

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Waterbury Board of Education

Appearing on behalf of the Parent:

Catherine A. Holahan, Esq.
Connecticut Legal Services
587 Main Street
New Britain, CT 06051

Appearing on behalf of the Board:

Lee K. Tiernan, Esq.
Office of the Corporation Counsel
City of Waterbury
26 Kendrick Avenue, 8th Floor
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Appearing before:

Mary H.B. Gelfman, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the Board evaluate Student adequately prior to recommending Student's exit from special education in 2005?
2. Did the Board provide adequate notice to Parent of the recommendation for Student's exit from special education?
3. Did the Board adequately evaluate Student when Parent referred her for special education in March and November, 2007? Specifically, was she evaluated in all areas of suspected disability?
4. Did the Board provide a free appropriate public education (FAPE) in the least restrictive environment during the 2006-2007 and 2007-2008 school years?
5. If the Board failed to provide FAPE, is she entitled to compensatory education?
6. Did the Board properly exclude Student from high school in or about October, 2007?
7. Was the Board's recommendation of placement in the Excel program based upon appropriate evaluative data?

8. Did the Board provide Student's complete education records in a timely fashion when requested by Parent?
9. Does the Board have the authority to continue to exclude Student from the high school and to continue to recommend the Excel placement?
10. Student is now on homebound instruction. Did the Board initiate homebound instruction in a timely manner and provide adequate instructional time to insure that Student is able to progress?
11. Is placement in a day treatment program necessary in order for the student to benefit from special education?

PROCEDURAL HISTORY:

This hearing was requested on November 16, 2007 and the hearing officer was appointed on November 19, 2007. A pre-hearing conference was held on December 4, 2007. At that time, the Board's representative stated that the Student was being evaluated, although Parent reported no arrangements for an evaluation had been made. Homebound instruction was being scheduled. The hearing was scheduled for December 20, 2007, and the mailing date for the decision was set for January 31, 2008.

By letter dated December 14, 2007, Connecticut Legal Services filed a notice of representation for Student and requested a postponement of the December 20 hearing. The hearing officer granted the postponement, and re-scheduled the hearing for January 15 and 22, 2008. The mailing date for the decision was also extended from January 31 to March 3, 2008. Subsequently, Parent's hearing request was amended and the list of issues was revised.

When the hearing convened on January 15, 2008, the parties requested a continuance in order to try to resolve their dispute through mediation. They reported that homebound instruction had been arranged and that a Planning and Placement Team meeting on January 9, 2008, had found the Student eligible for special education. The hearing officer re-scheduled the hearing for February 13, 14 and 15, 2008.

The parties met with a state mediator on January 22, 2008, and reached an agreement in principle. The Board notified the hearing officer on February 8 that the agreement was being executed and requested that the hearing sessions scheduled for February 13, 14 and 15 be postponed. The hearing officer granted this request.

Parent notified the hearing officer on February 27, 2008, that settlement had been reached and the request for hearing had been withdrawn.

CONCLUSIONS OF LAW AND DISCUSSION:

Section 10-76h, Connecticut General Statutes (C.G.S.), authorizes 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 Section 4-181a. Federal regulations at 34 C.F.R. § 300.511 also provide for special education hearings.

FINAL DECISION AND ORDER:

There being no issues remaining in dispute and the request for a hearing having been withdrawn, this matter is **DISMISSED** without prejudice.