

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Norwalk Board of Education

Appearing on Behalf of the Parents: Pro Se

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

Appearing Before: Attorney Justino Rosado, Hearing Officer

ISSUES:

1. Should the Board provide the speech and language services that were withheld from the Student from August 30, 2006 to September 15, 2006?
2. Should the Board make up 4 speech therapy services that were missed by the Student?
3. Should the Board make up 19 occupational therapy services that were missed by the Student during the 2005-2006 school year?
4. Should the Board provide transportation to the speech and language and occupational services?
5. Should the Board provide transportation to the speech therapy sessions that were missed?

FINAL DECISION AND ORDER

SUMMARY:

The Student is a 6 years and 7 month young boy who has been identified as Speech and Language Impaired and entitled to receive a free and appropriate public education ("FAPE") as defined in Individuals with Disabilities Education Act (IDEA) 20 U.S.C. §1401 et seq. and Connecticut General Statute §10-76a. The Parents objected to the missing of occupational therapy sessions during the 2005-2006 school year and speech and language sessions that were withheld from August 30, 2006 to September 15, 2006. The parties came to an agreement as to the issues and agreed to a withdrawal of the request for due process. When asked if the matter was to be dismissed with prejudice

neither party could agree and the Parents requested a hearing date. The matter is dismissed with prejudice.

PROCEDURAL HISTORY:

At the October 25, 2006 PPT meeting, the Parents objected to the speech and language sessions that were missed from August 20 to September 15, 2006 and occupational therapy sessions that were missed during the 2005-2006 school year. In a letter dated November 24, 2006 (Hearing Officer Exhibit¹-1) and received by the Board on or about November 30, 2006, the Parents requested a due process hearing.

An impartial hearing officer was appointed on December 1, 2006 (HO-2) and a pre-hearing conference was held on December 11, 2006. A hearing date of January 17, 2007 was chosen by the parties.

The Parents on or about January 8, 2007, informed the Hearing Officer that the parties had reached an agreement and filed a Request to Withdraw the Matter (HO-3). The January 17, 2007 hearing date was cancelled. The Hearing Officer on January 15, 2007 sent an e-mail to the parties asking if the withdrawal was to be with or without prejudice. The parties could not agree to the type of withdrawal and the Parents, by electronic mail dated January 15, 2007, requested a hearing date on the matter. A new hearing date of February 15, 2007 was chosen by the parties.

Due to a prior commitment in a New York Court, the Parent was not able to attend the assigned hearing date and in a February 14, 2007 e-mail, to the Hearing Officer, he requesting a postponement of the hearing date. On February 14, 2007, the Hearing Officer canceled the February 15, 2007 hearing as requested by the Parent and informed the parties to confer and advise the Hearing Officer of dates that the parties are available. The Parents again reiterated their request that a withdrawal of the matter should be granted. The Hearing Officer denied (HO-4) the Parents' request to withdraw the matter without prejudice.

On February 14, 2007 the Board filed a Motion to Dismiss (HO-5). On or about February 21, 2007, the Parent objected to the Board's Motion to Dismiss (HO-6). The Parent's motion was not dated and the certification notice contained a January date. This date was prior to the motion date of the Board. The date utilized as the filing date of the Objection was the date on the mailing envelope, February 21, 2007.

A March 19, 2007 hearing date was agreed to by the parties at which, prior to any testimony, the parties argued the Motion to Dismiss. The Motion to Dismiss was granted.

The IDEA's authority to a hearing officer is quite clear, "The hearing officer...shall have the authority to confirm, modify, or reject the identification, evaluation or educational placement of or the provision of a free appropriate public education to the child or pupil,

¹ Hearing Officer's Exhibits are referred to as "HO" followed by the appropriate exhibit number.

to determine the appropriateness of an educational placement where the parent or guardian of a child requiring special education or the pupil if such pupil is an emancipated minor or eighteen years of age or older, has placed the child or pupil in a program other than that prescribed by the planning and placement team, or to prescribe alternate special educational programs for the child or pupil.” Connecticut General Statute Section 10-76h(d)(1) The statute does not grant the hearing officer authority to address issues of missed related services by themselves. The Parent did not raise the issue that the Student’s program was not appropriate and when asked if they were contesting the appropriateness of the student’s IEP, they said they were not.

At the request of the parties, in order to accommodate the filing of a final decision and order after the hearing dates, the date for the filing of the Final Decision and Order was extended.

The date for the Final Order and Decision is April 19, 2007.

FINAL DECISION AND ORDER:

THE MATTER IS DISMISSED WITH PREJUDICE.