

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student vs. Westport Board of Education

Appearing on behalf of the Parent:

Jennifer Laviano, Esq.
Law Offices of Jennifer Laviano, LLC
76 Route 37 South
Sherman, CT 06784

Appearing on behalf of the Board:

Marsha Moses, Esq.
Berchem, Moses & Devlin, P.C.
75 Broad Street
Milford, CT 06460

Appearing before:

Robert L. Skelley, Esq., Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the Westport Board of Education ("Board") deny the Student a free and appropriate public education ("FAPE") for the 2010-2011 academic year?
2. Did the Board deny the Student a FAPE for the 2011-2012 academic years?
3. Is the program and services offered to the Student for the 2012-2013 academic years appropriate to provide the Student a FAPE?
4. Did the Board commit a procedural violation sufficient to deny the Student a FAPE by failing to list each denial of speech services on each Individualized Education Plan ("IEP") where the service was denied?
5. Did the Board commit a procedural violation sufficient to deny the Student a FAPE by providing an inappropriate Extended School Year ("ESY") program for 2010-2011 and 2011-2012 academic years?
6. Did the Board commit a procedural violation sufficient to deny the Student a FAPE by failing to properly identify the Student's eligibility category prior to March 2012?
7. Did the Board commit a procedural violation sufficient to deny the Student a FAPE by failing to consider assistive technology ("AT") at each IEP revision?
8. Did the Board commit a procedural violation sufficient to deny the Student a FAPE by not having an appropriate IEP in place by the first day of school for the 2011-2012 and 2012-2013 academic years?

PROCEDURAL HISTORY:

This hearing was requested by the Parent on September 12, 2012. The Hearing Officer was appointed on that same date. The original date for mailing the final decision and order was November 26, 2012.

The prehearing conference was held on October 3, 2012. The above issues were identified in this matter. The Parties set a Due Process Hearing date for November 7, 2012. Mediation was set for November 14, 2012. On November 8, 2012 the Parties requested an extension to the final decision and order date due to a medical issue with one of the parties, necessitating a need to change the mediation date as well. The request was granted and the final decision and order date was moved to December 26, 2012. A due process hearing date was also set for December 13, 2012.

On December 12, 2012, Counsel for the Parents indicated that they wished to withdraw the complaint without prejudice. Given the timing of the withdrawal, the Parties were requested to put the withdrawal on the record. However, due to a vehicular issue, the Hearing Officer was stranded on the highway and unable to make the hearing, which was subsequently cancelled. Given that the withdrawal was in writing, via email to all parties, and given that there is no hearing scheduled, the request to withdraw the complaint, *without prejudice*, is granted.

FINAL DECISION AND ORDER:

Pursuant to the written request of the Parent, through counsel, that the matter be withdrawn without prejudice, and with no further issues to be addressed, the MATTER IS DISMISSED *without prejudice*.