

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Hartford Board of Education

Appearing on behalf of the Parents:

Attorney Courtney P. Staron
Office of Protection and Advocacy
60B Weston Street
Hartford, CT 06120

Appearing on behalf of the Board of Education:

Attorney Ann F. Bird
Office of Corporation Counsel
City of Hartford
550 Main Street
Hartford, CT 06103

Appearing before: Attorney Patricia M. Strong, Hearing Officer

FINAL DECISION AND ORDER

PROCEDURAL HISTORY:

This hearing was requested on March 18, 2002. This hearing officer was assigned to the case on March 19, 2002. A prehearing conference was held on March 25. The case was filed previously and dismissed on March 11, 2002 by Hearing Officer Christine Spak because Parents' attorney's request to postpone the hearing because of her vacation was denied. At the prehearing in this case, Parents' attorney stressed that time was of the essence and the hearing, which was estimated to take 5 days, needed to be scheduled as soon as possible. Hearing dates were agreed on for April 9 and 11. April 24, 25 and 26 were reserved for the case, pending the Board attorney's verification of her availability by April 4. Witness and exhibit lists were due on April 2. On March 25, the Hearing Officer wrote to the parties and asked if April 10 could be substituted for April 9, as she had forgotten that that date was reserved for another case. The Board's attorney responded that the 10th was good for her. The Parents' attorney made no response. On March 26 the Hearing Officer wrote to the parties that the other case no longer needed April 9. She also requested the parties to notify her as soon as possible about the reserved dates of April 24, 25 and 26. The Hearing Officer issued a hearing notice for April 9 and 11. Several hours later, the Board's attorney faxed a letter stating that both

parties were available on April 10 and that she “assume[d] the hearing will begin on April 10 rather than April 9. The Hearing Officer left a voice mail for the Board’s attorney advising her to read the earlier correspondence and to remind the Parents’ attorney to do the same.

On April 2, the Parents’ attorney wrote a letter stating she was confused about the first day of the hearing and said she was free on the 9th and 10th. She also requested two additional days to file her lists of witnesses and exhibits. The Hearing Officer granted the request for a two-day extension of time to file exhibit and witness lists and reiterated to the parties that the hearing was scheduled for April 9 and 11. On April 3, the Board’s attorney wrote a letter requesting a postponement of the April 9 hearing because she had inadvertently scheduled another due process hearing on that date. On April 4, the Parents’ attorney requested a continuance of the case until April 24 because the parties were close to a settlement. She also asked to have the right to file exhibits later. A half-hour later, the Parents’ attorney faxed another letter stating that the Board’s attorney was not available on April 24 and requested a continuance until April 30. On April 5, the Hearing Officer granted the Board’s request for a postponement of the April 9 hearing and ordered that the hearing would convene on April 11. The parties were ordered to appear and show cause why the case should not be dismissed for failure to comply with the regulations regarding scheduling and postponement of hearings. Later in the day on April 5, the Parents’ attorney faxed a letter regarding the continuance and listing the factors outlined in the regulation. She also enclosed a list of witnesses and stated she would appear on April 10 to show cause why the case should not be dismissed. On April 8, the Board’s attorney hand-delivered exhibits and a list of witnesses to the Hearing Officer. She was reminded that the hearing was scheduled on April 11 not 10 and asked to call Parents’ attorney and remind her also. The hearing was convened on April 11 with all parties present, as well as a Spanish interpreter provided by the Parents. The Board’s attorney stated that if the case were continued to April 30, it was unlikely that the settlement would be completed by that date. There was no request made to extend the decision deadline, which was May 1. No sufficient reasons were offered as to why the parties had ignored the regulations in filing requests for postponements or why they had ignored the Hearing Officer’s notices and correspondence regarding hearing dates. After hearing both parties, they were advised that the case would be dismissed without prejudice.

FINAL DECISION AND ORDER:

The parents have failed to comply with the regulations governing due process hearings as required by Regs. of Conn. State Agencies, Sections 10-76h-7 and 10-76h-9 and, therefore, it is ordered that the case shall be dismissed without prejudice pursuant to Section 10-76h-18(a)(3).