

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Westport Board of Education

Appearing on Behalf of the Parent: Robert Fleischer, Esq.
Leslie Lane, Esq.
Jacobs Partners LLC
383 Main Avenue
Norwalk, CT 06851

Appearing on Behalf of the Board: Marsha Moses, Esq.
Berchem, Moses & Devlin, P.C.
75 Broad Street
Milford, CT 06460

Appearing Before: Scott P. Myers, Esq, Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

As to the 2000-2001 academic year:

1. Did the program offered by the Board for the 2000-2001 academic year provide the Student with a FAPE in the LRE?
2. If not, is the Hyde School an appropriate placement for the Student?
3. If so, to what extent is the Board obligated to pay for the costs of the Student's placement at the Hyde School?

As to the 2001-2002 academic year:

4. Did the program offered by the Board for the 2001-2002 academic year at the August 28, 2001 PPT provide the Student with a FAPE in the LRE?
5. If not, is the Hyde School an appropriate placement for the Student?
6. If so, to what extent is the Board obligated to pay for the costs of the Student's placement at the Hyde School?

SUMMARY/PROCEDURAL HISTORY:

The Parents commenced this action by request for due process dated October 30, 2001. A Pre-Hearing Conference was held on November 1, 2001. Both parties were represented by counsel at all times. Based on the Parents' October 30, 2001 request, the Department had initially identified this matter as a challenge to a manifestation determination, thereby triggering an expedited hearing. At the Pre-Hearing Conference, the parties agreed that this matter was not a challenge to a manifestation determination. An initial hearing date of November 28, 2001 was set. Subsequent to the Pre-Hearing Conference, and at the Hearing Officer's direction, the Board submitted a statement of issues dated November 7, 2001 and the Parents thereafter submitted a statement of issues dated November 14, 2001. In addition, a number of motions were filed by the parties which were addressed in due course by the Hearing Officer.

At the commencement of hearing on November 28, 2001, the parties reported that they were completing negotiation of a settlement which would resolve their dispute. In anticipation that a settlement could be reached that morning or that the hearing would be continued to permit completion of the agreement, the Parents' counsel appeared at hearing unaccompanied by his clients or by the first witness scheduled to testify on November 28, 2001.

The parties were given an opportunity to conclude their negotiations at that point and were advised to be prepared to proceed with hearing if they were unable to do so. The parties thereafter concluded their negotiations and executed a settlement agreement. The parties represented that the settlement agreement resolves their dispute as reflected in the six issues identified above that were set for hearing and, to the extent not otherwise included in those six issues, all of the issues set forth in the November 7, 2001 and November 14, 2001 pleadings described above.

FINAL DECISION AND ORDER:

This matter is **dismissed** with prejudice.