

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student and Weston Board of Education

Appearing on behalf of the Student:

Attorney Piper Paul  
Piper Paul Law  
1465 Post Road East, 1<sup>st</sup> Floor  
Westport CT 06880

Appearing on behalf of the Board:

Attorney Marsha Moses  
Berchem Moses, P.C.  
75 Broad Street  
Milford, CT 06460

Appearing before:

Attorney Ann F. Bird  
Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

The following issues have been identified for determination at the hearing:

1. Did the Board of Education offer the Student a Free Appropriate Public Education for the 2017-2018 (from 2/24/18), 2018-2019 or 2019-2020 School Years?
2. If not, is the Fusion Academy appropriate?
3. If the Board of Education did not offer the Student a Free Appropriate Public Education for the 2017-2018 (from 2/24/18), 2018-2019 or 2019-2020 School Years, and the Fusion Academy is appropriate, should the Student be reimbursed for the expense of the Fusion Academy and/or be placed at the Fusion Academy?
4. If the Board of Education did not offer the Student a Free Appropriate Public Education for the 2017-2018 (from 2/24/18), 2018-2019 or 2019-2020 School Years, is the Student entitled to reimbursement for uninsured therapeutic and educational expenses, including evaluations of Dr. Dorta and Dr. Delany and therapy?
5. If the Board of Education did not offer the Student a Free Appropriate Public Education for the 2017-2018 (from 2/24/18), 2018-2019 or 2019-2020 School Years, is the Student entitled to compensatory education, and if so, of what nature and duration?

**PROCEDURAL HISTORY:**

The Student initiated this special education due process case on February 24, 2020. This Impartial Hearing Officer was assigned to the case on February 25, 2020. A Prehearing Conference was convened on March 12, 2020. Attorney Piper Paul appeared on behalf of the Student and Attorney Marsha Moses appeared on behalf of the Board of Education. It was established that the deadline for filing the final decision in this case was May 8, 2020. An evidentiary hearing was scheduled for May 4, 2020.

Beginning in early March 2020, the Governor of the State of Connecticut issued a series of executive orders closing all public schools through the end of the 2019/2020 School Year due to the COVID-19 pandemic. In addition, the Division of Special Education of the Department of Education issued a Guidance letter dated April 6, 2020 regarding Due Process Activities under IDEA during the COVID-19 Pandemic permitting an extension by up to 90 days for all statutory and regulatory time requirements related to special education due process activities.

On April 27, 2020 the Board of Education requested postponement of the hearing scheduled for May 4, 2020 and a 90 day extension of the timelines to conduct the hearing and to file the final decision in this case. The Board of Education cited the many difficulties presented by the pandemic in support of its request. On April 28, 2020, the Student objected to the requested 90 day extension of the deadline for filing the final decision. Despite the Student's objection, the deadline was postponed to August 6, 2020.

Subsequent prehearing conferences were conducted on June 11, 2020 and July 1, 2020. During these conferences, the parties reported that they had reached a tentative agreement in mediation, and requested additional time to complete documentation of the settlement.

Subsequently, requests from the parties to extend the deadline to file the final decision were granted in order to finalize their settlement to October 2, 2020. On September 28, 2020, the Hearing Officer reminded the parties of the October 2, 2020 deadline and requested a status report but neither party responded.

In light of the Student's failure to move the case toward resolution, it should be dismissed for failure to prosecute.

**FINAL DECISION AND ORDER:**

This matter is dismissed for failure to prosecute.