

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Southington Board of Education

Appearing on behalf of the Student: *Pro Se* Parents & Student

Appearing on behalf of the Board: Craig Meuser, Esq.
Chinni and Meuser, LLC
One Darling Drive
Avon, CT 06001

Appearing before: Sylvia Ho, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the Board offer FAPE in the two years prior to the filing of the Due Process Complaint?
2. If not, is Cheshire Academy an appropriate placement?
3. If not, are Parents entitled to reimbursement of tuition and education related services, including transportation costs to Cheshire Academy?

PROCEDURAL HISTORY/SUMMARY:

The Parent filed the Due Process Complaint/Hearing Request on August 28, 2015, which was received by the Board on August 28, 2016. The Hearing Officer was appointed on August 31, 2016 and conducted a Prehearing Conference on September 14, 2016 wherein the hearing issues above were identified and an initial hearing date was scheduled for October 23, 2015.

The hearing convened on October 23, 2015, January 13, 2015, January 15, 2016, March 14, 2014 and April 8, 2016. A hearing day that was scheduled for December 18, 2015 was cancelled. The Parents presented five witnesses. They were Dr. Veronica Scarfi, Psychologist/Consultant and the Independent Educational Evaluator; Jacqueline Sutton, Student's former teacher at Cheshire Academy; Father; Mother and Student. The Board presented five witnesses. They were Larissa Rodgers, School Psychologist; Susan Spatafore, Occupational Therapist; Stacey Haber, Special Education Teacher/Case Manager; Margaret Walsh, Director of Pupil Services and Beth Ozkan, Southington High School Coordinator of Special Education.

The Board's exhibits B-1 to B-53 were admitted as full exhibits. The Student exhibits P-1 to P-35 were admitted as full exhibits. The Student executed a Power-of-Attorney to her parents so that they could represent the Student at the Hearing. This Power-of-Attorney was also made a Student Exhibit P-36. The Due Process Complaint/Hearing Request was admitted as HO-1. The parties' Joint Stipulation of Facts were read into the record and admitted as HO-2.

This Hearing Officer granted the parties' requests for extension of the mailing dates of the Final Decision as follows: On October 23, 2015, the mailing date of the Final Decision was extended from November 11, 2015 to January 20, 2016 to add hearing dates. On January 15, 2015, the mailing date of the Final Decision was extended to February 22, 2016 to add hearing dates. On February 19, 2016, the mailing date of the Final Decision was extended to March 22, 2016 to add hearing dates. On March 14, 2016, the mailing date of the Final Decision was extended to April 21, 2016 in order to add a hearing date.

This Final Decision and Order sets forth the Hearing Officer's summary, findings of facts and conclusions of law set forth herein, which reference certain exhibits and witness testimony which are not meant to exclude other supported evidence in the record. All evidence presented was considered in deciding this matter. To the extent the summary, procedural history and findings of facts actually represent conclusions of law, they should so be considered and vice versa. See *SAS Institute Inc. v. S & H Computer Systems, Inc.*, 605 F. Supp. 816 (M.D. Tenn. 1985) and *Bonnie Ann F. Callallen Independent School Board*, 835 F. Supp. 340 (S.D. Tex. 1993). All motions that were not previously ruled upon are hereby denied.

SUMMARY:

The issues in this Due Process hearing involve whether the Board failed to provide a free and appropriate public education in the two years prior to the filing the Due Process Complaint for an 18 year old college student who was identified by the school as "twice-exceptional" (gifted/disabled). Student believes that the Board failed to provide an appropriate program because the Board did not have an IEP in place at the beginning of 11th grade. Student further contends that the Board, among other things, failed to provide an appropriate reading program and assistive technology and that her special education teacher bullied her by yelling at her in front of other students. Student is requesting reimbursement of private school education at Cheshire Academy, a college preparatory school, the Student attended in the 11th grade.

STATEMENT OF JURISDICTION:

This matter was heard as a contested case pursuant to Connecticut General Statutes (C.G.S.) §10-76h and related regulations, 20 United States Code §1415(f) and related regulations, and in accordance with the Uniform Administrative Procedure Act (U.A.P.A.), C.G.S. §§4-176e to 4-178, inclusive, §§4-181a and 4-186.

FINDINGS OF FACT:

The issues concern whether the Board offered a Free and Appropriate Education for Student's 11th and 12th grade school years. The Student has made a number of allegations, which are summarized as follows:

Inappropriate Reading Program: Student alleges that in response to an April 1, 2013 complaint, the State Department of Education mandated corrective action, which required

the Board to provide a reading program to help with Student's reading fluency and that the Board did not provide this program until the Student's senior year. (Transcript, 4/8/16 at 139)

"Inadequate Medical Support for a Medically Diagnosed Eye Condition": Parents and Student allege that the Board did not adequately accommodate the Student's vision and print disability and should have provided medical services for Student's medically diagnosed eye muscle disability. Student contends that this violated Section 504 of the Rehabilitation Act, the Americans with Disabilities Act and the IDEA. (Transcript, 4/8/16 at 140).

Bullying by Board Staff: Student claims that a special education teacher made comments that were critical and embarrassing to the Student and that this made the Student feel "stupid". The Student argues that this constituted bullying of Student and that Board bullied the Student and did not protect Student from bullying a school employee. (Transcript, 4/8/16 at 140)

Failure to Consider Medical Diagnosis: Student claims that the Board did not appropriately evaluate the Student's disability and "fully ignored" the medical diagnoses of Dr. Susan Danberg, Dr. Phyllis Liu, the 4D Vision Gym, Dr. Collier, and Dr. Kim. (Transcript, 4/8/16 at 141)

Compliance with the Family Educational Rights and Privacy Act (FERPA): Parents allege that they were denied FAPE because Student's records were not in a centralized location in violation of FERPA and that "the school superintendent was trying to intervene and ruin my daughter's PPT by not allowing us to have access to our child's records." (Transcript, 4/8/16 at 142-143)

Retaliation by Board's Superintendent: Student alleges that the Superintendent retaliated against the Parents because the Parents filed a complaint with the Department of Consumer Protection accusing the Superintendent of making a false claim at a public meeting of the Town of Southington's Planning and Zoning meeting in 2013. Student claims that the Superintendent "illegally cut off communications" between Parents and Student's teachers and insisted that Parents communicate with teachers through his office. Parents and Student contend that this has damaged the Student's "academic self-esteem). (Transcript, 4/8/16 at 142, 145)

