

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student v. Norwalk Board of Education¹

Appearing on behalf of Student: Attorney Robin P. Keller
Law Office of Robin P. Keller LLC
48 Calf Pasture Beach Road
Norwalk, Connecticut 06855

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

Appearing before: Janis C. Jerman
Hearing Officer

FINAL DECISION AND ORDER

An expedited special education hearing in the above-captioned matter was requested by Student's Attorney via letter dated October 31, 2017.² It was filed with the Due Process Unit on October 31. The deadline to conduct the expedited hearing is December 1; which is within 20 school days of the date the request was filed. The final decision is due December 14 which is within ten school days after hearing.

A telephonic pre-hearing conference was held on November 3. Attorney Keller appeared on behalf of Student and Attorney Moses appeared on behalf of the Board of Education (BOE).

The following issues are identified:³

1. Did the Board of Education err in determining that Student's behavior resulting in suspension was not a manifestation of his disability?

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 2017 unless otherwise indicated.

³ During the prehearing conference, Student's Attorney requested that the following additional issues be identified for the expedited hearing: whether the interim alternative educational setting is appropriate; whether Student's individualized education program should be revised if the Hearing Officer determines that the behavior was a manifestation of Student's disability; and whether Student should be reinstated to school. BOE's Attorney objected to these additional issues on the basis that they are not supported by the written complaint. Student's complaint is limited to the question of whether BOE's manifestation determination is appropriate. Accordingly, the issue has been so framed along with an issue to identify a remedy if BOE's manifestation determination is found to be in error.

2. If the answer to Issue 1 is in the affirmative, what shall be the remedy?

Hearings were scheduled for November 27 and November 30.

The parties participated in a resolution session on November 7. On November 17, Student's Attorney indicated that the parties finalized a resolution and requested to withdraw the case without prejudice. Student's Attorney represented that BOE's Attorney is agreement with a withdrawal without prejudice.

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Based on the above facts, the case is dismissed without prejudice.