

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. Wilton Board of Education

Appearing on behalf of Student: Attorney Gerry McMahon  
Law Offices of Gerry McMahon, LLC  
98 Mill Plain Road, Suite 3B  
Danbury, CT 06811

Appearing on behalf of the Board of Education: Attorney Christopher Tracey  
Shipman & Goodwin LLP  
One Constitution Plaza  
Hartford, CT 06103-1919

Appearing before: Janis C. Jerman  
Hearing Officer

**FINAL DECISION AND ORDER**

An expedited special education hearing in the above-captioned matter was requested by Student's Attorney via letter dated January 3, 2014.<sup>1</sup> It was filed with the Due Process Unit on January 3. The deadline to mail the final decision and order is February 17, 2014.

A telephonic pre-hearing conference was held on January 8. Attorney McMahon appeared on behalf of Student and Attorney Tracey appeared on behalf of BOE.

The request for hearing alleges that BOE failed to develop and implement a free appropriate educational program (FAPE) for Student and failed to identify the extent of his disabilities and their impact on social and peer relationships, which resulted in bullying. The request for hearing alleges that Student was suspended in November 2013, that BOE's manifestation determination concluded that the conduct was not a manifestation of Student's disability, and that Student has been excluded from school since his suspension. The request for hearing alleges BOE failed to provide Student FAPE over three academic years.

Following a discussion as to what issues can be heard in an expedited hearing, Attorney McMahon indicated that she would like the challenge to the manifestation determination to be bifurcated from the other issues for purposes of the expedited hearing. Attorney McMahon was advised that she could file a separate request for hearing on the issues not relating to the manifestation determination.

Attorney Tracey requested that Attorney McMahon amend the request for hearing to more fully identify the procedural and/or substantive allegations surrounding the challenge to the manifestation determination. The Hearing Officer did not order Student's Attorney to amend the request for hearing.

The following issues were identified for the expedited hearing:

1. Did the Board of Education err in determining that Student's behavior was not a manifestation of his disability?
2. If the answer to Issue One is in the affirmative, what shall be the remedy?

---

<sup>1</sup> All dates are 2014 unless otherwise indicated.

Hearings were scheduled for January 22 and January 29.


Via e-mail dated January 15, Student's Attorney indicated that the parties reached an agreement on the manifestation determination claim for which Student's Parents filed an expedited hearing. Student's Parents requested dismissal only of the request for an expedited hearing on the manifestation determination. Student's Parents sought to retain the right to file a separate request for hearing on any issues not relating to the manifestation determination.

### **FINAL DECISION AND ORDER**

In light of the above facts, the above-captioned expedited case which was limited to the issue of whether the Board of Education erred in determining that Student's behavior was not a manifestation of his disability 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

JANIS C. JERMAN

Hearing Officer

Name in Print