

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Canton Board of Education

Appearing on behalf of the Parents: Attorney Lawrence W. Berliner
Klebanoff & Alfano, P.C.
433 South Main Street, Suite 102
West Hartford, CT 06110

Appearing on behalf of the Board: Attorney Susan L. Gundersen and
Attorney Michael P. McKeon
Sullivan, Schoen, Campane & Connon, LLC
646 Prospect Avenue
Hartford, CT 06105-4286

Appearing before: Attorney Mary Elizabeth Oppenheim
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

Whether the Board's March 16, 2004 Individualized Education Program provides the Student with a free appropriate public education.

If not, whether the Parent's requested program and placement at Canton High School and the FOCUS therapeutic program would provide the Student with a free appropriate public education in accordance with the recommendations of Dr. Sahl, Dr. Beatman and Donna Swanson.

Whether the Board properly denied the Parent's request for a neuropsychological evaluation, as recommended by Dr. Sahl.

Whether the Board has violated the stay put provision, by failing to assume programmatic and financial responsibility for the Canton High School/FOCUS program during the pendency of due process.

SUMMARY:

The matter was assigned on March 30, 2004. A prehearing teleconference was scheduled for April 1. The Parent's attorney and the Board's Attorney McKeon were notified of the April 1 prehearing conference, and were offered alternative dates/times for the rescheduling of the prehearing conference. The Notice of Prehearing Conference indicated that if either party had a conflict, the attorneys must agree to an acceptable alternative time/date from the dates listed on the notice, and notify the hearing officer of the agreed upon alternative. The Parent's attorney confirmed his availability for the prehearing conference. The Board's Attorney McKeon submitted a facsimile that he was unable to proceed on the scheduled date of the prehearing conference, and suggested a date that was not offered as an alternative date by the hearing officer.

The prehearing conference was held on the date and time scheduled, and neither the Board's attorney, nor any other attorney from the Board attorney's law firm was present for the prehearing conference. The Board's attorney did not submit an appropriate request to reschedule the prehearing conference in accordance with the Notice of Prehearing Conference. Therefore, the prehearing conference proceeded with the Parent's attorney only, in accordance with Conn. Agencies Regs. Sec. 10-76h-7(c), which provides that *if a party fails to participate in a prehearing conference, the hearing officer may proceed with the conference.*

The hearing convened on April 19, at which time another attorney from the Board's attorney's law firm was present on behalf of the Board. Board's Attorney Gundersen and parent's attorney were given time to finalize a settlement of all issues on the first day of hearing. The attorneys confirmed that they had settled the case, and the parties executed a settlement agreement. The attorneys also placed additional terms of their settlement agreement on the record.

FINAL DECISION AND ORDER:

The matter is **DISMISSED**, with prejudice.