

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student v. Greenwich Board of Education

Appearing on behalf of the Parents: Attorney Tracey Spencer Walsh
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Appearing on behalf of the Board: Attorney Abby Wadler
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Town of Greenwich
101 Field Point Road
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Appearing before: Attorney Brette H. Fitton, Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Was the Individualized Education Program (IEP) not designed to address Student's "present levels of performance" at the start of the 2013-2014 school year?
2. Did the District fail to include any meaningful input from Student's parents with regard to Student's "Present Levels of Academic Achievement and Functional Performance"?
3. Did the District convene an IEP meeting without first timely and properly evaluating and assessing Student's "Present Levels of Academic Achievement and Functional Performance"?
4. Did the District fail to develop critical assessment reports that should have been used as the basis for development of the IEP, including but not limited to a meaningful base-lining of Student's then-existing functional and skill levels?
5. Did the District fail to offer an adequate and appropriate frequency and duration of speech and language instruction to address Student's communication deficits, by offering only one hour per week of group speech and language instruction in a therapy room, and no individualized speech therapy?
6. Did the District fail to offer an adequate and appropriate frequency and duration of individualized instruction to address Student's reading and writing skills, by offering only group instruction even though Student struggles to learn only in a group setting?
7. Was the District's recommended program and placement inappropriate and not ready, willing and able to fulfill Student's IEP service mandates by trained and properly supervised personnel?
8. Did the District fail to assess or consider whether the methodology used at the proposed placement (Riverside Elementary School) would be effective for Student?
9. Did the Planning and Placement Team ("PPT") fail to create a Behavior Intervention Plan ("BIP") or interim behavior plan despite documentation identifying Student's behavior issues?
10. Did the District fail to conduct a Functional Behavior Assessment (upon which a proper BIP is based) for Student, despite the reports about his interfering behaviors?

11. Did the District's teachers and related service providers and other support personnel lack the training and expertise needed to properly educate Student?
12. Were the staff at the District's proposed placement not adequately trained or supervised to address Student's unique needs?
13. Does the proposed IEP and program lack provision for adequate collaboration and communication between all of Student's teachers and providers, and his parents?
14. Do union contracts and agency agreements preclude or restrict collaboration and communication between Student's service providers and with Student's parents?
15. Did the District failed to convene a duly constituted IEP team?
16. Does the IEP fail to adequately and appropriately address Student's literacy deficits?
17. Does the IEP fail to adequately and appropriately address Student's deficits in written language?
18. Does the IEP fail to adequately and appropriately address Student's math deficits?
19. Does the IEP fail to offer any student-to-teacher ratio, appropriate or otherwise?
20. Does the IEP program fail to offer Student a small classroom and small student-to-teacher ratio, despite the fact that Student needs a small learning environment in order to make meaningful progress across all domains?
21. Does the IEP not appropriately or adequately address Student's learning disability, ADD, executive function deficits, and social/emotional deficits and does it not promote meaningful progress for Student?
22. Is the general education environment proposed by the IEP inappropriate for Student as the pace and complexity of the language are beyond Student's ability to process and comprehend and is not "reasonably calculated"?
23. Does the IEP fail to adequately and appropriately address Student's unique learning needs and consequently he is unavailable to meaningfully access or derive any meaningful benefit from being with typically developing peers?
24. Are IEP "supports and services" inadequate and inappropriate for Student to successfully access the general education curriculum?
25. Does the IEP fail to adequately and appropriately address Student's organizational deficits?
26. Does the IEP fail to adequately and appropriately address Student's difficulties with transitions and have no plan to assist Student with transitioning from one activity to another?
27. Does IEP fail to provide for direct instruction for Student instead of providing only for "group" instruction?
28. Did the District fail to offer adequate levels of related services?
29. Did the District fail to provide requisite consistency in programming?
30. Did the District fail to give any meaningful consideration to supporting Student's use of an assistive technology device?
31. Did the IEP fail to recognize or address Student's handwriting and fine motor deficits by stating that Student's fine motor skills are "age appropriate"?
32. Did the IEP fail to offer any services to help Student with interfering behaviors in the home or community when it was reported that, "[Student] displays a significant number of disruptive, impulsive and aggressive behaviors" outside of school?
33. Is the IEP inappropriate because it mandates only one thirty-minute counseling session per week for Student, which is an inadequate service that is not designed to promote progress?