Failure to Provide a Certified Teacher for Spanish in the 10th grade: Student alleges that the Board's long term substitute Spanish teacher was unqualified to teach Spanish to Student in the 10th grade and as a result, the Student was ill prepared and was not able to obtain a good grade in Spanish at Cheshire Academy. (Transcript, 4/8/16 at 145-146)

Failure to offer an IEP for the 11th grade school year: Student claims that the Board did not provide and the Parents did not receive an IEP for the 11th grade school year. Parents and Student claimed that the Board's coordinator of pupil services "claimed she could not have a PPT during the summer because of staff." (Transcript, 4/8/16 at 146)

Failure to Provide Appropriate Technology: Student alleges that the Board's provision of Bookshare, an online library for the people with print disabilities, was inappropriate. Parents and Student claim that the Board offered this assistive technology because it was free or less expensive than software from Kurzweil Educational Systems and the Board offered Bookshare to save monies for the school district. (Transcript, 4/8/16 at p. 148).

Failure to Assist Cheshire Academy with Cheshire Academy's Accommodation Plan: Parents and Student claim that the Board representatives should have worked with Cheshire Academy to provide an Accommodation plan for Student when she was parentally placed at Cheshire Academy during her junior year. (Transcript, 4/8/16 at 144)

Failure to Fulfill Promises Made at a Resolution Meeting: Parents and Student allege that Board's representatives promised at a Resolution Meeting that the Board would match the Student's Cheshire Academy IB curriculum at Southington High School if she returned and that this promise was not fulfilled. (Transcript, 4/8/16 at 144)

After considering all the evidence submitted by the Parties, including documentary evidence and testimony of witnesses, I find the following facts:

1. Student was born on October 11, 1997. She was eighteen years old at the time of the hearing and a student at the University of Connecticut. (Stipulation of Facts; Testimony Student). The Student was identified as a child with a disability and eligible for special education and related services as of the end of ninth grade at a June 27, 2012 Planning and Placement Team meeting (PPT). (Stipulation of Facts). The issues in this hearing involve the Student's Individualized Educational Program (IEPs) in the 11th and 12th grade.
2. Student attended Southington Public Schools from kindergarten to 7th grade. The educational record reveals that Student obtained "A" range grades in core academic classes. (B-3) Beginning in the 3rd grade, the Parents advocated for the Student to be placed in the Southington School's Gifted and Talented program but Student was found not to qualify. (B-19)
3. A group ability test (Otis-Lennon School Ability Test) was conducted in September 2009 when Student was in the 7th grade. Her overall results were in the Average range (SAI = 101) with comparable verbal and nonverbal skills (verbal = 104 & Nonverbal = 98). 7th grade Connecticut Mastery Tests reflect Advance Goal in Math and Writing and Goal in Reading. Student's 7th grade Degrees of Reading Power (DRP) score was 76, which fell within the 7th grade expectation. (B-3)
4. Parents referred the Student to Special Education Services to assess her intellectual ability for Gifted and Talented purposes in 2010 when Student was in the 7th grade. (B-3). Parents also hired Dr. Veronica Scarfi, an educational psychologist as a consultant. Dr. Scarfi describes the family as typical of "very highly educated and Type-A families" where it is "part of the family dynamic that the child do incredibly well and get into a good college." (Testimony, Scarfi) Throughout the hearing, the Parents referred to the Student as "brilliant". (Testimony, Father; Testimony, Mother). The Parents monitored every grade the Student obtained and when the grade fell below

an "A" range, indicated in notes that the grade "needs to revise to 'A'" or "Needs help". Notations on Powerschool reports reflected the Parent's anxiety over a grade of 80 on a quiz -which the Parent planned to discuss with school staff. (P-15)

5. The educational record also reveals that throughout 8th grade to 12th grade, the Parents did not feel that Student's struggling performance, especially in math and science, matched her "high gifted ability". Parents frequently intervened on Student's behalf with school staff when they disagreed with classroom teachers and administrators at various schools. The accusations against school staff in various schools, in some instances, could be personal in nature. For instance, Parents intervened when the Student wanted to change her 9th grade math teacher at University High School and was not successful. When the administration refused, Parents complained the teacher had "poor classroom management skills". They accused the teacher of not noticing "there was a boy snorting cocaine during class." Administrators eventually denied the Parents access to this teacher at University High School. (B-19) The Parents wanted Student to gain admission to an Ivy League school because the Parents believed that Student had the academic ability. In the 9th grade, Student had hopes of becoming a plastic surgeon. (Testimony, Mother, Testimony, Scarfi)
6. The Wechsler Intelligence Scale for Children 4th Edition (WISC-IV) assesses children from age 6 to 16. The assessment was administered in May and June of 2010 when Student was age 14 and 9 months. The assessment results indicated Superior Verbal Comprehension skills (VCI=128), High Average Perceptual Reasoning skills (PRI= 119, Average Working Memory skills (SS=109) and Low Average Processing Speed skills (PSI= 85). Student performed in the below average range on a visual association and copying processing speed test. The Woodcock-Johnson III Tests of Cognitive Abilities (WJ-III Cognitive) was also administered and indicated Average Working Memory skills (SS= 109), Low Cognitive Efficiency skills (SS=86) and Extremely Low Processing Speed skills (SS=64). Student performed in the Extremely Low range on processing speed and cognitive efficiency and she performed in the Low Average range on a processing speed and cognitive efficiency task assessing her ability to quickly and accurately make conceptual decisions. Based upon the results of intelligence testing, the Student was found not to qualify for special education services; however PPT notes recommended that she be referred for the school Early Intervention Team (EIT) to assist with processing speed interventions. However, no EIT services were provided because Student transferred out of district to a private school, Talcott Mountain Academy of Science, Mathematics and Technology (Talcott Mountain Academy) for grade 8. (B-3)
7. While at Talcott Mountain Academy, Student had academic struggles in biology, astronomy and math. She had trouble reading and copying assignments from the blackboard and with completing timed laboratory assignments. Student could not keep up in Math with same age peers at Talcott Mountain Academy because 8th graders were learning Geometry. Student had only taken pre-Algebra in the 7th grade and did not know algebraic concepts. Eventually, Student was placed in a class to repeat Pre-Algebra with a younger group of Students. Parents blamed the Student's academic problems at Talcott Mountain Academy on lack of available appropriate instruction at the school. (B-19)

