

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Ridgefield Board of Education

Appearing on behalf of the Parent: Lawrence Berliner Esq.
Law Office of Lawrence Berliner, LLC
1720 Post Road East, Suite 214E
Westport, CT 06880

Appearing on behalf of the Board: Marsha Moses, Esq.
Berchem, Moses & Devlin, PC
75 Broad Street
Milford, CT 06460

Appearing before: Attorney Sylvia Ho
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

- 1) Did the Board's IEP offer FAPE to the student for the 2012-13 school year?
- 2) If not, are the Parents entitled to be reimbursed for their 2012-13 tuition and transportation expenditures for the student's private school?
- 3) Was the Board's 2012-13 IEP developed in accordance with the IDEA's substantive and procedural requirements?
- 4) If not, did that result in a denial of FAPE?

PROCEDURAL HISTORY/ SUMMARY:

The Parent filed the Complaint and Request for Due Process Hearing on January 16, 2013. The mailing date of the Final Decision was April 5, 2013. The parties participated in a telephonic Prehearing Conference on February 8, 2013. The hearing was scheduled for April 1, 2013.

The hearing convened on April 1, 2013. Before commencing the hearing, the parties reported to the Hearing Officer that they had satisfactorily resolved the issues in dispute but had not finalized the terms of the settlement agreement. The parties were not able to finalize the terms of a written settlement agreement on the hearing day because of a disagreement over an outstanding issue. The parties jointly requested an extension of the mailing date and a second hearing date should the party be unable to agree on the final disputed term. The parties' requests were granted pursuant to RCSA Section 10-76-9(e). The mailing date of the Final Decision was extended to May 3, 2013.

On April 26, 2013, the parties jointly requested cancellation of the hearing on the grounds that the parties had a settlement agreement but that the settlement was not fully executed and that the Parent would withdraw the Request when both parties had signed the settlement agreement. The Hearing Officer denied the request stating that the hearing could not be cancelled without a withdrawal.

Later in the day, the Parent requested that the hearing be postponed for the same reasons. The request was denied because it had not been filed five days before the hearing in accordance with RCSA 10-76h-9(a). The Parent thereafter filed a request for reconsideration. The Hearing Officer issued a ruling denying both requests on April 29, 2013 pursuant to RCSA Section 10-76h-9(e). After the close of business on April 30, 2013, the Hearing Officer received a notice by electronic mail from the Parent's attorney that both parties had signed the agreement and the Parent was withdrawing the Due Process Hearing Request with prejudice. The notice was not in conformance with notice requirements contained in the Hearing Officer's Memorandum to Parties.

The Hearing convened on May 1, 2013. The Board's attorney appeared and reported on behalf of the parties that the Parent had withdrawn the Hearing Request and provided the Hearing Officer with an additional copy of the electronic mail sent by the Parent's attorney.

FINAL DECISION AND ORDER:

The matter is DISMISSED with prejudice