

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. New Milford Board of Education

Appearing on behalf of the Parents:

Elizabeth Moyse, Esq.  
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Appearing on behalf of the Board:

Michael McKeon, Esq.  
Pullman & Comley, LLC  
90 State House Square  
Hartford, CT 06103

Appearing before:

Sylvia Ho, Esq.  
Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

**Under the IDEA:**

1. Does the statute of limitations preclude the Hearing Officer's consideration of the Parents' ability to contest New Milford Public Schools's ("NMPS") decision to exit the Student from Special Education services ("SPED") on March 23, 2016?
2. From March 24, 2016 through January 9, 2017, did NMPS violate their Child Find obligation to the Student under the IDEA?
3. Did NMPS deny the Student a "free appropriate public education" ("FAPE") (including identification of eligibility category, evaluation, placement and procedural considerations) during 2016 ESY and the 2016-2017 school year?
4. Did NMPS deny the Student a "FAPE" (including identification of eligibility category, evaluation, placement and procedural considerations) during ESY 2017 and fall 2017 until Student attended the ACCESS Program in November 2017?
5. Did NMPS deny the Student a "FAPE" (including identification of eligibility category, evaluation, placement and procedural considerations) when it placed him at the ACCESS Program from November 2017-August 2018 (including 2018 ESY)?
6. When considering NMPS's obligations for a FAPE placement at the ACCESS Program, does the Hearing Officer have jurisdiction to consider the state-mandated legal obligations for amount of hours to be provided [Conn. Gen. Stat. Section 10-233d(d)] ?
7. Did/Does NMPS deny the Student a FAPE (including identification of eligibility category, evaluation, placement and procedural considerations) for the 2018-2019 school year?

8. If NMPS's programming were inappropriate, should the Student attend a therapeutic placement?
9. Should NMPS reimburse the Parents for costs related to the Student's tutoring (summer 2016 and summer 2017) and summer school (2017)?
10. If NMPS denied the Student a FAPE(S), should NMPS provide compensatory education to the Student?

Under Section 504:

1. From January 15, 2016 until the present time, did and has NMPS denied the Student a FAPE (including identification of eligibility category, evaluation, placement and procedural considerations) under Section 504?
2. If NMPS denied the Student a FAPE(S), should the Student attend a therapeutic placement?
3. If NMPS denied the Student a FAPE(S), should NMPS provide compensatory education to the Student?
4. Should NMPS reimburse the Parents for costs related to the Student's tutoring (summer 2016 and summer 2017) and summer school (2017)?
5. When considering the provision of a FAPE for this Student, did NMPS prevent this Student from accessing his education like other similarly situated nondisabled students when it placed the Student for 12 hours/week in the ACCESS Program?

Under the ADA:

1. From January 15, 2016 until the present time, did and has NMPS denied the Student a FAPE (including identification of eligibility category, evaluation, placement and procedural considerations) under the ADA ?
2. If NMPS denied the Student a FAPE(S), should the Student attend a therapeutic placement?
3. If NMPS denied the Student a FAPE(S), should NMPS provide compensatory education to the Student?
4. Should NMPS reimburse the Parents for costs related to the Student's tutoring (summer 2016 and summer 2017) and summer school (2017)?
5. When considering the provision of a FAPE for this Student, did NMPS deny this Student equal opportunity to access the curriculum when it placed the Student in the ACCESS Program for 12 hours/week?

**PROCEDURAL HISTORY/SUMMARY:**

The Parents filed the Due Process Complaint and Request for Hearing on January 15, 2019. The Hearing Officer was appointed on January 16, 2019 and conducted a Prehearing Conference on January 31, 2019. The hearing was scheduled for March 18, 2019. On March 4, 2019, the Parents withdrew the Hearing Request without prejudice.

**FINAL DECISION AND ORDER:**

The matter is **DISMISSED** without prejudice.