8. Student attended University High School of Science and Engineering (University High School) located at the University of Hartford in the 9th grade until March 27, 2012. (Stipulation of Facts) University High School is a magnet school operated by the Greater Hartford Regional School Choice Office. Entrance to University High School is through a lottery-based system. At University High School, Student was initially placed in all honors level classes, including Algebra II. However, Student was placed in Algebra I mid-year because it proved too challenging for Student. Student also experienced problems with reading from the blackboard and copying assignments as well as other academic struggles. The Parents blamed Student's math problems on the math teacher. Parents applied for an accommodation plan under Section 504 of the Rehabilitation Act but were unable to procure an accommodation plan. (B-19)
9. Student left University High School and enrolled at Southington Public Schools on March 28, 2012. Later, Parents referred Student for evaluation for concerns related to the Student's academic gaps, processing speed and visual processing skills. A PPT was convened on May 14, 2012 to discuss the referral and plan assessments to determine eligibility for special education services. (B-2)
10. The School Psychologist conducted a file review and updated data on Student's functioning. The School Psychologist administered the WISC-IV processing speed subtests, WJ-III Cognitive-subtests related to Processing Speed, Cognitive Fluency and Executive Processing skills. Results on the WISC-IV reflected that Student scored in the low average range (PSI = 88, 21st percentile). Student performed within the average range on processing speed tasks which assessed her ability to quickly and accurately visually scan and discriminate objects in a random and structured arrangement. Results were consistent with 2010 scores and suggested that Student responded to visual information at a slower pace. Results on The WJ-III Cognitive reflected Average Working Memory Skills (SS =109), Low Average Cognitive Efficiency skills (SS=86) and Extremely Low Processing Speed skills (SS=64). Processing Speed measures the ability to perform simple and automatic cognitive tasks rapidly, particularly when under pressure to maintain focused attentions. Student's standard score fell within the Borderline range (SS=73). Student's scores in the borderline and low average range in processing skills related to Student's ability to rapidly search and compare visual symbols, and quickly encode and mentally manipulate content. Student performed within the Borderline range (SS= 76) in executive skills related to sustained attention, inhibitory control and processing speed. The School Psychologist also administered a self-report questionnaire, which revealed solidly developed strengths and a few problematic behaviors with time management strategies that contributed to Student's academic problems. Student reported she had difficulty finishing assignments and would fall asleep completing homework. Student reported a need for extra time to complete math tests, classwork and certain writing assignments. (B-3)
11. The Student was also administered the Woodcock-Johnson III Achievement (WJ-III ACH Form B) Standard and Extended Batteries. Achievement testing revealed that compared to same age peers (14.7); Student had high average oral language skills and superior oral expression. Her overall level of achievement was high average. Her fluency with academic tasks was in the low average range. Her oral comprehension was average. Her math fluency score was in the low range. The examiner

recommended that the Student be given extra time to complete assignments, tests and quizzes. (B-4)

12. A PPT convened on June 11, 2012 did not find Student to be eligible for special education services. However, the PPT reconvened on June 27, 2012. Dr. Perri Murdica, Senior Coordinator of Pupil Services/Administrator and Beth Ozkan, Special Education Coordinator/Special Education Teacher reviewed the evaluations and requested the PPT to revisit eligibility. The June 27, 2012 PPT members reviewed all the data and the family's concerns and agreed Student had a significant processing disorder. (B-6) Student was determined to be eligible for special education at the June 27, 2012 PPT under the eligibility category of Specific Learning Disability. (Stipulation of Facts)
13. The Individualized Education Program (IEP) provided specialized instruction for three periods of Academic Support per 6-day cycle or 1.86 hours per week. Further, the Student was provided with the following accommodations: extra time, extra time in tests/projects/written work, pace long term projects, test study guide, clear expectations/explanations of next activity, planner and availability of Bookshare. Instructional strategies included clear expectations, frequent reinforcement, and review directions. The IEP provided that accommodations were for all courses. In addition, Student would receive extra time in an alternate setting for the Connecticut Academic Performance Test (CAPT). Additionally, Transition Planning was discussed at the PPT. Student indicated an interest in the biomedical field as well as engineering and was to participate in Naviance to begin collecting information to assist in career and college planning. (B-6)
14. At the end of the 9th grade, the Student received the following grades for the following courses: Algebra I (L3 Accelerated College Prep) 82; Earth Science (L3) 85; Engineering Design (L4 Honors/AP) 84; Freshman English (L4) 87; Geometry (L3) 83; Health 95; Physical Education 92; Physics (L4) (grade transferred from University High School) 77; Spanish (L2 College Prep) 89. (P-14; B-40)
15. In the beginning of 10th grade, Student took the following courses: Algebra II Honors; Art I; Biology Honors; English II Honors; Health II; Physical Education and Spanish. (B-40)
16. On October 26, 2012, the PPT met at Parent request. The Student was struggling academically and failing Algebra II Honors. The PPT added the following new services: Additional daily instruction for Academic Support. This increased Special Education services to 7 academic support periods in a 6-day rotation. In addition to continuing accommodations from the June 27, 2012 IEP, Student was also provided the use of a laptop for note taking in class. If Student made use of the laptop, the PPT determined that the laptop would be added to the accommodations page of the next IEP. The PPT agreed that the Student would be moved from Algebra II Honors to Algebra I Honors even though the Student had taken Algebra I in the 9th grade. The PPT felt that retaking Algebra I would help Student learn skills necessary for Algebra II. Student's failing grade was removed from the Student's transcript. (B-7)
17. On November 15, 2012, the PPT met at Parent request. Student was failing English II Honors. The PPT agreed that the Student was dropped from English II Honors to

English I Honors class and the English II Honors grade was removed from the transcript. (B-8)

