

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Wilton Board of Education

Appearing for the Student: Parents, appearing *pro se*¹

Appearing for the Board: Andreana R. Bellach, Esq.
Alexis Cole, Esq.
Shipman & Goodwin LLP
300 Atlantic Street
Stamford, Connecticut 06901-3522

Appearing Before: Scott Myers, J.D., M.A. (Clinical Psychology), Hearing Officer

FINAL DECISION AND ORDER

This matter was commenced by request for due process dated June 12, 2009 (the “Request”). The undersigned was appointed as Hearing Officer on June 22, 2009. By agreement of the parties a telephonic pre-hearing conference (“PHC”) convened on July 1, 2009.

The Hearing Officer determined that, absent modification, the date for mailing of the Final Decision and Order (“FD&O”) would have been August 28, 2009.² The parties at the PHC advised both that they would attempt to resolve their dispute through a Connecticut Department of Education (“CTDOE”)-facilitated mediation scheduled for July 17, 2009 and that they anticipated at least 8 days of hearing would be required to present their respective cases. Six potential hearing dates were identified (August 20, 21 and 31, 2009 and September 1, 3 and 10, 2009) which reflected the timing of the CTDOE-facilitated mediation and the desire of the parties not to be burdened with preparing simultaneously for mediation and a hearing. Given these circumstances, and as more fully explained in the July 2, 2009 Order, the date for mailing of the FD&O was extended to and including October 2, 2009.

The Board on June 25, 2009 filed an “initial response” to the Request, noting among other things its intention to assert a jurisdictional challenge regarding some of the claims in the Request and to file a sufficiency challenge. The Parents on June 29, 2009 filed a letter responding to the Board’s initial

¹ The Student and Parents had initially been represented in this matter by Anne Eason, Esq. On July 27, 2009, the Parents advised the Hearing Officer that they were no longer represented by Attorney Eason and were proceeding on a *pro se* basis.

² As explained more fully in the July 2, 2009 Initial Scheduling and Related Orders (the “July 2 Order”), the parties disagreed as to whether the District received the due process request on June 12, 2009 (it was faxed to the District at 4:47 pm after the District’s offices had closed for the day) or June 15, 2009 (a Monday, and the next Business Day on which the District offices were open). If the due process request was received on June 12, 2009 (a Friday), absent modification by the Hearing Officer, the date for the mailing of the Final Decision and Order would be August 25, 2009 (a Tuesday). If the due process request was received on June 15, 2009 (a Monday), absent modification by the Hearing Officer, the date for the mailing of the Final Decision and Order would be August 28, 2009 (a Friday). To the extent a determination on that issue was required, the Hearing Officer concluded in the July 2 Order that the District received the due process request on July 15, 2009, and that absent modification the date for mailing of the Final Decision and Order would be August 28, 2009.

response. The Board on June 29, 2009 filed a Motion to Dismiss, Motion to Strike and Sufficiency Challenge. At the July 1, 2009 PHC, a timetable for ruling on the Board's Motion and Sufficiency Challenge was agreed upon that provided an opportunity for the Parents to respond to the Board's filing. On July 9, 2009, in accordance with that timetable, the Parents filed a response to the Board's Motion and Sufficiency Challenge (the "Answer"). The agreed-upon timetable provided that the Hearing Officer would issue a ruling on the Board's Motion and Sufficiency Challenge prior to the CTDOE-facilitated mediation. That ruling was issued on July 13, 2009. As explained in the ruling, the Board's Motion was granted in part and denied in part and the Board's Sufficiency Challenge was denied.

Given the pendency of the Board's Motion, the July 2, 2009 Order did not define the issues set for hearing.³ The issues set for hearing were defined preliminarily in the July 13, 2009 ruling and a hearing was scheduled for July 21, 2009 to resolve any issues regarding the statement of issues as framed by the Hearing Officer. At the request of the parties, that hearing was continued to July 29, 2009 and was ultimately not convened.

The parties participated in the CTDOE-facilitated mediation on July 17, 2009. The parties agreed to continue to mediate and participated in a second CTDOE-facilitated mediation on July 24, 2009. On July 27, 2009, the Student's father contacted the Hearing Officer to report that the Parents were now proceeding *pro se*, that the Parents and a representative of the District had met on July 27, 2009 without attorneys present to resolve their dispute, and that the parties had reached an agreement resolving their dispute. Those conversations were confirmed in a series of e-mails exchanged between the Student's father, the Hearing Officer, Attorney Eason, Attorney Bellach and Ms. Paul (a representative of the District) on July 27-28, 2009. Those e-mails clarified that this matter has been settled and that the Parents are withdrawing their request for due process accordingly. The Hearing Officer in those transmittals advised the parties that all further compliance obligations and hearing dates in this matter were cancelled.

This matter is hereby DISMISSED.

³ Among other relief, it is the Hearing Officer's understanding that the Parents seek an order of compensatory education and services for alleged denials of FAPE that occurred in the 2007/2008 and 2008/2009 school years and in the summer of 2008, a determination that the District's proposed placement for the 2009/2010 school year would not provide the Student with FAPE in the LRE, a determination that the Parents' proposed placement out of the district for the 2009/2010 school year is "appropriate" within the meaning of the IDEIA and an order that the District pay for that placement.