

May 4, 2011

Final Decision and Order 11-0320

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Middletown Board of Education

Appearing on Behalf of the Parents:

Attorney James C. Wing, Jr.
51 Gillett Street
Hartford, CT 06105-2636

Appearing on Behalf of the Board:

Attorney Christine Chinni
Chinni & Meuser LLC
30 Avon Meadow Lane
Avon, CT 06001

Appearing Before:

Attorney Justino Rosado, Hearing Officer

ISSUES:

1. Is the Student entitled to receive special education and related services as defined in IDEA 20 USC §1401 et seq? If yes;
2. Should an IEP be created that allows the Student to return to school?
3. Should the Board perform a functional behavioral analysis and create a behavioral intervention plan for the Student?

FINAL DECISION AND ORDER

SUMMARY and PROCEDURAL HISTORY:

The student is not identified as a student entitled to receive a free and appropriate public education ("FAPE") as defined in IDEA 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a. The Parent requested that the Student be identified as entitled to receive FAPE; the Board refused the Parent's request. The Board received notice of the request for due process on February 19, 2011. The parties agreed to mediate the matter. An impartial hearing officer was appointed on February 23, 2011 and a pre-hearing conference was held on March 4, 2011.

On March 29, 2011, the parties were sent an electronic transmission asking if a mediation date had been set: the parties did not respond. On April 22, 2011, the parties were sent an electronic transmission requesting a status report. On April 25, 2011, the Board's attorney responded that the matter had been resolved; no response was received from the Parent's attorney. Since the Parent's attorney did not respond, on April 26, 2011 the parties were sent notice of a May 2, 2011 hearing date. The parties neither responded nor objected. At the due process hearing, neither the Parent nor either party's attorney appeared. The Board called their attorney who informed me that the Parent's attorney had spoken with her and was to inform the hearing officer about the status of the matter. No notice was received from the Parent's attorney. At the due process hearing the matter was dismissed for lack of due diligence. The date for mailing the Final Decision and Order is May 5, 2011.

FINAL DECISION AND ORDER:

THE MATTER IS DISMISSED FOR LACK OF DUE DILIGENCE.