

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Fairfield Board of Education v. Student
Student v. Fairfield Board of Education

Appearing on Behalf of the Parents: Attorney Anne I. Eason
Law Offices of Anne I. Eason
10 Wall Street
Norwalk, CT 06850

Appearing on Behalf of the Board: Attorney Michelle C. Laubin
Berchem, Moses & Devlin, P.C.
75 Broad Street
Milford, Ct 06460

Appearing Before: Attorney Justino Rosado, Hearing Officer

ISSUES:

1. Does the residential placement at Melmark School in Pennsylvania provide the Student with a free and appropriate public education ("FAPE") in the least restrictive environment (LRE) as defined in the Individuals with Disabilities Education Improvement Act (IDEIA) 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a? If no;
2. Should the Board provide an appropriate program in the community based on the recommendations of the current treating professionals consisting of 60 hours per week of behavioral intervention programs and supervision of the program by a qualified ABA consultant for 16 hours per month?
3. Does the Board staff require ongoing training by the supervising ABA consultant?
4. Should the Board provide transportation for the community based program?
5. Should the Board perform a Functional Behavioral Assessment of the Student?
6. Should the Board provide Compensatory Education for the denial of FAPE for the 2008-2009 school year?
7. Should the Board provide Compensatory Education for the denial of FAPE for the 2009-2010 school year?

FINAL DECISION AND ORDER

SUMMARY and PROCEDURAL HISTORY:

The Student is 17 years and 6 months old, has been identified as having Autism and is entitled to receive a free and appropriate public education ("FAPE") as defined in Individuals with Disabilities Education Act (IDEA) 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a. At a PPT meeting, the Parents' did not agree with the 2010-2011 school program recommended by the PPT team and requested that the Student be placed in a day treatment program. The Board refused the Parents' request and the Board requested due process.

On or about July 16, 2010, the Parent received notice of the Board's request for due process. An impartial hearing officer was appointed on July 16, 2010 and a pre-hearing conference was held on July 27, 2010. On or about August 3, 2010 the Parents filed for due process and another pre hearing conference was held on August 16, 2010. The Board received notice of the Parents request for due process on or about July 27, 2010.

The parties agreed to consolidate the matters into one due process hearing. The parties agreed to mediation in place of a resolution meeting. Mediation was scheduled for September 3, 2010 but was cancelled by the Parent. Hearing dates of September 21, 2010, October 25, 27, 28 and November 19 and 22, 2010 were chosen by the parties.

At the September 21, 2010 hearing the parties agreed to schedule another mediation date to attempt to resolve the matter. A mediation date of October 25, 2010 was chosen by the parties and the October 25, 27 and 28, 2010 hearing dates were cancelled to allow the parties to mediate the matter. The matter was resolved in mediation and the parties in an electronic transmission informed the hearing officer that the matter was withdrawn with prejudice.

At the request of the parties, in order to accommodate the mailing of a final order and decision after the hearing date and the restart of the timeline by the consolidation of the requests for due process, the date for the mailing of the Final Decision and Order was extended. The date for the Final Decision and Order is December 15, 2010.

FINAL DECISION AND ORDER:

THE MATTER IS DISMISSED WITH PREJUDICE.