

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Bridgeport Board of Education

Appearing on behalf of the Student: Parent

Appearing on behalf of the Board: Attorney Gwen Zittoun
Shipman & Goodwin, LLP
One Constitution Plaza
Hartford, CT 06103

Appearing before: Attorney Brette H. Fitton
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the District err when, on April 19, 2017, the Planning and Placement Team (“PPT”) recommended Student be removed from Hope Academy and provided with homebound services for the remainder of the 2016-2017 school year?
2. Is the change in placement to Central High School proposed by the PPT for the 2017-2018 school year appropriate? If it is not appropriate, does Student require placement in a therapeutic school?

PROCEDURAL HISTORY AND SUMMARY:

On April 26, 2017, the Board received a request for a special education due process hearing filed by Parent. On that same date, the Connecticut State Department of Education appointed the undersigned Hearing Officer to preside over the hearing. A prehearing conference was scheduled for May 5, 2017 at 9:00 a.m. When Parent did not join the call, the prehearing conference was ended. On May 24, 2017, a second prehearing conference was scheduled for June 1, 2017. On May 26, 2017, upon being notified by the Board that Parent had indicated that she could not participate in the June 1, 2017 conference, the Hearing Officer sent Parent an email requesting Parent select one of 3 available conference times on June 2, 2017 and indicated that if there was no response the conference would go forward on June 2, 2017 in the morning. Parent responded that she was unavailable on June 1 or June 2 as well as “...days into the following week.” and asked if the conference could be held after June 12, 2017. When the Hearing Officer inquired as to why Parent could not participate in a 5-10 minute phone call, Parent did not respond. Parent did not participate in the second scheduled prehearing conference on June 2, 2017. On June 2, 2017, the Hearing Officer sent an email to the parties requesting potential hearing dates before July 10, 2017. The Board responded suggesting June 29, 2017 as the hearing date. On June 13, 2017, the Hearing Officer informed the parties she was unavailable the last week of June and offered July 5th and 6th for the hearing. The board confirmed availability on the July 5, 2017 hearing date. Parent did not respond. On June 14, 2017, the Board notified the Hearing Officer that they were unable to secure the June 26, 2017 mediation

date they had attempted to obtain and that the Board intended to move to dismiss the matter because the Board had agreed to the Parent's requested remedy at a recent PPT meeting.

On June 15, 2017, Hearing Officer sent an email to the parties requesting their availability for June 15, 2017 and June 16, 2017 to discuss the motion to dismiss and indicating that a failure to respond to the email and/or participate in the prehearing conference would be deemed a failure to prosecute and result in a dismissal. A third prehearing conference was held on June 16, 2017. Both Parent and the Attorney for the Board participated in the third conference. During the third prehearing conference, a hearing date of July 5, 2017 was set and the deadline for mailing the final decision and order of July 10, 2017 was confirmed.

During the prehearing conference, both Parent and Board confirmed that a PPT meeting had been held on June 6, 2017 and that the PPT had agreed to provide Student with a therapeutic program as Parent had requested. The Board was given until Friday, June 19, 2017 to move to dismiss the case. Parent was informed of the right to respond in writing to the motion during the prehearing conference. On June 19, 2017, the Board filed a Motion to Dismiss and Memorandum of Law, claiming that the matter was now moot, because the District had agreed to provide Student with Parent's requested remedy of a therapeutic placement. On June 28, 2017, Parent responded to the Board's Motion to Dismiss in two emails. In these emails, Parent indicated she agreed with the PPT's decision on June 6, 2017 to place Student in a therapeutic program. Parent also indicated that she disagreed with factual allegations made in the Board's Motion to Dismiss and Memorandum of Law although the disputed facts were not specified. Parent went on to assert that special education hearing request was filed "based on fact" and that the request subsequently caused the decision [to place Student in a therapeutic program] made by the PPT on June 6, 2017. Parent went on to express dissatisfaction with the amount of time that had passed between the filing of the due process request in April and the June date on which the PPT made the decision to place Student in a therapeutic placement and stated that there is still no established placement for Student.

A decision was entered on Board's Motion to Dismiss on June 28, 2017 in which the motion to dismiss the first issue was denied and the motion to dismiss the second issue was granted. On June 30, 2017, the Board filed a sufficiency challenge to the remaining issue in the case. The Hearing Officer informed the parties that the sufficiency challenge would be taken up at the beginning of the hearing. On June 29, 2017, the parties were notified that the hearing on the remaining issue would begin at 9:00 a.m. on July 5, 2017 and that the matter would be dismissed if Parent failed to appear at the appointed time. The matter was then dismissed for failure to prosecute on the record, when Parent did not appear.

FINAL DECISION AND ORDER:

In light of the above facts, the case is dismissed.