

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student v. Stamford Board of Education¹

Appearing on behalf of Student: Attorney Piper Paul
Piper Paul Law LLC
1465 Post Road East, #100
Westport, CT 06880

Appearing on behalf of the Board of Education: Attorney Marsha Moses
Berchem Moses, P.C.
75 Broad Street
Milford, CT 06460

Appearing before: Janis C. Jerman
Hearing Officer

FINAL DECISION AND ORDER

A special education hearing in the above-captioned matter was requested by Student's Attorney via letter dated May 26, 2020.² The Board of Education ("BOE") received the request for hearing on May 27. On May 28, Student's Attorney filed an amended request for hearing, which was received by BOE on June 8. The case timelines reset based on the filing of the amended complaint. The 30-day resolution period ended on July 8 and the original 45-day deadline to mail the final decision and order was August 22.

A telephonic pre-hearing conference was held on June 8. Attorney Paul appeared on behalf of Student and Attorney Moses appeared on behalf of BOE. At the pre-hearing conference, BOE's Attorney objected to the proposed issue regarding placement in a therapeutic residential program. After considering the parties' positions on this issue, the following issues were identified for hearing:

1. Did the Board of Education provide Student with a free appropriate public education during the period May 27, 2018 through the end of the 2017-18 school year?
2. Did the Board of Education provide Student with a free appropriate public education during the 2018-19 school year?

¹ In order to comply with the confidentiality requirements of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g ("FERPA") and related regulations at 34 CFR § 99, this decision uses "Student," "Parents," and titles of certain school staff members and witnesses in place of names and other personally-identifiable information.

² All dates are 2020 unless otherwise indicated.

3. Did the Board of Education provide Student with a free appropriate public education during the 2019-20 school year?
4. Did the Board of Education offer Student a free appropriate public education for the 2020-21 school year?
5. Should the Board of Education be required to pay for an educational consultant to determine whether Student requires a residential placement and, if so, to recommend an appropriate residential placement?
6. Should the Board of Education be required to reimburse Student's Parents for Student's educational and therapeutic costs that are not covered by insurance?
7. If the answer to any one of the Issues One through Four above is in the negative, what shall be the remedy?

On July 14, BOE's Attorney filed a Motion to Dismiss Issue 5. Student's Attorney filed a Response to Motion to Dismiss on July 20. The Motion to Dismiss was denied on July 20.

Hearings were scheduled for July 21 and July 28, to be held via video-conference in light of school facilities being closed due to Coronavirus Pandemic regulations.

The hearing convened via video-conference on July 21,³ at which Student's Attorney made an opening argument and Student's Mother testified on direct and cross-examination.

On July 27, Student's Attorney requested that the July 28 hearing be cancelled due to her illness. The request was granted.

On August 7, Student's Attorney requested a 30-day extension of the deadline to mail the final decision and order to accommodate scheduling hearing dates on August 19 and August 25. After fully considering the positions of the parties, the request was granted, the deadline to mail the final decision and order was extended to September 21, and hearings were scheduled for August 19 and August 25.

On August 12, the parties requested that the August 19 hearing be postponed. The request granted. On August 20, Student's Attorney indicated that the parties were progressing with settlement discussions and requested that the August 25 hearing be postponed. The request was granted and additional hearings were scheduled for September 2 and September 9.

³ See Appendix A for a list of exhibits that were admitted as full exhibits.

On August 29, Student's Attorney indicated that the parties were very close to reaching a settlement agreement and requested that the September 2 and September 9 hearings be postponed. The hearings were rescheduled for September 14 and September 15.

On September 10, Student's Attorney indicated that the parties had reached a settlement agreement and withdrew the matter with prejudice.

FINAL DECISION AND ORDER

The above-captioned case is dismissed with prejudice.

APPENDIX A: Exhibits

Hearing Officer Exhibits are cited as “HO#”; Student’s Exhibits as “S#”; and BOE’s Exhibits as “B#.”