18. The Parents again retained the services of Dr. Veronica Scarfi. Dr. Scarfi reviewed the Student's 2010 and 2012 evaluations and IEPs produced a report dated March 29, 2013. In her report, Dr. Scarfi suggested accelerated learning in the following areas of gifted ability: visual arts, written expression, math calculation. She also concluded that the Student had a dyslexic profile with reading fluency and comprehension issues and concurrent Attention Deficit Disorder (ADD) inattentive type. She suggested that an Orton Gillingham trained Reading Specialist conduct a diagnostic reading evaluation and make recommendations. (B-10, B-16)
19. The PPT convened on April 1, 2013 at Parent request. The members of the PPT were Helen Crowley, Administrator; Father; Mother; Student; Rosanne Carey, Special Education Teacher; Lee Ann Miller, Guidance Counselor; Gail T. Lessard, Special Education Department Chair; Dr. Perri Murdica and Beth Ozkan, Special Education Coordinators; Dr. Martin Semmel, Principal; and Dr. Veronica Scarfi. The PPT reviewed Dr. Scarfi's March 29 report and considered the input of Dr. Scarfi. The PPT agreed to conduct an Assistive Technology and Occupational Therapy review. The following accommodations were added to the IEP: reader for assessments provided on request by the Student; content area teachers to adjust homework requirement to include essential concepts (rather than focus on quantity) when appropriate; weekly communication to the parent indicating status of assignments in all courses and feedback from student regarding reason for incomplete assignments (i.e. time or difficulty understanding) and plan for completion. Student would participate in after school sessions with teachers to ensure clear directions, initiation and feedback about assignments. (B-11, B-12)
20. On the same day, Parents filed a 14 page Complaint with the State Department of Education. (B-19)
21. The PPT reconvened on April 30, 2013. The Parents requested an Independent Educational Evaluation. The PPT agreed that the Board would pay for an Independent Educational Evaluation to be performed by Dr. Veronica Scarfi. (B-14, B-19).
22. Dr. Scarfi issued a report dated May 31, 2013. Dr. Scarfi conducted the following assessments: WISC-IV; Woodcock Reading Mastery Test - Third Edition (WRMT III); Behavior Assessment System for Children -2 Rating Scales -Adolescent Form (BASC-2-TRS-A); Behavior Assessment System for Children -2-Self Report of Personality-Adolescent Form (BASC -2-PRS-A); Behavior Rating Inventory of Executive Function -Self Report (BRIEF-SR); Classroom Observation/Teacher Interview; Parent/Developmental Interview; Focus Mental Health Observation (FMHO); Thematic Apperception Test (TAT); Clinical Interview; 3 Wishes, Sentence Completion Test (SCT); Records Review.
23. WISC-IV assesses an age range of up to 16 years of age. At the time of administration, the Student was age 15 years and 7 months. Dr. Scarfi's WISC-IV assessment administration were as follows: Verbal Comprehension: 150; Perceptual Reasoning 129; Working Memory 99; Processing Speed 85. Dr. Scarfi found that the Student was profoundly gifted with executive dysfunction in the following areas: mental operations,

successful planning ability, working memory, mental control, shifting of mental set and inhabitation of responses. Compromised executive functioning will impact organization, attention, decision-making, planning and sequencing, regulation, initiation, and repetition and temper control. Individuals with weaknesses in Executive Functioning are often unaware of their difficulties and exhibit unintentional noncompliance with activities and/or expectations. Problems with Executive Functioning can be responsible for a majority of academic struggles. Dr. Scarfi also stated in the report that the Student might have had Meares-Irlen Syndrome, a visual perception disorder. (B-16).

24. For the 2013-2014 School Year, Dr. Scarfi recommended the following: Provide Student with syllabi for all courses and delineated grade rubrics prior to the first day of school in separate folders and binders for each course; use of color overlays; blackboard; explicit teaching strategies; oral testing; AIMS plan; Bookshare; Audiobooks or Bookshare with audio; laptop; extended time; academic support instruction; allow student to begin assignments and complete tasks during study hall; allow student opportunity for talent development. (B-16)
25. On June 14, 2013, the PPT convened to conduct the Annual Review, review and revise the Student's IEP; engage in Transition Planning and Develop the IEP for the Student's 11th grade school year. In attendance at this meeting were: Helen Crowley, Administrator; Father; Mother; Student; Sharon Mossey, Student's Regular Education Teacher; Rosanne Carey, Special Education Teacher; Larissa Rodgers, School Psychologist; Lee Ann Miller, Guidance Counselor; Susan Spatafore, Occupational Therapist/Assistive Technology Evaluator; Perri Murdica and Beth Ozkan Special Education Coordinators; Gail T. Lessard, Special Education Department Chair and Dr. Veronica Scarfi, Independent Educational Evaluator. The PPT adopted all the Dr. Scarfi's recommendations except for color overlays for the whiteboard. Instead, the PPT substituted for this accommodation by providing all classroom presentations to the Student on light blue paper to reduce the Student's eyestrain. (Testimony, Scarfi; B-17) Additionally, among other things, the IEP provided 13 hours of tutoring in the summer of 2013 for English, Biology and Algebra; a diagnostic reading assessment in the summer of 2013; two sets of textbooks per class; and an Occupational Therapy consult to help with Assistive Technology. (B-17)
26. At the end of the Student's 10th grade, the Student obtained the following grades: Algebra I Honors -79; Art I - 84; Biology Honors - 68; English I Honors - 73; Health 88; Physical Education II - 78; Spanish II-H 78. (B-40)
27. On June 28, 2013, the Bureau of Special Education issued a written response to the Parents' April 1, 2013 complaint. The Bureau of Special Education (BSE) directed the Board to 1) direct the PPT to complete the Multidisciplinary Evaluation Report for Students Suspected of Having a Specific Learning Disability form and forward it to the BSE's office by October 1, 2013; 2) The PPT must forward a copy of the diagnostic reading assessment report to BSE no later than October 1, 2013; and 3) The District must consider the effectiveness of the current program and return to the PPT to discuss possible changes that align with the recommendations from Dr. Scarfi's IEE and further diagnostic information and forward a copy to BSE no later than October 1, 2013. (B-19 at 24)

