

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. Board of Education

Appearing on behalf of the Parent: Attorney Agata Raszczyk-Lawska  
Connecticut Legal Services  
16 Main Street  
New Britain, CT 06051

Appearing on behalf of the Board: Attorney Linda Yoder  
Shipman & Goodwin, LLP  
One Constitution Plaza  
Hartford, CT 06103-1919

Appearing before: Attorney Mary H.B. Gelfman, Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

1. Has the Board provided all of the Student's records, including those transferred from Hartford, to the Parent in a timely fashion?
2. Was the decision of the manifestation determination held on October 8, 2008, correct?
3. Has the Board provided an appropriate program of homebound instruction in a timely fashion during the Student's exclusion from school?
4. Are the IEP and Placement proposed by the Board at the October 22, 2008, PPT meeting appropriate to the Student's special education needs in the least restrictive environment?
5. Is the Student entitled to compensatory educational services?

**PROCEDURAL HISTORY:**

This hearing was requested November 24, 2008, and the Hearing Officer was appointed on November 25, 2008. The date for mailing the final decision was January 7, 2009. A pre-hearing conference was held on December 3, 2008. At that time, the Hearing Officer perceived that the hearing involved both an appeal of a manifestation decision concerning a disciplinary matter and the question of an appropriate Individualized Education Program (IEP) and placement for the Student.

The hearing was scheduled for December 16, 2008, and January 21 and 22, 2009. In order to accommodate the additional hearing dates, the mailing date was extended to February 6, 2009.

By letter dated December 5, 2008, Parent's Attorney notified the Hearing Officer that the Parent would not be available to attend the hearing on December 16: the Hearing Officer granted a postponement of the opening of the hearing to January 21, 2009. By letter dated January 9, 2009, the Parent requested a postponement of hearing dates January 21 and 22, 2009, to provide for possible placement and settlement: that postponement was GRANTED. Since no date was provided in the request, the Hearing Officer provided another hearing date. The date for mailing the decision was extended, as requested, to March 9, 2009.

By letter dated February 12, 2009. The Parent requested postponement of the hearing scheduled for February 24, 2009, based upon the Student's recent diagnostic placement. The request was GRANTED, since relevant information about the Student should be gained from the diagnostic placement. Subsequently, the date for the decision in this case was extended from March 9, 2009, to April 8, 2009 and thence to May 8, 2009, to accommodate the trial placement and various evaluations. By FAX on April 27, 2009, the Parent requested a further 30-day postponement, reporting that settlement was near.

In granting an additional postponement, the Hearing Officer wrote on April 28, 2009:

Section 10-76h-9(e), Regulations of Connecticut State Agencies, specifically limits postponement for settlement negotiations to a single 30-day delay. This case has already been postponed for evaluations, a trial placement, and settlement negotiations from February 6, 2009 to March 9, 2009 to April 8, 2009 and to May 8, 2009, three 30-day increments. The records submitted by the parties suggest an unusually difficult combination of issues and lack of success with previous interventions. Relying on the good faith of the attorneys involved in trying to settle a challenging case, a LAST postponement of the hearing is GRANTED: The hearing is scheduled to convene on May 18, 2009 if settlement is not successful by that date, and no further postponements will be granted. The mailing date for the decision is likewise extended from May 8, 2009 to June 7, 2009.

By letter dated May 12, 2009, Parent's Attorney reported that a written agreement had been executed by the parties and that the request for hearing had been withdrawn.

All motions and objections not previously ruled upon, if any, are hereby overruled.

**SUMMARY:**

The Student, who had not previously been identified as in need of special education, transferred from another school system to the Board's district when he was in 7<sup>th</sup> grade. He is now classified as in 9<sup>th</sup> grade because he lacks the credits required for 10<sup>th</sup> grade. He had been identified as in need of special education on October 8, 2008. That day, his misbehavior in school resulted in a suspension and the scheduling of an expulsion hearing. Another Planning and Placement Team meeting on October 22, 2008, resulted in a proposed Individualized Education Program and a diagnostic placement. Parent had not consented to the placement and the Student was receiving homebound tutoring.

With the hearing pending, Parent consented to a diagnostic placement and eventually agreement was reached concerning both special education program and placement.

In order to comply with the confidentiality requirements of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g and related regulations at 34 C.F.R. § 99, the following decision uses "Student", "School", "Parent". And titles of school staff members and other witnesses in place of names and other personally identifiable information.

**CONCLUSIONS OF LAW:**

Section 10-76h, Connecticut General Statutes (C.G.S.), and related regulations at Section 10-76h, Regulations of Connecticut State Agencies, authorize an impartial hearing officer to conduct a special education hearing and to render a final decision in accordance with Sections 4-176e through 4-180a, inclusive, and Sections 4-181a of the C.G.S. Section 20 U.S.C. § 1415(f) and related regulations at 34 C.F.R. § 300.511 through § 300.520 also authorize special education hearings.

**FINAL DECISION AND ORDER:**

There being no issues in dispute and the request for hearing having been withdrawn, this matter is DISMISSED.