

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Wilton Board of Education

Appearing on behalf of the Parent: Attorney David C. Shaw
The Law Offices of David C. Shaw, LLC
34 Bloomfield Avenue, Suite 210
Bloomfield, CT 06002-2463

Appearing on behalf of the Board: Attorney Lawrence J. Campana
Sullivan, Schoen, Campana
& Connon, LLC
646 Prospect Avenue
Hartford, CT 06105-4286

Appearing before: Mary H.B. Gelfman, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Were the Individualized Education Programs (IEPs) and placements provided by the Board for the 2004-2005 and 2005-2006 school years, and those proposed for the 2006-2007 school year, appropriate to Student's special education needs in the least restrictive environment?
2. Has the Board provided the supplementary aids, supports and modifications to the special education curriculum necessary for Student to learn for the 2004-2005, 2005-2006, and 2006-2007 school years as required by 20 U.S.C. § 1412(a)(5)(A)?
3. How shall the Board provide 330 hours of direct instruction that the parties have agreed is needed?
4. Is the Board responsible for providing ABA-trained shadows and therapists from a mutually acceptable private agency for in-school and in-home elements of Student's special education program?
5. Is the Board responsible for providing a mutually acceptable independent consultant to assist the Planning and Placement Team (PPT) in development and implementation of Student's IEP?

6. Does Student need an Occupational Therapy evaluation?
7. The parties agree that Student requires an extended school year (ESY) program for the summer of 2006. Shall that ESY program be delivered in an integrated setting?
8. Is the Student entitled to an appropriate program of compensatory education that includes those items of relief identified in Issues #4 and #5?
9. If Student is entitled to compensatory educational services, how many hours of which specific services shall be ordered, and how far into the future shall these services be provided?

PROCEDURAL HISTORY:

This hearing was requested on April 28, 2006, and the hearing officer was appointed on May 4, 2006. A pre-hearing conference was held on May 12, 2006. The parties requested mediation, which was held on June 5, 2006; negotiation continued. On June 7, 2006, the Board's attorney requested postponement of the hearing session scheduled for June 22, 2006, due to a conflict with another special education hearing; this postponement was granted. Parents' attorney requested by letter dated June 14, 2006, that the hearing scheduled for June 19, 2006, be postponed because settlement negotiations had been successful, although an agreement had not yet been signed. In granting postponement, the Hearing Officer requested dates for re-scheduling of the hearing, and the parties responded that they were close to settlement and felt that a hearing would not be necessary. The last communication regarding status of the hearing was from the Board's attorney, dated June 21, 2006. The deadline for mailing the final decision and order is July 12, 2006, and the parties have not requested an extension of that deadline as of July 9, 2006.

FINAL DECISION AND ORDER:

This matter is DISMISSED for failure to prosecute.

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DEPARTMENT OF EDUCATION**

Student v. Wilton Board of Education

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RESPONSE TO MOTION FOR CLARIFICATION

On July 20, 2006, the Parents filed a motion to clarify the July 12, 2006, dismissal of the above-captioned case.

The May 12, 2006, memorandum concerning the pre-hearing conference held the same day included the following:

If the parties reach an agreement to settle this matter, please notify the hearing officer immediately in writing. If the request for hearing is to be withdrawn, the party who requested the hearing must submit that request in writing. If the parties fail to respond to communications from the hearing officer, this matter may be **DISMISSED**.

This dispute went to mediation on June 5, 2006. The hearing had been scheduled for June 19 and 22, 2006. Although an agreement was not reached in mediation, negotiations continued. As stated in the July 12, 2006, dismissal:

On June 7, 2006, the Board's attorney requested postponement of the hearing session scheduled for June 22, 2006, due to a conflict with another special education hearing: this postponement was granted. Parents' attorney requested by letter dated June 14, 2006, that the hearing scheduled for June 19, 2006, be postponed because settlement negotiations had been successful, although an agreement had not yet been signed. In granting postponement, the hearing officer requested dates for re-scheduling of the hearing, and the Board's attorney

responded on behalf of both parties on June 21, 2006, that they were close to settlement and felt that a hearing would not be necessary.

There were no further communications from either party concerning the status of the case. The deadline for mailing the final decision and order in this matter was July 12, 2006: neither party requested an extension of that deadline. Therefore, a dismissal for failure to prosecute was issued on July 12, 2006.

The July 20, 2006, Motion for Clarification states that the case was settled on July 6, 2006, and that the settlement agreement provides that “the matter will be withdrawn”. Therefore, the prior dismissal is modified and the matter is DISMISSED pursuant to the settlement agreement.

Mary H.B. Gelfman, Esq.
Special Education Hearing Officer