

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Wilton Board of Education

Appearing on behalf of the Parent: Attorney Gerry McMahon
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Appearing on behalf of the Board: Attorney Andreanna Bellach
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Appearing before: Robert L. Skelley, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the Wilton Board of Education (“Board”) deny the Student a free and appropriate public education (“FAPE”) by failing to implement an individualized education program (“IEP”) for the school year starting December 4, 2011-2012?
2. Did the Board deny the Student a FAPE for the school year 2012-2013 by failing to provide an appropriate IEP?
3. Did the Board deny the Student a FAPE for the school year 2013-2014 by failing to provide an appropriate IEP?
4. Does the Hearing Officer have jurisdiction to hear issues relating to alleged discriminatory actions by the Board, related to the Student’s disability?

PROCEDURAL HISTORY:

This matter was filed by the Parents on December 4, 2013. A prehearing conference was held on December 13, 2013, from which the issues listed above were identified. An initial due process hearing was set for January 28, 2014. On January 22, 2014 the hearing date was re-scheduled for settlement purposes, at the request of the parties, to February 27, 2014. This extended the final decision and order date to March 28, 2014. On February 24, 2014 the Parties requested a further extension to accommodate several witnesses who were not available for the February 27 hearing date. The Parties requested an extension, due partially to witness schedules and school vacations, to April 7, 2014. The final decision and order date was extended to April 28, 2014. On April 7, 2014, the Parties requested an additional prehearing conference to be held on the record. The request for an additional prehearing conference, on the record, was granted. The

prehearing conference addressed the issue of scheduling of expert witnesses, the volume of exhibits that would be produced and the subsequent need to review those exhibits and possible objections prior to the start of the hearing, as well as a conceptual framework for the length of time needed by the Parties for the hearing itself. A subsequent hearing date of May 7, 2014 was set. On April 25, 2014 counsel for the Board notified the Hearing Officer that a tentative agreement had been reached in this matter but had not yet been formalized. The Board, in anticipation of a possible failure to formalize the tentative agreement, also filed a Motion to Dismiss and Strike, along with a Memorandum of Law in Support of the Motion to Dismiss and Strike. The Board stated that it expected that a withdrawal with prejudice would be forthcoming on May 5, 2014 if the agreement was formalized in writing by that date. It was anticipated that if that were not the case, that the Motion to Dismiss and Strike would be heard on May 7, 2014 prior to the commencement of the due process hearing. On May 5, no withdrawal was received by the Hearing Officer. On May 6, 2014 at 7:08 PM, the Hearing Officer received notification from counsel for the Parent that the agreement had been formalized in writing and that the Parent would be withdrawing the complaint with prejudice at the due process hearing on May 7, 2014. The Parent formally withdrew the complaint, with prejudice, at the start of the due process hearing on May, 7, 2014. The Parties acknowledged that the pending Motion to Dismiss and Strike would not be ruled on as the issue was moot at that point.

FINAL DECISION AND ORDER:

On May 7, 2014, the Parent, through counsel, withdrew the complaint with prejudice, on the record at the start of the due process hearing. Any Motion not acted upon was dismissed as moot. With no further issues to be decided, this matter is DISMISSED with prejudice.

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(1)(2)(A).


Hearing Officer Signature

Robert L. Skelley, Esq.

Hearing Officer Name in Print