 2008 to December 23, 2008.

On November 20, 2008 the Board's Attorney notified the Hearing Officer that he had a conflict with a court appearance, and requested that the hearing session scheduled for November 25, 2008 was re-scheduled to December 10, 2008. This request was granted.

The hearing re-convened on December 10, 2008. At that time, the Board filed a motion for continuance based on failure to notify the Student's other parent of the hearing. The Parent responded that the other Parent had been aware of the hearing date, but needed to go to work that day. The Hearing Officer decided to go forward and the Board made an objection on the record.

At the December 10, 2008 hearing session, the Parent's Attorney announced that the compensatory education request was for a specific out-of-district placement. The Board's Attorney objected because of lack of timely notice. The Hearing Officer ruled that this additional issue would be accepted in the interest of efficiency. The Hearing Officer also cautioned the Parent that the Hearing Officer lacked the authority to order a placement in another public school district unless that school district had been joined as a party to the hearing.

Also at the December 10, 2008 hearing, further hearing sessions were scheduled for January 28, 2009, and February 3, 2009. In order to accommodate this schedule, the mailing date was again extended, from December 23, 2008 to February 21, 2009.

The hearing session scheduled for January 28, 2009 was cancelled: schools were closed because of a snowstorm. When the hearing re-convened on February 3, 2008 the Parties notified the Hearing Officer that they had reached a settlement agreement.

All motions and objections not previously ruled upon, if any, are hereby overruled.

SUMMARY:

The Student has Velocardiofacial syndrome, a genetic neurodevelopment and communications disorder. With a variety of supports, she has done very well academically. However, Parents disagreed when the Board recently found her no longer eligible for special education on the basis of her academic progress.

In order to comply with the confidentiality requirements of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g and related regulations at 34 C.F.R. § 99, the following decision uses "Student", "School", "Parent". And titles of school staff members and other witnesses in place of names and other personally identifiable information.

CONCLUSION OF LAW:

Section 10-76h, Connecticut General Statutes (C.G.S.), and related regulations at Section 10-76h, Regulations of Connecticut State Agencies, authorize an impartial hearing officer to conduct a special education hearing and to render a final decision in accordance with Sections 4-176e through 4-180a, inclusive, and Sections 4-181a of the C.G.S. Section 20 U.S.C. § 1415(f) and related regulations at 34 C.F.R. § 300.511 through § 300.520 also authorize special education hearings.

FINAL DECISION AND ORDER:

The Parties have reached a settlement and no issues remain in dispute. Therefore, this matter is DISMISSED without prejudice.

COMMENTS ON THE CONDUCT OF THE HEARING PURSUANT TO SECTION 10-76h (d) (1):

The Parties and their Attorneys are commended for their efforts to reach an agreement.