28. In the middle of August 2013, the Parents provided written notice of their decision to place Student at Cheshire Academy and requested placement at public expense. The Parents had Cheshire Academy send the tuition invoice directly to the District. (B-27) The District denied the Parent's request for tuition reimbursement and for transportation services or IRS mileage reimbursement from Southington to Cheshire. (Stipulation of Facts)
29. The District attempted to schedule a PPT and informal meetings with Parents during the summer of 2013. The emails which began with an email confirmation of mailing of a PPT Notice was returned with an email from Mother conveying dissatisfaction with the incompetence of Southington staff beginning with the school secretary and mail person for failing to mail a notice which the secretary had stated was mailed, to discussing the School's need to respect the Mother's gifted/disabled child's needs. (B-24 at 2)
30. The PPT was rescheduled for September 13, 2013. The Mother returned the notice with fax cover sheet by fax to Beth Ozkan, Special Education Coordinator, stating "I marked up the errors in the Notice of Planning & Placement Team Meeting to help you." The Mother added Janet Rosenbaum of Cheshire Academy as "Agency, Placement/Program" and eliminated the names of Southington teachers and replaced the guidance counselor's name with the name of a Cheshire Academy guidance counselor. The Mother stated that the PPT should be postponed because a Teacher for the Visually Impaired would be conducting an assessment of Student. (B-21).
31. The District attempted several times to convene a PPT before October of 2013. (B-29)
32. The PPT convened on December 12, 2013. The following people attended the PPT: Helen Crowley, Administrator; Lisa Carmody, Special Education Teacher; Candace Patten, Regular Education Teacher; Lee Ann Miller, Guidance Counselor; Susan Spatafore, Occupational Therapist; Dr. Perri Murdica and Beth Ozkan, Special Education Coordinators; Gail Lessard, Special Education Department Chair; and Jonathan Cop, Reading Evaluator. The Mother attended by phone. The PPT was being conducted in order to comply with BSE's third corrective directive to convene a PPT to consider possible changes to the IEP. The PPT reviewed the results of reading evaluation. The Student had average reading fluency and above average reading rate and comprehension. The PPT added color overlays. OT consult was increased to one hour per month. (B-30)
33. In addition, the PPT reviewed a one-page report the Mother provided from Dr. Phyllis Liu, an optometrist. Student's visual diagnosis changed from Meares-Irlen to a vision focusing problem. Dr. Liu indicated that the Student was referred from Dr. Sue Danberg because Dr. Danberg did not take the family's medical insurance. Dr. Liu stated that the Student was nearsighted and with her prescriptive lenses sees 20/20 in each eye at a distance so the glasses are too strong for near. Student also has difficulty aligning her eyes at near. Dr. Liu prescribed bifocals of -1.75 on top for both eyes with 1 base prism to help relax Student's eye with a +1.75 add on the bottom. Dr. Liu indicated that the Student would be doing visual therapy. Eye health was within normal limits. Student also focuses up close so the near add will be more relaxing. Dr. Liu further indicated that the Student's visual problems qualify her for a Section 504 plan. She should have more time on tests, notes and assignments from the board and enlarged

print if needed. Do not have too much on a page since that may be visually confusing. The accommodations specified by Doctor Liu and other eye doctors were included in the Student's IEPs. Some of the recommendations, such as extended time were already being implemented. (P-22, B-3, B-11, B-14, B-17, B-30, B-33, B-34, B-38)

34. Previously, in the summer of 2013, Student saw Dr. Susan Danberg, an optometrist who prescribed corrective lenses, which prescription was later changed by Dr. Liu. Dr. Danberg reported that she would recommend additional time to complete assignments or tests as needed. Additionally, Dr. Danberg recommended visual therapy. Dr. Danberg stated that she did not provide the therapy because she was not covered under the family's medical insurance. She referred the Student to Dr. Liu whom she thought was covered by the family's medical insurance. (P-23, P-24).
35. Student attended Cheshire Academy for the 11th grade. Student presented Jacqueline Sutton, Student's former history teacher as a witness. Ms. Sutton's testimony is summarized as follows: Cheshire Academy provided Student with an Accommodation Plan. Accommodations included the following: preferential seating; use of computer/tape recorder; increased font size whenever possible; extended time (time and a half); distraction free environment; verbally repeat instructions; multisensory approach; provide visual and auditory models and examples; encourage to write or underline in text book. The Accommodation Plan did not provide for any specialized instruction. Cheshire's special education program was called Roxbury. Student was not enrolled in the program although the director of the Roxbury program provided Student with access to Kurzeil, text-to-speech software. (Testimony, Sutton)
36. Cheshire Academy did not have Student's Southington Schools IEP. Student was identified by Cheshire as a gifted student with a visual impairment. Janet Rosenbaum was the Cheshire staff that provided information about Student's disability to Ms. Sutton. Ms. Rosenbaum had received information from the Parents. Cheshire Academy did not provide services for Student's Specific Learning Disability. The Student received accommodations and access to general education teachers. Ms. Sutton testified that she did not have personal knowledge that the Student received Visual Therapy but that the Father told her that the Student had received it. She never saw anyone administer visual therapy to the Student. (Testimony, Sutton)
37. The Student obtained a final grade of 79 for IB History. Ms. Sutton testified that the Student's mark fell during the latter part of the school year because she did not hand in assignments. When the Student failed to hand in the assignments, Ms. Sutton would remind her that an assignment was due. No specialized plan was in place to help the Student with organizing her assignments so that they could be timely submitted. If the Student did not timely turn in an assignment, the Student would receive a penalty for lateness. (Testimony, Sutton).
38. Lori Cornelius, a Teacher of the Visually Impaired provided consultation for accommodations at Cheshire Academy. She suggested the following: "String ensemble - increase the size of the music and her own music stand would be helpful so she can move it to the best location for her to see it. Chemistry and Algebra formulas could be enlarged if they are difficult for [Student] to see. Regarding the glasses would need to

be determined by the eye doctor. You should contact them regarding what type of glasses she should wear.” (P-21)

