

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Trumbull Board of Education

Appearing on behalf of the Parent (Mother): Atty. Jennifer D. Laviano, The Law Offices of Jennifer D. Laviano, LLC, 76 Route 37 South, Sherman, CT 06784

Appearing on behalf of the Trumbull Board of Education: Atty. Michelle C. Laubin, Berchem, Moses & Devlin, P.C., 75 Broad Street, Milford, CT 06460

Appearing before: Attorney Patricia M. Strong, Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the Board deny a free appropriate public education (FAPE) to the Student at the Planning and Placement Team ("PPT") meeting on March 16, 2006 for the remainder of the 2005-06 school, including the extended school year ("ESY"), in that it failed to provide a program with a high enough level of intensity or structure to remediate his disabilities and failed to evaluate him in a timely fashion?

2. Did the Board deny a FAPE to the Student for the 2006-07 school, including the ESY, in that it failed to provide a program with a high enough level of intensity or structure to remediate his disabilities resulting in lack of sufficient progress?

3. Did the Board deny a FAPE to the Student for the 2007-08 school, including the ESY, in that it failed to provide a program with a high enough level of intensity or structure to remediate his disabilities and failed to evaluate him in a timely fashion?

4. Should the Board provide the Student with an IEP that places him in the Connecticut Center for Child Development ("CCCD") and reimburse the Parents for all expenses they incurred as a result of the Board's failure to offer or provide a FAPE for the 2005-06, 2006-07 and 2007-08 school years?

5. Are the Parents entitled to compensatory education as a remedy for past deprivations of FAPE?

PROCEDURAL HISTORY:

The Parent (Mother) requested this hearing by her attorney who faxed a letter to the State Department of Education ("SDE") on March 3, 2008 requesting a due process hearing. A copy was faxed to the Board's attorney on that date. This Hearing Officer was assigned to the case on March 5. A prehearing conference was held on March 24, 2008. The attorneys stated that they had unsuccessfully mediated the case prior to the filing of the due process request. Hearing dates were agreed on for April 25 and May 15. The mailing date for the final decision was set at May 19, 2008. On March 25, the Board's attorney notified the Hearing Officer that she was not available on May 15. An alternative date was set for May 22.

On April 21, the Parent's attorney requested a postponement of the April 25 hearing because of continuing settlement negotiations and an extension of the mailing date for the final decision. The request was granted and the mailing date was extended to June 16, 2008. The parties were directed to file exhibits and witness lists by May 15, which the Board did. On May 16, the Parent's attorney filed a witness list and a request to add the 2008-09 school year to the issues based on the parties' disagreement at the May 14, 2008 PPT meeting. She also requested, with the Board attorney's consent, a postponement of the May 22 hearing to June 20 or 27. The request was granted, the hearing was postponed to June 27 and the mailing date for the final decision was extended to July 21. The Board's attorney then notified the Hearing Officer that she was not available on June 27. The parties then agreed to reschedule the hearing to July 18, which was granted and the mailing date for the final decision was extended to August 11. On July 10, the Parent's attorney filed an additional issue regarding the 2008-09 school including the ESY.

On July 15, the Board's attorney filed an Objection to the Amended Issue, which included a request for a 30-day postponement of the July 18 hearing, and a Motion to Bifurcate the Hearing to first hear the issues regarding FAPE and then, if necessary, to hear the issue of whether the Parent's unilateral placement at CCCD was appropriate. The Hearing Officer denied the request for a postponement and advised the parties that the Objection and Motion would be heard at the hearing on July 18. On July 16, the Parent's attorney, with consent of the Board's attorney, requested that the hearing begin at 1:30 p.m. so that the parties could mediate the case at 10:00 a.m. After conferring with the SDE, the Hearing Officer granted the request. The hearing convened after 3:00 p.m. and the parties reported that a final settlement had been reached. The Parent's attorney requested an additional two days in order to secure the signature of the Student's father, who was not a party in the hearing. The request was granted. After one week, the Parent's attorney had not provided a notice to the Hearing Officer that the case was finally resolved.

FINAL DECISION AND ORDER:

It is ordered that this case shall be dismissed with prejudice.