

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Hamden Board of Education

Appearing on behalf of the Mother: *pro se*

Appearing on behalf of the Father: *pro se*

Appearing on behalf of the Board: Erin Shaffer, Esq.
Shipman & Goodwin, LLP
One Constitution Plaza
Hartford, CT 06103-1919

Appearing before: Sylvia Ho, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the Board provide a free and appropriate education (“FAPE”) in the disciplinary actions taken against the Student from March to May 2025?
2. Should the Board have convened a Manifestation Determination meeting?
3. Should the Student be placed at an out of district placement?

PROCEDURAL HISTORY:

The mother filed a complaint on May 16, 2025. The Hearing Officer conducted a prehearing conference on June 12 with only the mother present. The father who had custodial and education decision making rights was not notified of the mother’s complaint for due process. The Hearing Officer requested that the Due Process Unit notify the father of the due process complaint and add the father as a necessary party to this hearing. The father was notified and joined as a party. The Hearing Officer conducted a prehearing conference on July 8, 2025 with both parents participating. The hearing was scheduled for July 29, 2025.

On July 28, 2025, the Board filed a motion to dismiss the mother’s complaint on the grounds that she refused to participate in a resolution session with the Board. The hearing convened on July 29, 2025. The Board made an oral argument on its motion to dismiss. The father joined in the Board’s motion. The mother opposed the motion to dismiss and stated that she was willing participate in a resolution session. The hearing was adjourned

so that the parents could participate with the Board in a resolution session. After an hour and half, it appeared that no resolution would be possible because the parents were not in agreement. The evidentiary portion of the hearing commenced.

The Board presented two witnesses. They were the elementary school principal and the Director of Pupil Personnel Services for the school district. The mother testified on behalf of her case. The father also testified. The Hearing Officer admitted Board exhibits B-1 to B-25, which consisted of the Student's educational record. The Hearing Officer admitted the Mother's exhibits M-1 to M-8, which included portions of the Student's educational record and the father's exhibits F-1 to F-8.

SUMMARY:

A first grader who had been struggling with behavioral issues in the classroom was referred to determine eligibility for special education and related services by the school based intervention team. While the student was being evaluated, the student received a total of nine (9) in school and out of school suspensions. The student was determined to be eligible for special education and related services under the category of Emotional Disability and received an Individualized Education Plan. After the plan implementation, the student received a tenth suspension. The mother filed for due process claiming that the school violated the student's rights by disciplining the student and by failing to convene a manifestation determination meeting. The mother requested out of district placement.

STATEMENT OF JURISDICTION:

This matter was heard as a contested case pursuant to Connecticut General Statutes (C.G.S.) §10-76h and related regulations, 20 United States Code §1415(f) and related regulations, and in accordance with the Uniform Administrative Procedure Act (U.A.P.A.), C.G.S. §§4-176e to 4-178, inclusive, §§4-181a and 4-186.

FINDINGS OF FACT:

After considering all the evidence submitted by the Parties, including documentary evidence and testimony of witnesses, I find the following facts:

1. Student was born on October 21, 2018, and was six years and nine months at the time of the hearing and entering the second grade. He is eligible for Special Education under the category of Emotional Disability. (Testimony, Director Pupil Personnel Services; B-17).
2. Student's parents are not married. Student's mother lives in Derby, Connecticut and Student lives with his father in the school district. The father had temporary physical custody at the time of the hearing. Both parents share educational decision-making authority. (Testimony, Mother; Testimony, Father; Testimony, School Principal).

