

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Norwalk Board of Education

Appearing on behalf of the Parent: Attorney Lawrence Berliner
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Westport, CT 06880

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

Appearing before: Robert L. Skelley, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Does the Norwalk Board of Education (“Board”) deny the Student a free and appropriate public education (“FAPE”) in an Individualized Education Program (“IEP”) developed on June 5, 2012 for the 2012-2013 academic year in that the program and placement offered are inappropriate for the needs of this Student?
2. Did the Board deny FAPE to the Student during the 2010-2011 and 2011-2012 academic years because the program and services offered were inappropriate for this Student’s needs?
3. Did the Board deny the Student FAPE in the Extended School Year (“ESY”) program offered for 2012 in that the program and services offered were inappropriate for this Student’s needs?
4. If the answer to any of the above questions is YES, what is the appropriate remedy for this Student?
5. Does this Student require a more restrictive placement, and if so, what would that placement program consist of?
6. Is the proposed placement requested by the Parents at Devereaux-Glenholme an appropriate placement and program for this Student?

PROCEDURAL HISTORY:

The complaint was filed by the Parents and received by the Board on July 23, 2012. A pre-hearing conference was held on August 10, 2013 where the issues for this matter were agreed upon. The Hearing Officer was appointed on that same date. The original date for mailing the final decision and order was October 7, 2012. The parties set a due

process hearing date for September 20, 2012. The parties agreed to participate in mediation and subsequently requested a 30 day extension to accommodate a September 14, 2012 mediation date. The date for the final decision and order was extended to November 6, 2012. The September 20, 2012 due process hearing date was subsequently cancelled and re-scheduled for October 22, 2012, with the date for the final decision and order extended until December 6, 2012. On October 9, 2012 the Parents filed a Motion for Telephonic Testimony, to which the Board objected. The October 22, 2012 hearing date was utilized to allow the parties to argue the Motion for Telephonic Testimony which was subsequently denied. A hearing date was scheduled for November 9, 2012. Due to weather related issues, the November 9, 2012 due process hearing date was cancelled and re-scheduled to November 19, 2012. At the November 19, 2012 hearing date, the parties reached a tentative agreement, and requested time to formalize the agreement in writing. A hearing date was set for December 18, 2012. The parties did not have a formalized agreement by December 18, 2012 and requested additional time to formalize the agreement. A hearing date was set for January 7, 2013 to have the matter withdrawn due to the agreement, go forward with the hearing or have the matter dismissed without prejudice. On January 6, 2013, counsel for the Parents notified the Hearing Officer that there was no written agreement in place, that in anticipation of having a written agreement counsel had scheduled other matters for January 7 and as a result, he would not be present for the hearing date, but was reserving the Parents' right to re-file the complaint if necessary. On January 7, 2013, with none of the parties present at the hearing, and having received no communication from counsel for the Board, the matter was dismissed without prejudice.

FINAL DECISION AND ORDER:

Pursuant to the Parties having indicated that an agreement had been reached but not formalized on November 19, 2012, and having provided the parties with over a month to formalize the agreement or continue with the hearing, and being informed that the agreement had not been formalized and then subsequently having no party appear for the scheduled hearing date on January 7, 2013, **the matter is dismissed without prejudice.**