Exhibit	Date	Description	# Pages
HO1	5/26/20	Request for Impartial Special Education Hearing	29
HO2	5/28/20	Amended Request for Impartial Special Education Hearing	29
B1	9/30/14	PPT/IEP	3
B2	9/30/14	Notice and Consent to Conduct Reevaluation	2
B3	1/26/15	Yale University Child Neuroscience Laboratory Research Project	7
B4	2/6/15	PPT Notice	2
B5	2/23/15	PPT/IEP	6
B6	2/25/15	Email correspondence	2
B7	3/10/15	PPT/IEP Notice	2
B8	3/16/15	School-Based Occupational Therapy Evaluation	6
B9	3/23/15	Speech and Language Report of Evaluation	4
B10	3/23/15	Psychological Evaluation	6
B11	3/23/15	Functional Behavior Assessment Behavior Intervention Plan	2
B12	3/23/15	PPT/IEP	30
B13	11/5/15	PPT Notice	2
B14	12/7/15	PPT/IEP	28
B15	2/23/16	PPT Notice	1
B16	3/14/16	PPT/IEP	31
B17	9/20/16	PPT Notice	1
B18	9/21/16	Notice and Consent to Conduct a Reevaluation	1
B19	10/14/16	PPT Notice	1
B20	9/20/16	Confidential Psychological Evaluation	9
B21	10/28/16	PPT/IEP	31
B22	3/3/17	PPT Notice	1
B23	3/3/17	Progress Report for IEP Goals and Objectives 2016-17	12
B24	3/24/17	PPT/IEP and Notice and Consent to Conduct a Reevaluation	34
B25	6/14/17	PPT Notice	1
B26	6/19/17	PPT/IEP	30
B27	6/19/17	Notice and Consent to Conduct a Reevaluation	1
B28	Summer 2017	Teacher Reports	11
B29	9/1/17	PPT/IEP and Agreement to Change an Individualized Education Program Without Convening a Planning and Placement Team Meeting	6
B30	10/18/17	Behavioral Observation Report	2
B31	11/28/17	PPT/IEP and Notice and Consent to Conduct a Reevaluation	30
B32	12/7/17	Yale Child Study Developmental Disabilities Clinic Evaluation Summary	18
B33	1/9/18	PPT Notice	2

B34	1/29/18	Educational Evaluative Report Final	6
B35	1/31/18	Speech and Language Report of Evaluation	3
B36	2/2/18	PPT Notice	2
B37	2/9/18	PPT/IEP and Assistive Technology Referral Form	41
B38	2/26/18	PPT Notice	1
B39	2/28/18	PPT/IEP and Request for Signature/An In District Placement	35
B40	4/19/18	PPT Notice	1
B41	9/6/18	PPT/IEP and Agreement to Change an Individualized Education Program Without Convening a Planning and Placement Team Meeting	36
B42	9/7/18	Consent for Release Exchange of Information	1
B43	9/9/18	Four Winds Report	22
B44	11/30/18	PPT Notice	1
B45	12/19/18	PPT Notice	1
B46	1/4/19	Consent for Release Exchange of Information	1
B47	1/24/19	Consent for Release Exchange of Information	2
B48	2/1/19	PPT Notice	1
B49	2/5/19	PPT/IEP	29
B50	2/8/19	PPT Notice	1
B51	2/14/19	Safety plan	2
B52	2/20/19	Progress Report for IEP Goals and Objectives	14
B53	2/22/19	PPT Notice	2
B54	3/5/19	PPT/IEP	26
B55	3/13/19	Yale Child Center Outpatient Psychiatric Clinic for Children – Psychiatric Evaluation	4
B56	8/12/19	PPT Notice	1
B57	8/19/19	PPT/IEP	30
B58	8/19/19	Consent for Release Exchange of Information	1
B59	8/19/19	Report of Psychological Evaluation	4
B60	8/29/19	Occupational Therapy Progress Notes	2
B61	9/13/19	PPT Notice	2
B62	9/19/19	PPT Notice	2
B63	10/3/19	Westchester Medical Center Memorandum	9
B64	10/15/19	PPT/IEP	33
B65	10/17/19	PPT/IEP	34
B66	10/23/19	Letter from New England Pediatrics	1
B67	10/26/19- 11/6/19	Reports from Yale New Haven	15
B68	11/18/19	PPT Notice	2
B69	11/21/19	PPT/IEP	34
B70	12/12/19	PPT Notice	2
B71	8/29/19- 1/3/20	Attendance List View – Daily	2
B72	12/12/19	PPT Notice	2
B73	1/2/20	PPT/IEP	37

B74	1/28/20	PPT Notice	1
B75	2/5/20	Applied Behavioral Strategies Observation Summary and Recommendations	11
B76	2/6/20	PPT/IEP	34
B77	4/28/20	PPT Notice	2
B78	5/5/20	PPT/IEP	36
B79	2016-2020	Reading Progress Reports	8
B80	8/29/16-6/30/20	Progress to College and Career Report – Reading Comprehension Report	2
B81		Email correspondence	38