3. Student has attended Bear Path School in the school district since kindergarten. Student entered the first grade in August 2024. The school record shows that in September of 2024, Student began engaging in inappropriate behaviors in classroom with adults and peers. Behaviors included disregarding teachers' instructions, shouting, name-calling, slamming furniture, and being aggressive toward peers by knocking items from their hands, pushing, tripping, or punching them. The incidents escalated in frequency and severity in the classroom in October 2024. School staff responded by providing support, having conferences with Student about the behavior, taking away privileges and in a few instances, contacted parents. In one case, the student received a time-out when he tripped a classmate and then slapped him in the face. Even though the student received discipline, the student did not lose time away from the general classroom curriculum. (Testimony, school principal. Exhibit M-6-Record of disciplinary referrals).
4. On January 14, 2025, the school noticed a Planning and Placement Team meeting for February 18, 2025 “to review a referral to special education and consider/plan an initial evaluation”. The School Based Intervention Team referred the student to determine eligibility for Special Education and Related Services on February 10, 2025. The specific concerns noted were the students struggle with regulating his emotions, navigating social situations and impulsivity. (B-3, F-1, B-4).
5. The father signed consent to conduct an initial evaluation on February 26, 2025. (B-7).
6. Meanwhile, the student’s negative behavior continued to escalate. On March 6, 2025, Student received an out of school suspension when he punched another student in the face as he was running up the bus ramp. Out of school suspensions are disciplinary measures that address behavior involved in a student’s causing physical harm to others. (B-7, Testimony, school principal).
7. On March 10, 2025, the school scheduled a Planning and Placement Team meeting for April 8, 2025 to review the initial evaluation results and determine the student’s eligibility for Special Education and if eligible, to develop and individualized education plan (“IEP”). (B-8).
8. On March 14, 2025, the student punched another child in the face during recess, resulting in an in-school suspension to be served on March 17, 2025. On March 17, while serving the in-school suspension, the student became aggressive with multiple school staff members. As a result, a parent was asked to pick up the student and the student was to suspended from school for two days. The in-school suspension was converted to a one day out of school suspension for March 17. The second out of school suspension was served on March 18, 2025. (B-9).
9. On March 20, 2025, the student eloped from the classroom. When the staff tried to escort him back to the classroom, he bit them multiple times. He received in school suspension in the principal’s office. (B-10).

10. On March 27, 2025, the student received out of school suspensions for two days for an incident on March 25, 2025, when he was removed from the school bus for aggression toward peers. Once back in the school building, the student eloped and was physically aggressive toward staff who restrained him for one minute. (B-13 and B-14).
11. On April 1, 2025, the student was restrained for 11 minutes because he was hitting other children at the beginning of the day. This did not result in a suspension nor referral to disciplinary action. (B-17).
12. On April 8, the Planning and Placement Team meeting was convened to review the results of the initial evaluation and to develop an IEP for Student. Mother, Father, Mother's boyfriend, Student's paternal grandmother were family members who attended and participated in the meeting. The school team included the student's general education teacher, a special education teacher, the school principal, school psychologist, social worker, speech and language pathologist, and the school's Scientifically Based Research Intervention (SRBI) coordinator. Evaluators provided reports of testing and determined that the student qualified for special education and related services under the category of Emotional Disability. An IEP was developed, and the father consented to the provision of special education services. The IEP was to be implemented as of April 28, 2025. (B-17, Testimony, school principal).
13. On April 10, 2025, the Student received a two day out of school suspension for April 10 and 11. Student had stabbed the school social worker with a pencil and then when removed to the school office, intentionally threw stools and baskets at school staff. (B-19).
14. The IEP was implemented from April 28, 2025 to June 12, 2025. During this time the implementation of the IEP, the student has had one out of school suspension on May 15, 2025. The team will meet again to review the student's IEP at the beginning of the next school year. (B-24, Testimony, father, Testimony, Director of Pupil Personnel Services).
15. The mother testified that she believed that the student left school at 11am throughout March to May 2025. Her testimony cannot be credited as it is contradicted the school record, including notices of suspension in which the student's behavior occurred during school dismissal. Her testimony was also contradicted by the testimony of the school principal and the father who both testified about one incident in which the father picked the student up from school at 2:30pm close to the time of dismissal. (Testimony, school principal, Testimony, father, B-13, B-14).
16. In total during the March to May 2025, the student received two (2) in school suspensions and eight (8) out of school suspensions, a total of ten (10) days of suspensions.