34. Is the IEP inappropriate because it fails to provide for a transition plan to assist Student in transitioning to a new school, Riverside Elementary School when the district is aware that Student has behavior issues?
35. Did the PPT fail to meaningfully consider any programs or placements that would be appropriate for Student?
36. Did the District fail to meaningfully include Student's parents in the IEP development and placement selection process, as required by statute and Winkelman?
37. Did the District adhere to policy, custom or practices that precluded individualization of Student's IEP and program when Student's lack of success in the offered program was documented?
38. Did the District fail to meaningfully include Student's parents in the IEP development process?
39. Did the District fail to meaningfully consider private evaluations, assessments and other reports and take them into account in the development of the IEP?
40. Did the PPT fail to offer any Orton-Gillingham reading program for Student, despite the fact it was a program that was promoting reading progress for Student?
41. Did the District misstate Student's actual progress in reports and at meetings with Student's parents?
42. Did the District fail to properly train and supervise teachers and providers?
43. Did the PPT team fail to assess and/or otherwise meaningfully consider what, if any, educational methodologies and approaches are "reasonably calculated" to promote meaningful educational progress for Student?
44. Did the District engage in impermissible "predetermination" by following district "policy," practice and administrative convenience in denying Student an individualized program of services, offering Student what the District had rather than what was appropriate for Student's individual needs?
45. Did the District predetermine Student's placement before it fully and finally developed an IEP for Student?
46. Did the District fail to provide a copy of the IEP to Student's parents at the end of the IEP meeting?
47. Did the District fail to advise parents of their entitlement to have a parent member participate in the IEP meeting?
48. Did Student's parents not waive their right and requirement to have a parent member participate in the IEP meeting?
49. In the event the District produces a parent waiver form at hearing, did Student's parents waive their right to a parent member under duress?
50. Does the proposed IEP program fail to list the projected date of its initiation, including only start and end dates for "summer" services and thereby failing to give Student's parents prior written notice of when the IEP would actually be implemented for the remainder of the 2013-2014 twelve-month school year?
51. Does the IEP contain an explanation for Student's disability classification of "other health impaired" and did the PPT fail to consider traumatic brain injury as a possible appropriate classification, despite Student's medical history?
52. Does the District's proposed IEP document, as written, fail to provide Student with a Free Appropriate Public Education?
53. Did the parents cooperate in the IEP development process?
54. Did the District fail to conduct appropriate evaluations and/or assessments of Student?

55. Did the IEP fail to include any goals for Student's use and acquisition of skills with the assistive technology device he requires?
56. Did the IEP fail to identify the assistive technology device that Student uses?
57. Did the District fail to develop IEP goals and objectives that were clear, unambiguous, adequate and sufficiently challenging and individualized for Student?
58. Do the IEP goals fail to adequately and appropriately address Student's deficits in language, thinking and problem solving skills?
59. Do the IEP goals fail to adequately and appropriately address Student's significant deficits in attention and the impact those deficits have on his learning and retention of material?
60. Did the District fail to develop goals and objectives to adequately promote Student's need to develop self-sufficiency and independence?
61. Did the District fail to develop goals and objectives individually at the IEP meeting, with the meaningful participation of Student's parents?
62. Does the proposed IEP lack goals and objectives to address and remediate interfering behaviors?
63. Did the IEP fail to provide for any parent counseling and training goals?
64. Were the IEP goals for speech and counseling inadequate and inappropriate to meet Student's unique and individual needs?
65. Were the IEP goals inappropriate because they failed to include "short term" objectives, and lacked intermediate points built in the IEP to assess and measure Student's progress against those goals?
66. Did the IEP fail to mandate social skills services for Student despite reports that Student has difficulty interacting with his peers? Is District's failure to recommend social skills services for Student likely to result in regression, and not likely to result in progress in developing his social skills?

PROCEDURAL HISTORY AND SUMMARY:

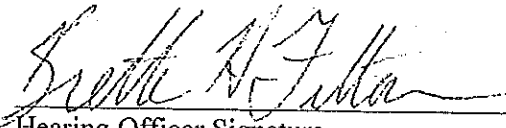
The Board received Parents' request for a special education due process hearing on September 19, 2013. The undersigned hearing officer was appointed on September 24, 2013. A prehearing conference was held on October 10, 2013. The original deadline for the mailing of the final decision and order was established as December 3, 2013. During the prehearing conference the parties requested an extension of the mailing deadline for the final decision and order so that the parties could participate in mediation. This request was granted and the new deadline for the mailing of the final decision and order was established as January 2, 2013. The parties engaged in mediation on December 5, 2013, but were not able to reach a settlement. On December 18, 2013, the first hearing date, the matter was dismissed on the record based on the hearing officer's receipt of the Parents' withdrawal of their request for a special education due process hearing without prejudice on December 17, 2013.

FINAL DECISION AND ORDER:

In light of the above facts, the case is dismissed.

If the local or regional board of education or the unified school district responsible for providing special education for the student requiring special education does not take action on the findings or prescription of the hearing officer within fifteen days after receipt thereof, the State Board of Education shall take appropriate action to enforce the findings or prescription of the hearing officer.

Appeals from the hearing decision of the hearing officer may be made to state or federal court by either party in accordance with the provisions of Section 4-183, Connecticut General Statutes, and Title 20, United States Code 1415(i)(2)(A).


Hearing Officer Signature

Brette H. Fitton
Hearing Officer Name in Print