

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Bridgeport Board of Education

Appearing on behalf of the Parent:

Pro Se

Appearing on behalf of the Board:

Attorney Leander Dolphin
Shipman & Goodwin, LLP
One Constitution Plaza
Hartford, CT 06103

Appearing before:

Justino Rosado, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Was the program provided by the Board for the 2013-2014 school year appropriate and did it provide the Student with a free and appropriate public education (FAPE) in the least restrictive environment (LRE)?
2. Is the program provided by the Board for the 2014-2015 school year appropriate and does it provide the Student with FAPE in the LRE?
3. Does the Student require a therapeutic out-of-district placement in order to receive in the LRE?
4. Is the Student entitled to compensatory education for the denial of FAPE?
5. Was the Student's behavior intervention plan (BIP) properly implemented?

SUMMARY AND PROCEDURAL HISTORY:

The Student has been identified with Emotional Disturbance 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. At a planning and placement team (PPT) meeting, the Parent rejected the program offered by the Board for the 2014-2015 school year. The Parent requested a therapeutic out-of-district placement. The Board refused the Parent's request. On March 10, 2015, the Board received notice of the Parent's request for due process. The parties agreed to forego a resolution meeting and proceed to mediation. The date of the mediation session was pending.

An impartial hearing officer was appointed on March 10, 2015 and a pre-hearing conference was held on March 18, 2015. A hearing date of May 5, 2015 was chosen by the parties. The prehearing conference was delayed a day because the Parent was working and could not attend. (H.O. 4) The Board attempted to schedule a mediation date as agreed to at the pre-hearing conference. (H.O. 5) The Parent failed to make contact with the Board to schedule the mediation. (H.O. 6)

On April 27, 2015, the Board filed a request to dismiss the matter because of the lack of response from the Parent to schedule a mediation session. (H.O. 6) On April 29, 2015, the hearing officer sent an electronic transmission to the Parent requesting their response to the Board's letter. (H.O. 7) On April 29, 2015, the Parent contacted the Board's attorney stating that her internet access was not working properly and did not have notice of the hearing. The Board informed the Parent that the notice had been sent via regular mail. The Board offered a tentative date of May 20, 2015 for the mediation session and requested cancellation of the hearing date in order to accommodate the mediation session. (H.O. 8) The request was granted. (H.O. 9) The Parent contacted the Board and agreed to the May 20, 2015 mediation date. Notice of the date had been sent to the Parent. On May 20, 2015, the Board's attorney contacted the Parent in regards to her attendance at the mediation session. The Parent informed the attorney that she did not plan to attend the mediation session and was on her way to work. The Parent stated that she did not receive notice even though she agreed to the date in a telephone conversation with the Board's attorney. On May 22, 2015, the Board renewed their request to dismiss the matter. (H.O. 11) On May 25, 2015, the hearing officer sent a letter to the Parents via first class mail and electronic transmission, requesting her response to the Board's request to dismiss. A June 4, 2015 deadline was given to respond. (H.O. 12)

On June 5, 2015, an electronic transmission was sent by the hearing officer to the Board, and copied to the Parent, asking the Board if the Parent had made contact with them. (H.O. 13) On June 5, 2015, the Board's attorney sent an electronic transmission to the hearing officer stating that the Parent had not made contact. (H.O. 14)

34 C.F.R. §300.510(b)(4) states that, "If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented using the procedures in §300.322(d)), the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint."

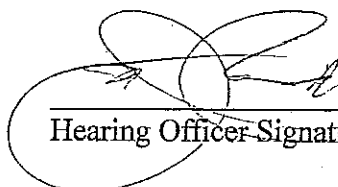
The Board has complied with 34 C.F.R. §300.510(b)(4); therefore their request to dismiss the matter is granted. The date for the mailing of the Final Decision and Order was extended to accommodate the mediation and the hearing dates. The date for mailing the Final Decision and Order is June 19, 2015.

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).



Hearing Officer Signature

Justino Rosado
Hearing Officer Name in Print