39. Cheshire Academy applied for accommodations for college entrance examinations. The Student was approved by the College Board SAT tests for the following: Record answers in test book; Small group setting; Extended breaks; Reading +50%; Writing +50%; Mathematical Calculations +50%. Accommodations were not approved for Large Print Test Book +14 point and Reader. The College Board stated “There is no basis to support the need for a reader” and “The standard test scores that were provided indicate that you have the ability to read on your own. For example, you received superior to very superior scores in numerous areas of reading (i.e. word identification, word attack, passage comprehension, word comprehension.)...A diagnosis, in and of itself, does not necessitate testing accommodations without evidence that the disabling condition leads to functional impairment(s) that would limit your ability to take College Board tests.” On May 23, 2014, the ACT approved accommodations restricted to a three-week window of “Use of a reader. Must test individually. Testing staff must read from the provided Reader’s Script. (P-25)
40. Student took the SAT in the fall and spring of the 11th grade with the accommodations that Cheshire Academy procured. The following are her scores out of 800 potential points: December 7, 2013 - Reading - 550; Math - 560; Writing - 570. March 8, 2014 - Reading -530; Math 470 - Writing 550. Student took the ACT in June of the 11th grade while a student at Cheshire Academy. The test was administered with a reader with extended time. She scored as follows out of 36 potential points: Composite Score 27; English - 28 (Usage 14; Rhetorical skills -15); Mathematics - 23 (subtest scores range between 1 to 18 - Pre-Algebra/Elementary Algebra - 14; Algebra/Coordinate Geometry -11; Plane Geometry/Trigonometry- 11); Reading - 30 (Social Studies/Sciences -16, Arts/Literature -16); Science - 25; Combined English/Writing 26 (Writing score range 2 to 12) - 8) (P-18)
41. At the end of the 11th grade, Student received the following marks from Cheshire Academy: Algebra II - 82; Anatomy and Physiology -76; Health - P; IB English Language and Literature - 82; IB French - 82; IB History of Americas -79; IB Visual Arts -89; Physical Education - P; String Ensemble - 96. (B- 40)
42. A PPT convened on August 25, 2014. The purpose of the PPT was to propose FAPE for the Student’s 12th grade year. The Parental input included a statement that [Student] needs an additional Biology class, preferably AP, to improve opportunities to get into an Ivy League college.” Prior to the PPT, Beth Ozkan, Coordinator of Special Education contacted Lori Cornelius and Janet Rosenbaum of Cheshire Academy at Parent request to plan for the PPT. Ms. Ozkan testified that she interviewed Lori Cornelius, a Teacher of the Visually Impaired and an employee of the Bureau of Education and Services for the Blind, whether Student qualified under the category of Visual Impairment and Ms. Cornelius indicated that the Student did not qualify. Ms. Ozkan also interviewed Janet Rosenbaum about Student’s Accommodation Plan at Cheshire Academy and was told by Ms. Rosenbaum that Student did not receive any specialized instruction. Ms. Ozkan testified that Ms. Rosenbaum offered to meet with the Student on Mondays but the Student did not take advantage of the services. The Student denies this and testified that she had meetings twice a week. Nevertheless,

whether the meeting took place, it is undisputed from testimony that whatever did or did not happen with Ms. Rosenbaum would not be considered “specialized instruction” under the IDEA. (B-53; Testimony, Ozkan; Testimony, Student)

43. The Parents proposed that the Student’s category of primary disability be changed to Visual Impairment. The PPT denied this request. The PPT recommended the following, among other things - that the Student would apply for continued accommodations, including readers, for the SAT and ACT; that the Student would be allowed to take assessments at an alternate setting per her request; that the Student would have one hour per month Occupational Therapy consultation as needed; the teaching staff would design and implement a technology plan to support her learning and task completion; copies of PowerPoint presentations would be given to Student before class; Teachers would give Student written expectations to Student whenever possible. Daily Academic Support classes were offered but refused by the Student and Parents. (B-33, Testimony, Ozkan).
44. The PPT reconvened on December 16, 2015 to review the Student’s progress. In attendance were: Brian Straieri, Administrator; Father; Mother; Student; Beth Hosner, Regular Education Teacher; Stacey Haber, Special Education Teacher; Lee Ann Miller, Guidance Counselor; Susan Spatafore, Occupational Therapist; Dale Riedinger, Math Coordinator; Margaret Walsh, Senior Special Education Coordinator; and a family friend. The PPT added daily reading fluency instruction. (B-44)
45. The purpose of the reading fluency instruction was to increase the Student’s comprehension while having Student read quicker. The program used 8th grade content to increase the number of words the Student could read in a minute. At the beginning of the program, the Student could read 170 words in an initial reading of a passage in timed conditions. In her last reading, she was able to read 230 words in an initial reading, thus improving her fluency and her comprehension. The Student was required to attempt to read the passages and then quizzed on the story the Student read. (Testimony, Haber, B-52)
46. On February 26, 2015, the Parents filed a second complaint with BSE. Many of the Complaints were about the 10th grade school year and outside the scope of BSE’s one-year look back period under Connecticut regulations. The complaint claimed that the District did not uphold certain promises. The complaint alleged that the District promised to provide transportation from the Student’s home on the regular school bus; that the District did not honor promises by District staff to “match all services and programming that Cheshire Academy provided”; that the District was obligated to take the Student on campus visits, provide her with research assistant experience or help her write a college essay; that the District staff was harassing Student. BSE declined to investigate these claims as they were outside the scope of the IDEA. The Parents also made claims that the District did not hold a facilitated PPT meeting as required by BSE’s prior investigation; that the District was not allowing Student to pursue extra curricular activities; that the District was not providing needed program modifications to address the Student’s visual impairment; and that the District failed to comply with IDEA requirements to evaluate Student in all areas of suspected disability by not considering visual impairment. (P-12) The investigator reviewed the record and outlined the discussion of visual impairment and noted that no actions requested of the

District by the Parents were denied. The investigator found no need for corrective action. (P-13) During the hearing, the Mother testified that that she believed that the BSE investigator did not find a need for corrective action because BSE was in collusion with Dr. Perri Murdica and Southington Schools. (Testimony, Mother).

47. Indeed, it is clear from the record that the family had developed an internal narrative that the Southington school staff was working to deprive the Student of FAPE. For instance, an email between the Parents discussed a response to a Parent request to provide teacher recommendations to a MEDscience summer program and an Aetna HIPPI summer program. The Superintendent responded because Parents had sent numerous emails to a variety of school staff in the previous 24-hour period. The Superintendent in his email outlined an update on all issues. With regard to the summer program he stated that “Dr. Semmel is prepared to update you on the Aetna and Harvard Program.” Upon receiving this email, the Mother emailed the Father stating “What are they doing??? See how u never mentioned Harvard but he knows about it???? Seems semmel [principal] and erardi [superintendent] are in collusion to sabatoge [Student’s] opportunities. Need to email Marcus Rivera [BSE consultant] for help!!!” (P-33 at 8)
48. The Student testified about the nature of her disability. She testified that she had trouble with reading comprehension and understanding concepts of biology. She testified that the fast pace and pressure gave her much stress and that the more pressure she felt, the worse she would do. She testified that while at Cheshire Academy, general education teachers were accessible to her and she would receive additional tutoring for academic areas that she did not understand. She would be able to go to school early to get extra help from a teacher whereas general education teachers at Southington High School were not always accessible. She testified that on the second day of classes in senior year, her Special Education case manager, Stacey Haber, came to the lunchroom and yelled at her because she should have been in class. Student testified that Ms. Haber embarrassed Student in front of other Students. Student testified that the Ms. Haber suggested that she not take so many honors level courses and this made Student feel Ms. Haber was saying she was “stupid”. Student felt that the teacher was unprofessional and asked to change teachers. Student testified that she recorded these comments and played the recording at a PPT and then revised her testimony that she made notes of the statements and showed them to the PPT. She stated that Ms. Haber did apologize once for her behavior suggesting that Ms. Haber knew that she was wrong. The Student also testified that she received visual therapy at Cheshire Academy from a sports therapist that she could not name. (Testimony, Student)
49. The Student took SAT and ACT college entrance examinations while a Senior at Southington High School. The District asked the College Board to revisit the accommodation of a reader but the request was denied. The Student’s SAT scores for October 11, 2014 were as follows: Reading - 580; Math - 530; Writing - 620. It is significant to note that these were the highest test scores that the Student obtained. While the Student scored 560 in Math during December of her 10th grade year at Cheshire Academy, the senior year math score was not significantly lower whereas the junior year Math score fell by 90 points. (P-18) Student took the ACTs at the

