

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Waterbury Board of Education

Appearing on behalf of the Parents:

Attorney Jennifer D. Laviano, P.C.
77 Danbury Road, Suite C-6
Ridgefield, CT 06877

Appearing on behalf of the Board of Education:

Attorney Elaine M. Skoronski,
Corporation Counsel's Office
City of Waterbury - 236 Grand Street
Waterbury, CT 06702

Appearing before: Attorney Patricia M. Strong, Hearing Officer

FINAL DECISION AND ORDER

PROCEDURAL HISTORY:

This hearing was requested on March 21, 2002. This hearing officer was assigned to the case on the same day. A prehearing conference was held on April 1. At that time no attorneys had appeared in the case. Mr. Charles Nappi, Acting Director of Special Education, stated that he had not seen any papers on the case because he had just returned from vacation and that he would ask the attorney for the Board to contact the hearing officer. The Parent did not answer his telephone on the first call, but on the second call responded that he had retained an attorney who was supposed to request a continuance. He was advised to have his attorney contact the hearing officer immediately. The prehearing conference was rescheduled for April 5. At that time, the father, accompanied by his sister, was representing the student. The Board's attorney and the Parent agreed to three hearing dates. The hearing was then scheduled for April 24, 26 and May 7. Later that day, an attorney filed an appearance for the Parent and requested a postponement of the April 24 hearing because she was not available. The request was granted. Both parties filed exhibits and lists of witnesses. At 3:00 p.m. on April 25, the Parent's attorney faxed a letter to the hearing officer in which she requested a postponement of the April 26 hearing because the parties had reached an agreement to settle the case. She did not want to withdraw the case until the agreement was finalized and asked to keep the May 7 hearing date.

On April 26, the hearing convened with the Board's attorney present. The Parent and his attorney were not present, however, the Board's attorney reported that the Parent's attorney could be reached at her office by telephone if necessary. The Board's attorney stated that if the case were continued to May 7, the settlement might not be completed before that date because the agreement involved an out of district placement and the Board had just filed an application for the student. The parties did not know if the student would be accepted or if there was an opening. The Board's attorney stated that the Board would continue efforts to complete the settlement even if the case were dismissed. After hearing the Board's attorney and reviewing the Parent attorney's request for a continuance to May 7, the Hearing Officer stated on the record that the continuance was denied and that the case would be dismissed without prejudice.

FINAL DECISION AND ORDER:

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