

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Norwalk Board of Education

Appearing on behalf of the Parent:

Carolyn Ruth, Esq.
Brain Injury Rights Group, Ltd.
300 East 95th Street, Suite #130
New York, NY 10128

Appearing on behalf of the District:

Marsha Moses, Esq.
Berchem, Moses & Devlin, PC
75 Broad Street
Milford, CT 06460

Appearing before:

Patrick L. Kennedy, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the District fail to implement the IEP of the Student during the period of mid-March 2020 through September of 2020?
2. If so, what remedies should be ordered?

SUMMARY AND PROCEDURAL HISTORY:

Case 22-0336 was commenced by the Parents by request received by the District on March 18, 2022. A prehearing conference was held on March 30, 2022. At the prehearing conference, a hearing date was set for May 31, 2022 and the decision date was determined to be June 1, 2022.

The parties later reached an agreement in principle at mediation and requested cancellation of the hearing date, which was granted. Extensions of the decision date to July 1, 2022 and July 29, 2022 were granted without objection. When a further extension of the decision date was requested, the District objected on the grounds that the Parents had been unresponsive for long periods of time in the effort to reduce the agreement to writing and attempted to insert terms into the agreement which had not previously been agreed to. The Parents stated in response that they were seeking language consistent with the agreement that was necessary to protect their rights. It did not appear, however, that

this language, which the Parents considered important enough to be a deal-breaker, had been specifically discussed at mediation.

Nonetheless, the undersigned granted an extension to August 30, 2022 over the District's objection and again granted an extension to September 29, 2022 in view of the fact that it was foreseeable that the parties would find it difficult to schedule hearings in the case during August and at the very beginning of school. The undersigned did not hear any more about the parties' availability for hearing dates until the matter again approached the decision date, at which time the Parents suggested that they could be available for hearing dates the last week in October, which is approximately a month away.

The undersigned concludes that the Parents have not prosecuted this case with reasonable diligence after the breakdown in settlement negotiations and declines to extend the decision date further. While dismissal of this matter may pose an issue from the standpoint of the statute of limitations, it should be observed that this is the third hearing request that the Parents have filed on this matter and that the hearing request appears to be a "cookie cutter" complaint concerning pandemic school shutdowns at the end of the 2019-20 school year with little specific discussion of the educational particulars of the Student on behalf of whom this action was ostensibly brought.

Accordingly, this matter is dismissed without prejudice due to the running of the decision date.

FINAL DECISION AND ORDER:

The matter is dismissed without prejudice.