CONCLUSIONS OF LAW AND DISCUSSION:

1. The cornerstone of Individualized Disability Education Act (“IDEA”) is the entitlement of each eligible child with a disability to FAPE that emphasizes special education and related services designed to meet the child's unique needs and that prepares the child for further education, employment, and independent living. All children enrolled in public schools and children with disabilities who are publicly placed in private schools by a Local Educational Agency (“LEA”) are entitled to FAPE. Under IDEA, the vehicle for providing FAPE is through an appropriately developed IEP based on the individual needs of the child. An IEP must include a child's present levels of academic achievement and functional performance, and the impact of a child's disability on their involvement and progress in the general education curriculum. IEP goals must be aligned with grade-level content standards for all children with disabilities. The child's IEP must be developed, reviewed, and revised in accordance with the requirements outlined in IDEA in 34 C.F.R. §§ 300.320 through 300.328. IDEA also provides procedural safeguards, including extensive due process protections, to children with disabilities and their parents.
2. IDEA and its implementing regulations require IEP Teams to follow certain procedures to ensure that IEPs meet the individualized needs, including the behavioral needs, of children with disabilities. 20 U.S.C. § 1414(d) and 34 C.F.R. §§ 300.320 through 300.324. These procedures include the development of an IEP after evaluation that includes a child’s functional performance as provided by parents, classroom teachers and other service providers developing the IEP. The IDEA specifically requires IEP teams to use positive behavioral interventions and supports and other strategies for any child with a disability whose behavior impedes their learning or that of others. See 20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.324(a)(2)(i).
3. IDEA’s procedural protections apply to children who are undergoing initial evaluation and have not yet been eligible for special education and related services. If a child engages in behavior that violates the school’s code of conduct prior to a determination of their eligibility for special education and related services and the LEA is deemed to have knowledge that the child is a child with a disability, the child is entitled to all the protections afforded to a child with a disability. In general, once a child is properly referred for an evaluation under the IDEA, the LEA would be deemed to have knowledge that the child is with a disability for the purposes of IDEA’s disciplinary provisions. 34 C.F.R. §300.534(a-c).
4. IDEA does not prescribe specific disciplinary actions a school district must take, but it does set some limits. For example, IDEA does not preclude an LEA from disciplining a child with a disability for violating a school's code of student conduct like any other student, but it does preclude an school district from doing so in situations where the disciplinary action would result in a ***change in placement*** and the behavior that gave rise to the violation of the school's code of student conduct is determined to be a manifestation of the child's disability, with the exception of disciplinary removals due to "special circumstances". 34 C.F.R. §§ 300.530(c) and 300.530(g). See *Questions and Answers: Addressing the Needs of Children with*

Disabilities and IDEA's Discipline Provisions, Office of Special Education and Rehabilitative Services, OSEP 22-02, 81 IDER 138 (2022)

5. A change of placement occurs if: (1) the removal is for more than 10 consecutive school days; or (2) the child has been subjected to a series of removals that constitute a pattern (i) because the series of removals **total more than 10 school days in a school year**; (ii) because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and (iii) because of such additional factors such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. 34 C.F.R. § 300.536(a) (emphasis added)
6. IDEA regulations require that "within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct," the LEA, the parent, and relevant members of the child's IEP Team must conduct a manifestation determination review. 34 C.F.R. § 300.530(e). Under 34 C.F.R. § 300.536, a change of placement occurs if: (1) the removal is for more than 10 consecutive school days; or (2) if the LEA determines, on a case-by-case basis, that a pattern of removals constitutes a change of placement because (i) the series of removals total more than 10 school days in a school year, (ii) the child's behavior is substantially similar to the behavior that resulted in the previous removals, and (iii) because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.
7. In the above case, the student's in or out of school suspensions did not exceed ten (10) days, such that a change of placement occurred from March to May of 2025. The IDEA did not obligation the school district to convene of a Manifestation Determination review since there was no change of placement. (Finding of Fact #16).
8. In her complaint, the mother also asked that the student be placed in an out of district school. The IDEA requires that students be educated with their nondisabled peers in their local neighborhood to the maximum extent appropriate. 34 C.F.R. §300.114 (a)(2). Since the implementation of the IEP on April 28, 2025, student only had one disciplinary issue. The PPT plans to review the IEP again at the beginning of the next school year. Under these circumstances, there are no good reasons for an out of district placement. (Findings of Fact # 14).

FINAL DECISION AND ORDER:

1. The Board provided a free and appropriate public education in the disciplinary actions taken against the Student from March to May 2025.
2. The Board was not required to convene a Manifestation Determination meeting.
3. Since the Board provided student with a FAPE within his neighborhood school, the student does not need to be placed in an out of district placement.

