

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Brookfield Board of Education

Appearing on behalf of the Student: Attorney Elizabeth Moyse
The Law Offices of Jennifer Laviano, LLC
76 Route 37 South
Sherman, CT 06784

Appearing on behalf of the Board: Attorney Craig Meuser
Chinni & Meuser, LLC
One Darling Drive
Avon, CT 06001

Appearing before: Attorney Brette H. Fitton
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the District violate Student's right to a Free Appropriate Public Education ("FAPE") under the Individuals with Disabilities Education Act ("IDEA") for that portion of the 2014-2015 school year beginning on January 24, 2015 and ending at the end of the school year?
2. Did the District violate Student's right to a FAPE under the IDEA for the Extended School Year ("ESY") during the summer of 2015?
3. Did the District violate Student's right to a FAPE under the IDEA for the 2015-2016 school year?
4. Did the District violate Student's right to a FAPE under the IDEA for the ESY during the summer of 2016?
5. Did the District violate Student's right to a FAPE under the IDEA for the 2016-2017 school year?
6. If the District's proposed program for ESY in the summer of 2016 was not appropriate, did the Speech Academy provide Student with an appropriate program, thereby entitling Parents to reimbursement for tuition and related expenses including transportation?
7. If the District's proposed program for the 2016-2017 school year was not appropriate, does the Speech Academy provide Student with an appropriate program, thereby entitling Parents to reimbursement for tuition and related expenses including transportation?
8. If the District committed a violation of Student's rights under the IDEA is reimbursement to Parents for private speech therapy which they obtained for Student an appropriate remedy?
9. If the District committed a violation of Student's rights under the IDEA, is compensatory education an appropriate remedy?
10. Did the District violate Student's right to a FAPE under Section 504 of the Rehabilitation Act for the period running from January 24, 2014 through the 2016-2017 school year?
11. Did the District violate Student's right to a FAPE under Title II of the Americans with Disabilities Act for the period running from January 24, 2014 through the 2016-2017 school year?

PROCEDURAL HISTORY AND SUMMARY:

On January 24, 2017, the Board received a request for a special education due process hearing filed by Attorney for the Parents. On January 26, 2017, the Connecticut State Department of Education appointed the undersigned hearing officer to preside over the case. On February 13, 2017, a prehearing conference was held and hearing dates of April 5, 2017 and April 25, 2017 were set and the deadline for mailing the final decision and order was established as April 7, 2017. During the prehearing conference, Attorney for the Parents requested a thirty day extension of the deadline for mailing the final decision and order to engage in mediation, this request was granted and resulted in a new mailing deadline of May 5, 2017. On March 2, 2017, Attorney for the Board indicated that a conflict had arisen on the April 25, 2017 hearing date with another scheduled special education due process hearing which was scheduled by Hearing Officer Rosado. The April 25, 2017 date was postponed as a result of this conflict. On March 3, 2017, the Hearing Officer informed Counsel that they each would be given two days to present their case. On March 29, 2017, the Attorney for the Parents filed a motion objecting to the two day limit for the presentation of evidence set by the Hearing Officer. The Board did not file a pleading in response to this motion. On March 27, 2017, the Attorney for the Board moved to dismiss issues 10 and 11 on the basis that the Hearing Officer did not have jurisdiction over claims arising under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. On April 3, 2017, Attorney for the Parents filed a brief in opposition to the Board's motion to dismiss. On April 5, 2017, the hearing was opened and the parties indicated they had reached a settlement. Parents then withdrew their request for a hearing with prejudice. The Parent's withdrawal rendered both the Board's motion to dismiss and Parent's motion to object to the two-day limit on the presentation of evidence moot and thus, neither motion was ruled upon.

FINAL DECISION AND ORDER:

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