

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Newtown Board of Education

Appearing on behalf of the Student: Attorney Phillip Cohn
Goldman, Gruder & Woods, LLC
200 Connecticut Ave.
Norwalk, CT 06854-1964

Appearing on behalf of the Board: Attorney Michelle Laubin
Berchem, Moses & Devlin, P.C.
75 Broad Street
Milford, CT 06460

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 2012-13 school year which provides FAPE in the least restrictive environment.
2. If not, whether the Parents' unilateral placement of the Student at Dublin School for the 2012-13 school year, with related services, is appropriate and shall be reimbursed.

PROCEDURAL HISTORY/DISCUSSION:

This request for hearing was received by the Board on September 20, 2012 and a prehearing conference convened on September 27, 2012. At the prehearing conference, counsel reported that they had agreed to mediate the case on October 18, 2012.

On Thursday, November 1, 2012 at 6:30 p.m., the Parents' attorney submitted a request for postponement of the hearing scheduled for Monday, November 5 "[g]iven the storm and its aftermath" and as the parties are "in the process of finalizing a mutually agreeable settlement agreement." The Parents' attorney re-sent this request on Sunday, November 4, 2012 and also sent a text to the hearing officer, without copying the Board's attorney, also following up on this request. The Parents' attorney failed to provide any factual reason why this request was not submitted in a timely fashion five business days prior to the scheduled hearing date or why the hearing should be rescheduled and therefore, this request was denied. While the Hurricane/Tropical Storm Sandy had caused damage to areas in the state on October 29-30, 2012, by the scheduled hearing date the Board schools and Board offices were operating on a regular schedule.

The hearing convened on November 5, 2012. At the hearing the Board's attorney was present, but the Parents' attorney was not present. The Parents' attorney conveyed to the Board's attorney that he was objecting to the dismissal of this case, but he was driving to some other matter or office and was not en route to the scheduled hearing. The Parents' attorney also conveyed to the Board's attorney that he was having difficulty contacting the Parents, but the Parents' attorney never informed the hearing officer of this difficulty, nor did he appear at the hearing to provide this information, or provide any other factual reason why the Parents and the Parents' attorney could not attend the scheduled hearing date.

As the Parents and the Parents' attorney failed to appear at the scheduled hearing date, the matter is dismissed.

FINAL DECISION AND ORDER:

The matter is **DISMISSED**.