

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Regional School District No. 9

Appearing for the Student: Howard Klebanoff, Esq.
Klebanoff & Alfano, PC
433 South Main Street, Suite 102
West Hartford, CT 06110

Appearing for the Board: Michael McKeon, Esq.
Sullivan, Schoen, Campana & Connon, LLC
646 Prospect Avenue
Hartford, CT 06105-4286

Appearing Before: Scott Myers, J.D., M.A. (Clinical Psychology)
Hearing Officer

FINAL DECISION AND ORDER

The Parent commenced this proceeding on behalf of his son (the Student) by letter dated May 6, 2005. That letter stated that at a PPT on March 21, 2005, the District had denied the Parent's request that the District support an out-of-district placement for the Student. A telephonic pre-hearing conference ("PHC") was convened on May 31, 2005 at which each party participated through their respective counsel. Counsel reported that they have previously discussed resolving their dispute through mediation and affirmed their desire to pursue a mediation. At the request of and by agreement of counsel for the parties, the date for issuance of the Final Decision and Order was extended from June 24, 2005 to and including July 25, 2005 pursuant to Reg. Conn. State Agencies Sec. 10-76h-9(e) to permit the parties an opportunity to pursue a mediation.

By letter dated June 16, 2005, the Board requested that the Department-sponsored mediation that had been scheduled for June 22, 2005 be cancelled. The Board claimed that the Student is now living with the Parent in another town and that the school district in that town had convened a PPT for the Student on June 15, 2005 and established an IEP for the Student for the 2005/2006 school year. Although the Board advised that it would seek dismissal of this matter, no motion to dismiss was filed. The parties through their counsel participated in a second PHC convened on June 23, 2005. At that PHC, counsel for the Parent acknowledged that the June 15, 2005 PPT had mooted claims against the Board in this hearing regarding the 2005/2006 school year, but advised that the Student was also asserting claims against the Board regarding the 2004/2005 school year.

Counsel for the parties discussed the possibility of trying to resolve those issues through settlement. Notwithstanding that discussion, a procedural schedule for hearing was established should settlement efforts fail. The following issues were set for hearing:

1. Whether the educational program offered by the Board to the Student for the 2004/2005 school year provided the Student with FAPE in the LRE?
2. If not, what relief is the Student entitled to receive?

An initial hearing date of July 18, 2005 was established. The previously established July 25, 2005 date for issuance of the Final Decision and Order was not changed.

On July 7, 2005, counsel for the Parent advised that the Parent was withdrawing this matter "without prejudice." Notwithstanding the withdrawal, given the stage that this proceeding has reached, the Hearing Officer is issuing the following as the Final Decision and Order in this matter.

1. This matter is dismissed without prejudice to refiling as to the issues identified herein.
2. All dates established in the June 24, 2005 Third Scheduling Order are cancelled.