STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student v. Westport Board of Education

Appearing on behalf of the Parents: Attorney Jennifer D. Laviano
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                                           77 Danbury Road Suite-C6
                                           Ridgefield, CT 06877

Appearing on behalf of the Board: Attorney Marsha Moses
                                           Berchem, Moses & Devlin, P.C.
                                           75 Broad Street
                                           Milford, CT 06460

Appearing before: Justino Rosado, Esq., Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1.   Was the program provided by the Board during the summer of 2012 appropriate and did it provide the Student with a free and appropriate public education (FAPE) in the least restrictive environment (LRE)?
2.   Was the Program offered by the Board for the 2012-2013 school year appropriate and did it provide the Student with FAPE in the LRE?
3.   Was the Program offered by the Board for the 2013-2014 school year appropriate and did it provide the Student with FAPE in the LRE?
4.   Should the Parents be reimbursed for the cost of the program at Bradley Hospital during the summer of 2013?
5.   Was the FBA in place appropriate?
6.   Should the Board reimburse the Parents for the functional behavior assessment performed by Crystal Barnes?
7.   Should the Parents be reimbursed for the evaluation performed by Dr. Kolevzon on October 1, 2013?
8.   Did the Board commit procedural violations by failing to perform an appropriate transitional assessment?
9.   Did the Board violate the Restraint and Reclusion Law while the Student was at Giant Steps?
10.   Is the Student entitled to Compensatory education for the denial of FAPE?

SUMMARY AND PROCEDURAL HISTORY:

The Student has been identified with Autism and is entitled to receive FAPE as defined in the Individuals With Disabilities Education Improvement Act (IDEA) 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a et seq. The Student is over the age of eighteen and the Parents have been given guardianship and conservatorship by the Probate Court.

At a planning and placement team (PPT) meeting, the Parents rejected the exiting of the Student from special education. The Parents requested compensatory education for the denial of FAPE. The Board refused the Parents' request. On June 27, 2014, the Board received notice of the Parents' request for due process. The parties agreed to forgo a resolution meeting and mediate the matter. The mediation date was November 20, 2014. An impartial hearing officer was appointed on June 30, 2014 and a pre-hearing conference was held on July 9, 2014. A hearing date of September 26, 2014 was chosen by the parties.

In an electronic transmission, the parties requested that the hearing officer cancel the September 26, 2014 hearing date in order to accommodate the mediation date. The request to cancel the hearing date was granted and January 16, 2015 was set as the new hearing date.

In an electronic transmission, the parties informed the hearing officer that the mediation was not successful. In an electronic transmission dated January 7, 2015 the Parents' attorney withdrew the matter without prejudice. There was no objection filed by the Board.
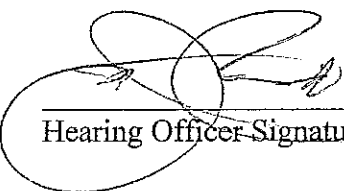
The date for the mailing of the Final Decision and Order was extended to accommodate the mediation and the hearing date. The date for mailing the Final Decision and Order is January 19, 2015.

FINAL DECISION AND ORDER:

THE MATTER IS DISMISSED WITHOUT PREJUDICE.

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).

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Hearing Officer Signature

Justino Rosado
Hearing Officer Name in Print