

This is a redacted version of the original decision. Select details have been removed from the decision to preserve anonymity of the student. The redactions do not affect the substance of the document.

Pennsylvania
Special Education Hearing Officer

DECISION

Child's Name: TM

Date of Birth: xx/xx/xxxx

Dates of Hearing: January 14, 2009 & February 18, 2009

CLOSED HEARING

ODR Case # 9477-08-09-LS

Parties to the Hearing:

Representative:

Pro Se

Mr. Anthony Pirrello
Montessori Regional Charter School
2910 Sterrettania Road
Erie, PA 16506

Ms. Jocelyn Kramer, Esquire
445 Fort Pitt Boulevard
Suite 503
Pittsburgh, PA 15219

Date Record Closed:

February 18, 2009

Date of Decision:

March 4, 2009

Hearing Officer:

Jake McElligott, Esquire

INTRODUCTION AND PROCEDURAL HISTORY

Student is a 9-year old student formerly attending the Montessori Regional Charter School (“Charter School”) who has been identified as a student with a disability under the Individuals with Disabilities in Education Improvement Act of 2004 (“IDEIA”)¹. The Charter School filed a complaint based on its perceived need to change the student’s placement, a change which parent resisted. Since the initiation of the complaint, the student has been removed from the Charter School and has enrolled in the local public school system.

For the reasons set forth below, I will dismiss this case.

ISSUES

Should this case move forward since the student no longer attends the Charter School?

FINDINGS OF FACT

¹ It is this hearing officer’s preference to cite to the implementing regulation of the IDEIA at 34 C.F.R. §§300.1-300.818.

1. The student is a 9-year old student who has mental retardation and speech/language impairment.
2. On November 20, 2008, the Charter School filed a special education due process complaint at 9477-08-09-LS over its perceived need to change the educational placement of the student. (Notes of Testimony ["NT"] at 12-14).
3. Parents resisted the change in placement (NT at 14-15).
4. On January 14, 2009, the initial hearing session was held with the Charter School presenting four witnesses. (See generally NT for January 14, 2009).
5. Testimony was to continue at a follow-up session of the hearing.
6. On or about February 2, 2009, the student's mother sent an email communication to this hearing officer indicating that the student has been removed from the Charter School. (NT at 191, 193).
7. Since that time, the student has not attended the Charter School and has been enrolled in the local public school system. (NT at 193-196).

DISCUSSION AND CONCLUSIONS OF LAW

The provision of special education to students with disabilities in charter schools is governed by Pennsylvania law, which adopts many of the provisions of federal special education law.² The Charter School

²22 PA CODE §§711.1-711.62; in pertinent part, 34 C.F.R. §§300.1-300.818.

brought its complaint regarding its proposed educational placement for the student.³ (FF 2, 3). The student no longer attends the Charter School. (FF 6, 7). Therefore, a complaint about the student's proposed placement at a school where the student no longer attends renders the complaint moot.⁴

CONCLUSION

The student no longer attends the Charter School and now attends the local public school schools. As such, the Charter School's complaint regarding its proposed change in the student's educational placement at the Charter School is moot.

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ORDER

In accord with the findings of fact and conclusions of law as set forth above, the School's complaint at 9477-08-09-LS is dismissed.

Jake McElligott, Esquire

Jake McElligott, Esquire
Special Education Hearing Officer

March 4, 2009

³ 22 PA Code §711.62(c).

⁴ It is important to note that the only claims to be adjudicated in this hearing were prospective issues regarding the student's proposed placement in the future. There were no counterclaims by the parents or any retrospective claim for compensatory education. NT at 14-18.