

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Fairfield Board of Education v. Student

Appearing on behalf of the Parent: Jennifer D. Laviano, Esq.  
Law Offices of Jennifer D. Laviano, LLC  
76 Route 37 South  
Sherman, CT 06784

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

Appearing before: Justino Rosado, Esq., Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

**Parent's Issues:**

1. Was the program offered by the Board from March 13, 2011 to the end of the 2010-2011 school year appropriate and did it provide the Student with a free and appropriate public education (FAPE) in the least restrictive environment (LRE)?
2. Was the program offered by the Board for the 2011-2012 school year appropriate and did it provide the Student with FAPE in the LRE?
3. Is the program offered by the Board for the 2012-2013 school year appropriate and does it provide the Student with FAPE in the LRE? If not;
4. Should the Student be placed at St. Vincent's Special Education School in Bridgeport, Connecticut for the 2012-2013 school year?
5. Did the Board violate the Student's Procedural Safeguards by failing to convene a due process hearing without delay after an independent educational evaluation (IEE) was denied, requesting the Parent to sign a release assuming financial liability for devices, failing to accurately reflect the Parent's concerns on Prior Written Notice and excluding the Student from school without providing services?
6. Is the Student entitled to compensatory education for the Board's denial of FAPE?

**Board's Issues:**

1. Were The Board's triennial evaluations of the Student appropriate? If not;
2. Is the Student entitled to independent educational evaluations in the following areas: psychological, speech and language, occupational therapy and physical therapy?

**SUMMARY AND PROCEDURAL HISTORY:**

The Student has been identified with Multiple Disabilities and is entitled to receive FAPE as defined in IDEA 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a et seq.

At a planning and placement team (PPT) meeting, the Parent requested an independent evaluation of the Student. The Board refused the Parent's request.

On February 20, 2013 the Board received notice of the Parent's request for due process. The parties agreed to go to mediation in place of a resolution meeting. The mediation session was held on May 9, 2013.

An impartial hearing officer was appointed on February 20, 2013; a pre-hearing conference was held on March 14, 2013. At the pre-hearing conference the Parent's attorney amended the due process complaint and added the Parent's issues. There was no objection to the amendment by the Board. A hearing date of June 6, 2013 was chosen by the parties.

At the May 9, 2013 mediation, the parties were not able to come to an agreement. The hearing officer sent notice that the hearing schedule would then proceed with the Parent having the Burden of Production and that the Board's issue of the independent educational evaluation would be dealt with in the course of the hearing.

The Parent's attorney objected to this format stating that the Board should have the Burden of Production because the Board has the issue of whether the Board's evaluations were appropriate, and requested permission to file a brief on the matter. This request was denied. (Hearing Officer's Exhibit No. 4)

In an electronic transmission, the Parent's attorney advised the hearing officer that the parties were able to resolve the matter but needed additional time to finalize the agreement. The Parent's attorney requested that the matter be withdrawn without prejudice. There was no objection by the Board. The Board also requested a withdrawal without prejudice of their issue. There was no objection by the Parent. The withdrawals were granted.

The date for the mailing of the Final Decision and Order was extended to accommodate the parties' mediation and the hearing dates. The date for mailing the Final Decision and Order is June 28, 2013.

**FINAL DECISION AND ORDER:**

**THE MATTER IS WITHDRAWN WITHOUT PREJUDICE.**