

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student and North Haven Board of Education

Appearing on behalf of the Student:

Attorney Elizabeth Moyse
Law Office of Jennifer Laviano LLC
76 Route 37 South
Sherman, CT 06784

Appearing on behalf of the Board of Education:

Attorney Linda Yoder
Shipman & Goodwin LLC
One Constitution Plaza
Hartford, Ct 06103-1919

Appearing before:

Attorney Ann F. Bird
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

Student's Issue:

Is the Student's proposed Individual Health Care Plan (IHCP) necessary to provide the Student with a Free Appropriate Public Education?

Board's Issues:

1. Is the Board entitled to obtain a psychiatric evaluation with an evaluator of its choice?
2. Is the parent required to make the Student available for this evaluation in a location where the parent does not need to be present during the student interview portion of the evaluation?
3. Does the IEP of June 29, 2017 offer the Student a Free Appropriate Public Education (FAPE)?
4. If not, what is needed to provide the Student with FAPE?
5. What is the least restrictive environment in which the Student can receive an appropriate education?
6. Is the IHCP a part of the IEP subject to the same rules regarding modification as the other portions of the IEP? In other words, is parent consent required to modify the IHCP, whether or not it is part of the IEP?

7. If the IHCP is not part of the IEP, what is the forum for resolving disputes about the content and appropriateness of the IHCP?
8. During the time that the parent is serving as the medical care provider, may the Board exclude the parent from the educational environment for failing to follow school rules and directives of the certified staff even if this means the Student will not be permitted to attend school?
9. Are the qualifications of a medical care provider for this Student part of the FAPE analysis and if so, what are the necessary qualifications of the medical care provider?
10. Can the Board retain a medical care provider without the approval and consent of the Student? If so, what is the route for the Student to challenge the qualifications of the medical care provider if the Student disagrees with the Board's selection?

PROCEDURAL HISTORY:

The Student requested a special education due process hearing on April 13, 2017. This Impartial Hearing Officer was assigned to hear the case on April 20, 2017. A prehearing conference was conducted on May 4, 2017. Attorney Jennifer Laviano appeared for the Student and Attorney Leander Dolphin appeared for the Board of Education. Subsequently, Attorney Elizabeth Moyses appeared for the Student and Attorney Linda Yoder appeared for the Board of Education. The Board of Education agreed to maintain the Student's status quo until further notice or resolution of this matter.

The Student agreed to amend the request for due process to provide further specification of the nature of the problem and the remedy requested. The amendment was submitted on June 22, 2017. This reset the deadline for issuing the final decision and order to September 5, 2017. A subsequent conference was convened on July 18, 2017. At that time it was agreed that the Board of Education would file a counter request for due process.

The Board filed a counter request for due process dated August 4, 2017. That request for due process was assigned to Impartial Hearing Officer Melinda Powell as Case No. 18-0066. Impartial Hearing Officer Melinda Powell consolidated Case No. 18-0066 with this matter by Order Granting Consolidation on August 15, 2017. A further conference was convened and evidentiary hearings were scheduled for the consolidated cases.

On various dates between August 2017 and July 2018, the parties jointly or by consent requested and were granted postponements and extensions of the timelines to conduct the hearing and to file the final decision in this case through August 10, 2018.

Evidentiary hearings were convened on September 21, 2017, September 28, 2017, October 16, 2017, November 2, 2017, November 3, 2017, November 13, 2017, November 28, 2017 and June 25, 2018.

On July 10, 2018, the parties each reported that the matter had been resolved and the Student and the Board of Education each requested that its claims be withdrawn or dismissed.

July 12, 2018

Final Decision and Order 17-0449/18-0066

FINAL DECISION AND ORDER:

It is ordered that the Student's and the Board of Education's requests are each granted and the consolidated matter is dismissed.