

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student¹ v. Greenwich Board of Education

Appearing on behalf of Student:

Attorney Tracey Spencer Walsh
Spencer Walsh Law PLLC
379 West Broadway
New York, NY 10012

Appearing on behalf of the Board of Education:

Attorney Marsha Belman Moses
Berchem Moses
75 Broad Street
Milford, Connecticut 06460

Appearing before:

Janis C. Jerman
Hearing Officer

FINAL DECISION AND ORDER

A special education hearing in the above-captioned matter was requested by Student's Attorney via letter dated August 27, 2018.² The Board of Education ("BOE") received it on August 27. The 30-day resolution period ended September 26 and the original deadline to mail the final decision and order was November 10. A telephonic pre-hearing conference was held on September 21. Attorney Walsh appeared on behalf of Student and Attorney Abby Wadler³ appeared on behalf of BOE.

The following issues were identified:

1. Did the Board of Education provide Student a free appropriate public education for the 2016-17 school year?
2. If the answer to Issue One above is in the negative, was Student's unilateral placement appropriate?
3. If the answer to Issue One above is in the negative, what shall be the remedy?

Hearings were scheduled for October 30 and November 1.

¹ In order to comply with the confidentiality requirements of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g ("FERPA") and related regulations at 34 CFR § 99, this decision uses "Student," "Parents," and titles of certain school staff members and witnesses in place of names and other personally-identifiable information.

² All dates are 2018 unless otherwise indicated.

³ Attorney Moses replaced Attorney Wadler as counsel for BOE on December 2.

On October 11, the parties filed a joint request to postpone the scheduled hearing dates and extend the deadline to mail the final decision and order to allow the parties to participate in mediation and good faith settlement discussions. After full consideration of the parties' positions, the request was granted. The deadline to mail the final decision and order was extended until December 10 and the scheduled hearings were postponed to November 30.

On October 30, BOE's Attorney filed a request for postponement of hearings and extension of the deadline to mail the final decision and order to accommodate later hearing dates as BOE was scheduled for a hearing in another case on November 30. After full consideration of the parties' positions, the request was granted. The deadline to mail the final decision and order was extended until January 9, 2019 and the scheduled hearings was postponed to December 11.

Student's Attorney filed an amended request for due process on November 29. BOE's Attorney consented in writing to the amendment and was offered an opportunity to resolve the due process request through the resolution process. BOE's Attorney filed a request to postpone the December 11 hearing in light of the amended due process request. After fully considering the positions of the parties, the request was granted.

In light of the amended due process request, the case timelines were reset and a prehearing conference held on December 13. Attorney Walsh appeared on behalf of Student and Attorney Moses appeared on behalf of BOE. The 30-day resolution period for the amended request ended December 29 and the deadline to mail the final decision and order was February 12, 2109.

The following issues were identified in the amended request:

1. Did the Board of Education provide Student a free appropriate public education for the 2016-17 school year?
2. If the answer to Issue One above is in the negative, was Student's unilateral placement appropriate?
3. Did the Board of Education timely evaluate Student?
4. If the answer to Issue One or Issue Three above is in the negative, what shall be the remedy?

On December 13, Student's Attorney filed a motion to extend the deadline to mail the final decision and order to allow the parties time to participate in a resolution session and to

schedule a hearing. After fully considering the positions of the parties, the request was granted and the deadline to mail the final decision and order was extended until March 14, 2109. Hearing was scheduled for February 12, 2019.

On January 30, the parties filed a joint motion to postpone the hearing and extend the mailing date to allow the parties to finalize meaningful progress in settlement discussions. After fully considering the positions of the parties, the request was granted and the deadline to mail the final decision and order was extended until April 12, 2109. Hearing was postponed to March 25, 2019.

On March 12, Student's Attorney filed a Joint Motion for Postponement of Hearing and Extension of Mailing Date on the basis that the parties have entered into good faith settlement negotiations and have reached a settlement in principle and were working on the specific terms of the stipulation of settlement. After fully considering the positions of the parties and Connecticut Regulations 10-76h-9 which gives a hearing officer authority to grant only one postponement for continued settlement discussions, the request was denied.

On March 13, Student's Attorney filed a Joint Motion for Postponement of Hearing and Extension of Mailing Date on the basis that Student's Mother was out of state caring for her elderly parents, one of whom was recently diagnosed with certain serious health conditions, and planned to be out of state on and beyond the scheduled March 25, 2019 hearing date. After fully considering the positions of the parties, the request was granted and the deadline to mail the final decision and order was extended until May 14, 2109. Hearing was postponed to April 15, 2019.

On April 4, 2019, Student's Attorney requested to withdraw the matter with prejudice.

FINAL DECISION AND ORDER

The above-captioned case is dismissed with prejudice.