

March 28, 2019

Final Decision and Order 19-0296

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. New Canaan Board of Education

Appearing on behalf of the Student:

Attorney Lawrence Berliner
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Westport, CT 06680

Appearing on behalf of the Board:

Attorney Andreana Bellach
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Stamford, CT 06901

Appearing Before:

Attorney Susan Dixon
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Was the Student denied a Free and Appropriate Public Education (“FAPE”) in the least restrictive environment for the 2017-18 and/or 2018-19 school years ?
2. Did the Board commit procedural violations such as: 1) failure to process the standard referral form until the Parents had signed it; 2) exceeded the 45-day time limit to complete its assessment and schedule PPT meetings; 3) delaying implementation of the PPT process, which such alleged violations rose to a level that denied the Student FAPE during the school years of 2017-18 and 2018-19, and ESY-18?
3. Should the Student have been identified in a timely manner, and provided with an Individualized Educational Plan that provided Student with FAPE following his enrollment in the 2017-18 school year?
4. Did the Board fail to provide the Student with FAPE by not implementing the recommendations of Dr. Kruger?
5. Was the recommendation of the South Elementary School by the Board an appropriate proposal for Student?
6. Should the Parents be entitled to reimbursement for their expenditures for Dr. Kruger?
7. Should the Parents be entitled to reimbursement for Southport School tuition for the 2017-18 and 2018-19 school years?
8. Is the Student entitled to compensatory education for the failure to provide FAPE to the Student for the years 2016-17 to date?

9. If so, is the Parents' placement appropriate and deserving of reimbursement?

PROCEDURAL BACKGROUND:

The Board filed this Request for a Due Process Hearing on December 26, 2018. The Hearing Officer was assigned on December 26, 2018. A Prehearing Conference was scheduled and held on January 3, 2019. Counsel for the parties then requested time for mediation and settlement efforts to take place. Hearing dates were set for February 26 and March 4, 2019, and it was then agreed that there would be a short extension of the deadline for filing the final decision in this case to March 18, 2019. Counsel subsequently reported substantial progress on settlement to wit: on February 12, 2019, counsel for the Student requested an extension and postponement of the hearing dates, deadlines for completing the hearing and issuing the final decision 30 days thereafter. This request was agreed to by counsel for the Board. The parties jointly requested a new hearing date of March 25, 2019 and a mailing date of the final decision of April 25, 2019. The purpose of their request was to allow the parties time to complete finalizing a proposed settlement of this complex matter. Counsel for the Student represented that no danger to the child's educational interest or well-being will accrue as a result of the extension, as the child was being educated in an appropriate program, both parties required the additional time to finalize their agreement, and represented that neither party would suffer any financial or other detrimental consequence as a result of the extension. A hearing was then rescheduled for March 25, 2019. On March 23, 2019, counsel for the Student reported an agreement had been finalized and withdrew the case.

FINAL DECISION AND ORDER:

The case is DISMISSED without prejudice.