- Southington High School test center site. The score was invalidated by the ACT when the test center staff (also a Southington School teacher) exceeded the time limits. (P-6)
50. The Student graduated from Southington High School and matriculated at University of Connecticut. Her final grades for the 12th grade were as follows: British Literature I - 81; Chemistry Honors -76; Health IV - 100; Humanities (college prep)- 82; Intermediate Algebra (college prep) -82 AUD; Intro to Psychology (competitive college prep) -96; IS: Government -94; Physical Education - 90. (B-40)
 51. Student applied for and was accepted at the following colleges: UConn; University of New England; Trinity College; University of Saint Joseph. Student was denied admission to the following colleges: Bucknell University; University; Dartmouth College; Harvard University; Vassar College and Wesleyan University. It is interesting to note that Student withdrew her application from her first choice college, Fashion Institute of Technology, which is a competitive college of art that is neither an Ivy League school nor a competitive liberal arts college. (B-49)
 52. The Student executed a Power of Attorney to the Parents to represent her in the hearing. However, Student was able to represent herself at the February 19 hearing date without her mother. Student appeared organized, methodical, calm and poised. (Transcript, February 19, 2016)
 53. On May 6, 2015, Student completed a Summary of Performance Student Perspective. In answer to the question: "What strengths and needs should professionals know about you as you enter the college or work environment?" Student answered as follows: "I am EXTREMELY conscientious (sic) and serious student who always works to my full ability, of which is a very gifted one. *My disability is stress-induced*, so guilt, pressuring, and disciplining me about assignments will actually worsen my problems and not help. I am NOT a disciplinary issue and I pressure myself to do the best that I can possibly can and do not accept any less. I am a strong participator, and have great self-advocacy." (*emphasis added* B-39)

CONCLUSIONS OF LAW AND DISCUSSION:

1. There is no dispute that Student is eligible to receive a free and appropriate public education (FAPE) and related services as set forth in the Individuals with Disabilities Education Act (IDEA), 20 U.S.C Sec 1401, et seq. and its implementing regulations codified at 34 CFR §300 et. Seq., and under Conn. Gen. Stat. Sec. 10-76.
2. The purpose of the IDEA is to ensure that all children with disabilities have available to them FAPE that emphasizes "special education and related services designed to meet their unique needs" and "prepare them for further education, employment and independent living" and "to ensure that the rights of children with disabilities and parents of such children are protected..." 20 U.S.C. §1400(d)(1).
3. The Act defines FAPE as special education and related services which "(A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State Educational Agency; (C) include an appropriate preschool, elementary, or secondary school education in the State involved; and (D) are

provided in conformity with the individualized education program required under Sec. 614(d)." 20 U.S.C. §1401 (8).

4. *In Board of Education v. Rowley*, 458 U.S. 176 (1982), the United State Supreme Court explained that "Congress did not intend the IDEA to guarantee a specific outcome, but to provide a basic level of educational opportunity for students with disabilities. A school district is not obligated to maximize the disabled student's potential." *Rowley*, 458 U.S. at 192, quoting S. Rep. No. 94-168, at 11. The IDEA only requires "the door of public education [to] be opened for a disabled child in a 'meaningful' way." *Walczak* 142 F.3d at 130, citing *Board of Education of the Hendrick Hudson Central School District v Rowley*, 458 U S 176(1982). However, it does not guarantee "everything that might be thought desirable by loving parents." *Id.* at 132.
5. The IDEA does not mandate that Southington provide a special education program that guarantees As and Bs in honors classes or acceptance to a highly competitive school. The IDEA only requires that the Board provide a basic level of education to prepare Student for college. The Student took honors classes in high school; graduated and is attending college in accordance with her transition plan. The Southington Board has provided Student with a free and appropriate public education under the analysis set forth by the United States Supreme Court. See *Rowley*, 458 U.S. at 192. (Finding of Fact No. 49)
6. The subject matter jurisdiction of IDEA due process hearings and impartial hearing officers is defined under state and federal law. The IDEA states that impartial hearing officers and due process hearings are to decide issues outlined in 20 U.S.C. §1415(b)(6)(A) or (k)¹. 20 U.S.C. §1415(b)(6)(A) defines the subject matter as "*matter[s] relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child*". 20 U.S.C. §1415(b)(6)(A) and see also, 20 U.S.C. §1415(f)(1)(A). The hearings are a means of resolving complaints when an LEA either "(A) *proposes to initiate or change; or (B) refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child.*" 20 U.S.C. §1415(b)(7)(A)(III).
7. §10-76h of the Connecticut General Statutes confines the jurisdiction of Hearing Officers to confirming, modifying or rejecting the identification, evaluation or educational placement of or the provision of FAPE to a child, to determining the appropriateness of a unilateral placement of a child or to prescribing alternative special education programs for a child.
8. Many of the allegations involve conduct outside of the scope of the hearing and authority of the Hearing Officer. The Hearing Officer lacks authority to determine the following issues:

¹ Due Process Hearing Officers also have jurisdiction to decide issues involving alternative educational settings under 20 U.S.C. §1415(k). The present Due Process Complaint does not raise any issues relating to alternative educational settings and thus, no discussion is required.

