

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Case # 01-318

Date of Decision: November 15, 2001

Student v. Stratford Board of Education

Appearing on behalf of the Parents: Attorney Jennifer Laviano, 77 Danbury Road, Suite C-6, Ridgefield, CT

Appearing on behalf of the Board of Education: Attorney Marsha Belman Moses, Berchem, Moses & Devlin, P.C., 76 Broad St., Milford, CT

Appearing before: Attorney Mary Elizabeth Oppenheim, Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

1. Whether the Board offered the Student an appropriate program for the 2000-2001 and 2001-2002 school years.
2. If not, whether the Parents' out of district placement for the 2001-2002 school year was appropriate.
3. Whether the Board properly evaluated the Student for the 2000-2001 school year and the 2001-2002 school year.

**SUMMARY:**

The matter was assigned on September 27, 2001. The prehearing conference was held on October 2. After the prehearing conference, the Parents' counsel requested an extension of the mailing date of the decision in accordance with Section 10-76h-9(3) so that the parties could pursue settlement discussions and attempt mediation in this case. That request was granted, and a Notice of Extension/Scheduling of Hearing Date was sent via facsimile to the parties on October 3. In accordance with the Notice of Scheduling, the first hearing date was scheduled for November 15.

The Parents' counsel submitted an untimely request for postponement of the November 15 hearing on November 13, due to a rescheduling of the mediation. That request was not granted prior to the hearing date. The request could not be granted, as the

Connecticut Regulations provide for only one 30-day postponement for continued settlement discussions. Section 10-76h-9(3) If the parties are not prepared to go forward with the hearing after that time, the regulations provide that the hearing officer shall dismiss the hearing request without prejudice. *Id.* Furthermore, the request for postponement was not filed in a timely manner in accordance with Conn. Agencies Regs. Sec. 10-76h-9(a), which provides that a postponement or extension of a previously set date shall be submitted no later than 5 p.m. five business days prior to the scheduled hearing unless a compelling reason is shown for a later request. The Parents' counsel submitted no such compelling reason.

At the November 15 hearing, the Board's counsel and a Board representative were present, but the Parents and Parents' counsel failed to appear.

**FINAL DECISION AND ORDER:**

The matter is **DISMISSED**, without prejudice.