

THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION

**IDPH FY-07-12-039 / Nashua School District**

DECISION

**INTRODUCTION**

This due process proceeding was initiated by the Nashua School District (“District”) on December 16, 2006, regarding Student’s withdrawal from school due to alleged harassment at school. A prehearing conference was held on January 17, 2007; a Prehearing Order was issued on January 19, 2007. As set forth in the Prehearing Order, the issue for due process was what, if any, further obligation the District had to Student in light of Student’s withdrawal from school and from special education services.

The due process hearing was held on February 1, 2007. The District was represented by Attorney Stephen Bennett. The District presented the testimony of Janice Arcaro, Assistant Special Education Director, and William Raymond, Headmaster of Nashua High School South. Neither Student nor parents attended the hearing.<sup>1</sup> The District submitted Exhibits 1 – 72, along with a Proposed Order.

**FACTS**

Student is an adult student who attended Nashua High School South from 2003 to 2006. During the summer of 2005, Student was determined eligible for special education services by virtue of a learning disability. An IEP for the 2005-2006 school year was developed and agreed upon, and implemented during that school year.

Student began the 2006-2007 school year with an agreed upon IEP. In early October of 2006, Student stopped attending school; when contacted to determine the reason for the absence, Student stated that there was harassment by other students. Student and parents notified the District that Student would not be returning to school. Several unsuccessful attempts were made by the District to secure the cooperation of Student and family to enable the District to investigate the claims of harassment. The family would not provide further information, indicating that they were concerned about retaliation. An offer by the District to provide Student with an escort during school was declined.

On November 15, 2006, an IEP team meeting was convened to discuss Student’s plans to attend school. Student and parents attended this meeting. Student advised that Student would not be returning to Nashua High School South, but planned to attend a private school in New Hampshire, beginning in the spring or fall of 2007. The team

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<sup>1</sup> The previous afternoon, I received a telephonic message from the parent, indicating that the parent had already completed the necessary paperwork to withdraw Student from school, and would not be attending the hearing.

informed Student that Student would be placed on Child Find, and also provided Student with an explanation of that status. A letter was sent to Student the following day, requesting careful consideration of the decision to withdraw from school, and outlining rights and entitlements to special education.

On November 21, 2006, Student went to the school and completed the necessary paperwork to withdraw from school.

## **DISCUSSION**

The District made reasonable efforts to obtain information sufficient to allow it to investigate the family's allegation of harassment. The District also appropriately apprised Student and family of the Student's right to a free appropriate public education, to encourage Student to return to school and to provide the services called for in the IEP. There is no dispute as to the appropriateness of the 2006-2007 IEP which was in effect at the time Student withdrew from school. Student voluntarily withdrew consent to receive special education, and withdrew from the Nashua School District on November 21, 2006. Student is eighteen years of age and therefore an adult student with the right to decline the offer of a free appropriate public education, and no obligation under New Hampshire Law to attend school. RSA 193:1.

## **CONCLUSION**

In light of the above, the Nashua School District has no further obligation to provide special education services beyond those offered to Student pursuant to the agreed-upon IEP for the 2006-2007 school year.

## **APPEAL RIGHTS**

If either party is aggrieved by this Decision, either party may appeal this decision to a court of competent jurisdiction. The District shall notify the Commissioner of Education if either party seeks judicial review of this Decision. The student has the right to obtain a transcription of the proceedings from the Department of Education.

Date: February 7, 2007

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Amy B. Davidson, Hearing Officer

