STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student and Madison Board of Education

Appearing on behalf of the Student:

Attorney Andrew Feinstein
Feinstein Education Law Group
86 Denison Avenue
Mystic, CT 06355

Appearing on behalf of the Board of Education:

Attorney Michelle Laubin
Berchem, Moses & Devlin, PC
75 Broad Street
Milford, CT 06460

Appearing before:

Attorney Ann F. Bird
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the Board of Education offer the Student a free appropriate public education from May 16, 2014 through May 16, 2016?
2. If the Board of Education did not offer the Student a free appropriate public education from May 16, 2014 through May 16, 2016, is the Student entitled to compensatory education services for this period of time?
3. Is the Student entitled to reimbursement for the expense of the evaluation conducted by Dr. Seese?
4. Did the Board of Education offer the Student a free appropriate public education after May 16, 2016, including the 2016 Extended School Year and the 2016/2017 School Year?
5. If the Board of Education did not offer the Student a free appropriate public education after May 16, 2016, including the 2016 Extended School Year and the 2016/2017 School Year, is the Student entitled to compensatory education services?
6. If the Board of Education did not offer the Student a free appropriate public education after May 16, 2016, including the 2016 Extended School Year and the 2016/2017 School Year, is the unilateral placement appropriate?
7. If the Board of Education did not offer the Student a free appropriate public education after May 16, 2016, including the 2016 Extended School Year and the 2016/2017 School Year, and the unilateral placement is appropriate, is the Student entitled to reimbursement for the expense of the unilateral placement?
8. If the Board of Education did not offer the Student a free appropriate public education after May 16, 2016, including the 2016 Extended School Year and the 2016/2017 School Year, and the unilateral placement is appropriate, is the Student entitled to placement at the unilateral placement?

9. If the Board of Education did not offer the Student a free appropriate public education after May 16, 2016, including the 2016 Extended School Year and the 2016/2017 School Year, is the Student entitled to compensatory education services?

PROCEDURAL HISTORY:

The Student requested a special education due process hearing in the above-captioned matter on May 16, 2016. This Impartial Hearing Officer was appointed to hear the case on May 18, 2016. A telephonic pre-hearing conference was convened on June 29, 2016. Attorney Andrew Feinstein appeared on behalf of the Student and Attorney Michelle Laubin appeared on behalf of the Board of Education. It was established that the deadline for filing the final decision in the case is July 29, 2016. An evidentiary hearing was scheduled for August 12, 2016 and then changed to August 9, 2016.

On June 29, 2016, the Student submitted a written request for a thirty-day postponement and extension of the timelines to conduct the hearing and to file the final decision. The purpose of the requested postponement and extension was to allow the parties time to participate in mediation. Counsel for the Board agreed to the requested postponement and it was granted. The scheduled hearing date was also cancelled.

On August 18, 2016, the Board of Education reported that the parties had reached a tentative agreement and that the Board received a draft settlement agreement from the Student. The Board reported that it required a few days to review the draft and to finalize the settlement. The Board also requested a thirty-day postponement and extension of the timelines to conduct the hearing and to file the final decision in the case to allow time to finalize the settlement. The Student did not oppose the request and it was granted.

On September 19, 2016, the Board of Education reported that the parties were still in the process of negotiating a final agreement, and requested that a new hearing date be scheduled. On September 21, 2016, the Student requested a further postponement and extension of the timelines to conduct the hearing and to file the final decision in the case until October 10, 2016 to allow time to finalize the settlement. The Board of Education did not object to the request and the request was granted.

On October 5, 2016, the Impartial Hearing Officer reminded the parties that the deadline for filing the final decision and order was approaching on October 10, 2016. The Impartial Hearing Officer also advised the parties that the case would be dismissed for failure to prosecute if the parties do not request dismissal or take steps to prosecute the case by the end of the day on October 6, 2016. Counsel for the Student responded that he no longer represents the Student. The Impartial Hearing Officer's communications of October 5, 2016 were forwarded to the Student's parents at the addresses provided by counsel.

The Student did not request dismissal or take other steps to prosecute the case.

FINAL DECISION AND ORDER:

It is ordered that the matter is dismissed for failure to prosecute.

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).

Ann F Bird

Hearing Officer Signature

ANN F BIRD

Hearing Officer Name in Print

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4/1/04