- A. Retaliation by the Board's Superintendent The Parents ongoing dispute with the Superintendent is outside the scope of the IDEA. The motivation of the Superintendent is not relevant to this hearing. However, the IDEA mandates the provision of FAPE to Students and the result of any retaliation can be considered as violations of FAPE under IDEA.
- B. Failure to Provide a Certified Teacher for Spanish in the 10th grade This issue involves the general education curriculum and is both outside the scope of this hearing and outside the period of statute of limitations. See R.C.S.A Sec. 10-76h-4(a)
- C. Failure to Fulfill Promises Made at a Resolution Meeting Resolution Agreements subject to the Resolution process are described in 34 CFR §510 must be determined by State or Federal courts, not Hearing Officers.
9. Turning to the issues within the jurisdiction of the IDEA and authority of the Hearing Officer. These issues will be considered in light of the evidence. The party who filed for due process (Parents) has the burden of going forward with evidence. The Board has the burden of proving the appropriateness of the child's program or placement. This burden shall be met by a preponderance of the evidence. R.C.S.A. Sec. 10-76h-14. The Parents not produced evidence to substantiate the following allegations:
- A. Bullying by Board Staff "Bullying is characterized by aggression used within a relationship where the aggressor(s) has more real or perceived power than the target, and the aggression is repeated, or has the potential to be repeated, over time. Bullying can involve overt physical behavior or verbal, emotional, or social behaviors (e.g., excluding someone from social activities, making threats, withdrawing attention, destroying someone's reputation) and can range from blatant aggression to far more subtle and covert behaviors." *Dear Colleague Letter*, 61 IDEIR 263 (OSERS/OSEP 2013). Student's description of behavior of Stacy Haber, Special Education Teacher, even if true, does not meet the definition of bullying. (Findings of Fact No. 47)
- B. Inappropriate Reading Program: In her closing argument, Mother stated that State Department of Education mandated that the Board provide Student with a reading program. The Parents were emphatic about this even though the evidence does not support this contention. (Transcript, April 8, 2016; Findings of Fact No. 28)
- C. Compliance with FERPA and interference with the PPT: The Parents and Student brought forward no evidence concerning this topic. In fact, this issue was raised for the first time in the Parents' closing argument. (Transcript, April 8, 2016)
- D. Failure to Assist Cheshire Academy with Accommodation Plan: R.C.S.A Sec. 10-76d-6 states that "[s]pecial education and related services available for parentally placed private school children eligible for special education shall be provided in accordance with the IDEA." Under the IDEA, "[p]arentally placed children do not have an individual entitlement to any or all services that the children would receive if enrolled in public school. See *Questions and Answers*

on Serving Children with Disabilities Placed by Their Parents in Private Schools, 111 LRP 32532 (OSERS, April 1, 2011).

10. The Board has met its burden with regard to the remaining issues:

- A. *Failure to Consider Medical Diagnosis*: The mandate in the IDEA that the IEP team “considers” the concerns of the Parents does not require that it adopt whatever changes Parents request. 34 C.F.R. §300.346(a)(i). The record reveals that the Board considered the concerns of Parents. While it is true that the Board did not change the Student’s primary category of disability to Visual Impairment, the Board did follow the recommendations of all medical providers and optometrists. The recommendations of these providers were to provide accommodations. Some of these accommodations were already included in Student’s IEPs. (Finding of Fact No. 34 and 35)
- B. *Failure to Offer an IEP for the 11th Grade*. 34 C.F.R. Sec. 300.323(a) provides that “[a]t the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in Sec. 300.320.” The Board complied with this requirement when it convened a PPT in June of 2013 and created an IEP for the Student’s 11th grade school year. (Finding of Fact No. 26)
- C. *Failure to Provide Appropriate Technology*. The IDEA requires each public agency to ensure that AT devices and services are made available to each child with a disability if required as part of the child's special education, related services, or supplementary aids and services. 34 CFR 300.105 (a). Districts are required to provide Assistive Technology devices and services if the participants on the student’s team determine that the student needs such a device to receive FAPE. *Letter to Anonymous*, 24 IDELR 854 (OSEP 1996). The Board complied with their obligation by considering the assistive technology recommendations of Dr. Scarfi, which included Bookshare. The Board conducted an Assistive Technology review, provided Student with access to a laptop and other technologies and provided OT consult services. (Findings of Fact No. 25 and 26)
- D. *Inadequate Medical Support for a Medically Diagnosed Eye Condition*. The Student contends that the District did not provide FAPE because it did not change the Student’s primary disability to the category of “Visual Impairment” and did not provide Student with Vision Therapy. Under 34 CFR § 300.8(c)(13), "visual impairment including blindness" means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness. The child's educational performance, the determination of visual impairment should be determined by gathering data in each individual case. *Letter to Kotler*, 115 LRP 5832 (OSEP 11/12/14) Lori Cornelius, a Teacher of the Visually Impaired from the Bureau of Education and Services for the Blind advised Ms. Ozkan that the Student did not qualified as a Student under the disability category of Visual Impairment. Ms. Cornelius, whose agency would be the agency to gather data to make such determination, stated that the Student did not qualify.

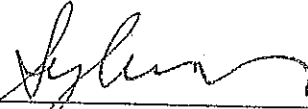
Regardless of whether the Student qualified as a student with Visual Impairment, the Board's obligation to provide FAPE required the Board to meet the unique needs of the Student, including vision concerns. The Board complied with this requirement. (Finding of Fact No. 26) Finally, the Parents and Student contend that the Board should provide medical services in the form of visual therapy. The evidence does not support a finding that medical providers provided the Board with a prescription for visual therapy. The optometrists' note specifically stated that the therapy was to be provided by other optometrists who would take the Student's medical insurance. (Finding of Fact No. 34 and 35). Medical services are required under the IDEA to the extent that they are necessary for diagnostic purposes. The services of licensed physicians for other purposes, specifically for treatment, are not related services under the IDEA. *See Cedar Rapids Cmty. Sch. Dist. v. Garret F.*, 29 IDELR 966 (U.S. 1999); and *Mary Courtney T. v. School Dist. of Philadelphia*, 52 IDELR 211 (3d Cir. 2009)

FINAL DECISION AND ORDER:

1. The Board offered FAPE in the two years prior to the filing of the Due Process Complaint.
2. Since the Board provided FAPE for the two years prior to the filing of the Due Process Complaint, it is not necessary to decide issues 2 and 3 above.

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

Sylvia Ho

Hearing Officer

Name in Print