



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

(Withdrawal)

OAL DKT. NO. EDS 05306-18

AGENCY DKT. NO. 2018 27808

ELYSIAN CHARTER SCHOOL,

Petitioner,

v.

Z.A. AND C.A. ON BEHALF OF M.A.,

Respondents.

Elesia James, Esq., for petitioner (Cleary, Giaccobe, Alfieri, Jacobs, attorneys)

Julie Warshaw, Esq., for respondents (Warshaw Law Firm, attorneys)

Record Closed: May 25, 2018

Decided: May 31, 2018

BEFORE **ELLEN S. BASS**, ALJ:

This case, which arises under the Individuals with Disabilities Education Act, 20 U.S.C.A. §§1401 to 1484(a) and C.F.R. §§300.500, was transmitted to the Office of Administrative Law for hearing and final decision on April 12, 2018.

The petition for due process was filed by the Elysian Charter School on April 11, 2018, and sought consent to evaluate M.A., as well as, a release of independently obtained evaluations. Respondents filed an answer and counterclaim on or about April 12, 2018. Via letter dated May 25, 2018, counsel for Elysian advised that the parents had

consented to evaluations, and that, in light thereof, “Elysian will withdraw its Petition for Due Process.” Counsel for Elysian noted that the parents’ counterclaim was likewise being withdrawn.

Relative to Elysian’s request for a release of independent evaluations, counsel’s letter makes it plain that this request was not acceded to by the parents, or at least not to Elysian’s satisfaction. Elysian’s withdrawal is nonetheless quite unequivocal, and I **FIND** that notwithstanding any lingering disagreement about the production of reports privately obtained by the parents, Elysian has withdrawn its request for due process.

Counsel for the parents replied via letter dated May 25, 2018. She does not assert that her adversary incorrectly stated that her counterclaim was withdrawn. I **FIND** that the counterclaim has been withdrawn. In light of the withdrawal of Elysian’s petition, the additional background shared by counsel for the parents about independent testing is irrelevant, and requires no further discussion.

I **CONCLUDE** that the petition for due process, and the counterclaim filed by the parents, have been withdrawn, and thus should be dismissed. I further **CONCLUDE** that insofar as the parents have now given their consent, Elysian should proceed with the proposed child study team evaluation.

ORDER

I **ORDER** that the petition be **DISMISSED** as withdrawn under N.J.A.C. 1:1-91.2.

This decision is final pursuant to 20 U.S.C.A. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2009) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C.A. § 1415(i)(2); 34 C.F.R. § 300.516 (2009).

May 31, 2018



DATE

ELLEN S. BASS, ALJ

Date Received at Agency

May 31, 2018

Date Mailed to Parties:

sej