

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. Trumbull Board of Education

Appearing on behalf of the Parents: Attorney Jennifer Laviano  
The Law Offices of Jennifer Laviano, LLC  
76 Route 37 South  
Sherman, CT 06784

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

Appearing before: Attorney Brette H. Fitton, Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

1. Did the Board fail to provide a Free Appropriate Public Education (hereinafter FAPE) to Student in the 2010-2011 and 2011-2012 school years (including Related Services and Extended School Year) by:
  - a. failing to accurately determine Student's primary disability as Autism rather than prior identification as Other Health Impairment;
  - b. failing to appropriately identify Student's academic, functional, adaptive and social skills needs; and/or
  - c. failing to design and implement a program to meet the Student's unique needs and that was reasonably calculated to enable Student to obtain a meaningful educational benefit.
2. Did the Board violate Student's Procedural Safeguards by:
  - a. failing to conduct a comprehensive evaluation in all known and suspected areas of disability;
  - b. failing to maintain a continuum of appropriate alternative placements;
  - c. failing to provide related services in areas of Occupational Therapy and Physical Therapy; and/or
  - d. failing to file a request for due process hearing upon denying Student's request for an Independent Educational Evaluation.\*
3. If the Board violated any of Student's Procedural Safeguards, was Student denied FAPE as a result?
4. Is the Board's program for the 2012-2013 school year appropriate, and if it is not appropriate, what is the appropriate program?

5. What compensatory education is the Student entitled to, if any?
6. Should the Board reimburse the Parents of the Student for the psychologist's evaluation and related services provided to Student during the 2010-2011 and 2011-2012 school years?

\* Issue 2 (d) was disputed by the parties and was to be the subject of a Motion to Dismiss by the Board. A preliminary hearing on the Motion to Dismiss was scheduled for August 30, 2012.

**SUMMARY:**

On June 20, 2012 the Wilton Board of Education received a Request for a Special Education Due Process Hearing. The undersigned hearing officer was appointed on June 22, 2012. The deadline for the mailing of the final decision and order was September 3, 2012. On July 2, 2012 a prehearing conference was held. During the prehearing conference, Attorney for the Student requested an extension of the mailing deadline to allow time for the parties to engage in mediation. This request was granted and the new deadline for the mailing of a final decision and order was set for October 5, 2012. Hearing dates of September 11, 2012, September 13, 2012, September 27, 2012, and September 28, 2012 were set. Also during the Prehearing Conference, Attorney for the Board indicated that she intended to file a Motion to Dismiss the issue identified above as Issue 2 (d). A preliminary hearing to address the Motion to Dismiss was scheduled for August 30, 2012. On July 31, 2012, Counsel for the Parents withdrew the hearing request without prejudice.

**FINAL DECISION AND ORDER:**

In light of the above facts, the case is dismissed without prejudice,