

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Westport Board of Education v. Student

Appearing on behalf of the Parents: pro se

Appearing on behalf of the Board of Education: Attorney Marsha Belman Moses  
Berchem, Moses & Devlin, P.C.  
75 Broad Street  
Milford, CT 06460

Appearing before: Attorney Deborah R. Kearns  
Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES**

- I. Whether the student is entitled to an independent evaluation at Board expense?

**PROCEDURAL HISTORY**

The local educational agency (LEA) requested due process on March 15, 2004. The LEA denied the Parents' request for an independent education evaluation of their child at a March 11, 2004, Individualized Education Program (IEP) meeting. The LEA requested the due process hearing pursuant to 34 CFR §300.502(2), to determine if the child is entitled to the requested evaluation claiming the Parents did not state the purpose or the type of evaluation they were seeking.

**FINDINGS OF FACT**

On April 5, 2004 the LEA requested an extension of the decision until June 1, 2004 to accommodate scheduling. On April 30, 2004 the Parent requested postponement of the due process hearing. (Exhibit HO-1). On May 4, 2004, the record indicates the Parent withdrew their request for the independent evaluation by letter dated May 3, 2004. (Exhibit HO- 3, Page 2 of 2) and did not appear at the hearing on May 4, 2004.

**CONCLUSIONS OF LAW**

As required by 34 CFR §300.502(2), the LEA requested due process to show that its evaluation is appropriate. So long as the Parent is no longer seeking an independent evaluation at Board expense, the LEA does not have to prove the evaluation is appropriate.

**FINAL DECISION AND ORDER**

1. The LEA does not have to prove the evaluation was appropriate, nothing precludes the LEA from proving the appropriateness of its evaluation should the Parents renew their request for an independent evaluation in the future.