

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. Fairfield 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: Attorney Michelle Laubin  
Berchem, Moses & Devlin, P.C.  
75 Broad Street  
Milford, CT 06460

Appearing before: Attorney Brette H. Fitton  
Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

1. Was the District's Individualized Education Program ("IEP") developed on December 2, 2015 appropriate?
2. Was the IEP proposed at the March 15, 2016 planning and placement team ("PPT") meeting appropriate?
3. Did the District violate Student's procedural safeguards under the Individuals with Disabilities Education Act ("IDEA") during the period between December 2, 2015 through the date of the filing of the Parents' amended special education due process hearing request on June 19, 2016?
4. If the District violated the Student's procedural safeguards under the IDEA, did such violations operate to deny Student a free appropriate public education ("FAPE")?
5. Was the IEP developed at the June 1, 2016 PPT meeting appropriate?
6. If the IEP developed at the June 1, 2016 PPT meeting was not appropriate, would the Winston Preparatory School provide an appropriate program for Student and should Student be placed at Winston Preparatory School by the District?
7. Did the District err when it refused Parent's request to change Student's special education disability classification from Other Health Impairment to Autism at the June 1, 2016 PPT meeting?

**PROCEDURAL HISTORY AND SUMMARY:**

On March 29, 2016, the Board received a request for a Special Education Due Process Hearing filed by the Parents. On March 31, 2016, the Connecticut State Department of Education appointed this Hearing Officer to preside over the matter. During the prehearing conference held on April 8, 2016, hearing dates of June 6, 2016 and June 10, 2016 were set and the deadline for mailing the final decision and order was established as Friday, June 10, 2016. The parties indicated at the conference that there would be no mediation. The need for a request for an


extension of the mailing deadline to accommodate the agreed upon hearing date schedule was discussed during the prehearing conference. Parents submitted a request for an extension of the mailing deadline by email on May 9, 2016. This request was granted on the record at the outset of the first hearing date on June 6, 2016 and resulted in a new mailing deadline of July 7, 2016. Subsequent discussion at the hearing brought to light the desire of the Parents to amend their hearing request to address the IEP proposed by the District on June 1, 2016 at a PPT meeting. The IEP from this meeting had not yet been generated by the District and thus, in order to provide the opportunity for the Parents to receive the IEP, review it and respond with an amended hearing request, the parties agreed to suspend the hearing on June 6, 2016, postpone the June 10, 2016 hearing date and add July 29, 2016, August 10, 2016, August 22, 2016 and August 23, 2016 to the hearing date schedule. As the revised July 7, 2016 mailing deadline fell after the July 29, 2016 hearing date, Parents requested an extension of the mailing date on the record in order to accommodate the agreed upon hearing date schedule. This request was granted and resulted in a new mailing deadline of August 5, 2016. On June 19, 2016, Parents filed an amended complaint and a second prehearing conference was held on June 24, 2016 to discuss the issues presented in the amended complaint. Parents provided the Board with further articulation of the procedural and substantive concerns regarding the June 1, 2016 IEP in a document sent on June 30, 2016. The Board consented to the amendment. Pursuant to 34 CFR §500.508(d)(4), the timelines for the resolution conference and resolution period under 34 CFR §300.510(a) and 34 CFR §300.510(b) restarted on June 19, 2016, the date the amended complaint was filed. This resulted in a revised deadline of September 2, 2016 for the mailing of the final decision and order. July 26, 2016, Attorney for the Parents filed his appearance and notified the Hearing Officer in writing that the matter had settled and Parents were withdrawing their hearing request with prejudice.

**FINAL DECISION AND ORDER:**

In light of the above facts, the case is dismissed.

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).

  
Hearing Officer Signature

Brette H. Fitton  
Hearing Officer      Name in Print