

April 15, 2019

Final Decision and Order 19-0368

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Weston Board of Education

Appearing on behalf of the Student:

Attorney Ellyn Polishook-Ulfsson
Law Office of Joseph Hubicki, LLC
8 Wright St. 2nd Floor
Westport, CT 06880

Appearing on behalf of the Board:

Attorney Marsha Moses
Berchem Moses PC
75 Broad Street
Milford, CT 06460

Appearing Before:

Attorney Susan Dixon
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the Board commit substantial procedural violations that materially interfered with the parents' due process rights?
2. Did the Board fail to provide a complete and accurate Individualized Education Plan ("IEP") to parents on either May 30, 2018 or December 5, 2018, or both?
3. Was the Board's evaluation of the Student, in that she suffered from Attention Deficit Disorder ("ADD"), appropriate?
4. Did the Parents request the Board to provide an Independent Educational Evaluation ("IEE") upon learning of the Board's initial evaluation of Student's disability and should that have been provided by the Board?
5. Should the Board have accepted the IEE subsequently obtained by the Parents that claims to diagnose the Student with autism?
6. If so, are the Parents entitled to be compensated for the IEE they obtained that diagnosed Student as having autism?
7. Does the Student in fact have a primary disability of autism?
8. If so, did the failure to diagnose her autism have an effect on the providing of FAPE to Student?

9. Did the Board fail to provide FAPE to Student because it refused to change Student's disability to autism and provide the services she would have been entitled to if she had been so classified?

10. Was the Student entitled to a Behavior Intervention Plan?

11. Was the Student entitled to the services of an Aide on a one on one basis throughout the school day or is the Aide that is shared with one other student sufficient?

12. Is the Student entitled to compensatory education in the areas of social pragmatic language, social skills, development and emotional development?

PROCEDURAL BACKGROUND:

The Board filed this Request for a Due Process Hearing on February 13, 2019. The Hearing Officer was assigned on February 13, 2019. A Prehearing Conference was scheduled and held on February 25, 2019. At the conference, a hearing date of March 27, 2019 was established, and the mailing date for the final decision of April 27, 2019. On March 23, 2019, counsel jointly requested a postponement of the assigned hearing date in order that settlement documents could be finalized. The Hearing Officer granted the joint motion for continuance to April 10, 2019, and found no prejudice thereby to the Student or Parent by such postponement. On April 3, 2019, counsel reported that the matter was settled and counsel for the Student withdrew the request for due process. On April 5, 2019 a Final Decision and Order was issued dismissing the matter without prejudice. On April 8, 2019, counsel for the Board filed a Motion for Clarification limited to the question of whether the dismissal was “with prejudice”. The motion was granted and the Final Decision and Order clarified.

FINAL DECISION AND ORDER:

The case is DISMISSED with prejudice.