

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. Manchester Board of Education

Appearing on behalf of the Parents: Attorney Michael Kurs  
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Appearing on behalf of the Board: Attorney Craig S. Meuser  
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Appearing before: Attorney Justino Rosado, Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

1. Whether and how the parent's concerns about stress should be considered by the PPT Team in the continued implementation of the gradual transition of the student from Gengras Center to the Board's school that was ordered by the Hearing Officer in Case No. 99-307;
2. Whether the Board must allow the Gengras Center officials to independently determine the dismissal times and dismissal locations for the student during the continued implementation of the gradual transition of the student from Gengras Center to the Board's school that was ordered by the Hearing Officer in Case No. 99-307;
3. Whether the Board must conduct psychological and/or psychiatric evaluations of the student at parent's request, or pursuant to a PPT team decision as ordered by the Hearing Officer in Case No. 99-307; and
4. Whether the Board can unilaterally determine whether the student is to be delivered at the end of his academic program if and when the parent fails to make arrangements for his care upon his arrival home from school.

**SUMMARY:**

The student is a 14 year-old young man currently in transition from the Gengras Center to the Board's school. The student is classified with multiple disabilities and therefore eligible for special education and related services as required in the Individual with Disabilities Education Act, 20 U.S.C. Section 1401 et seq. The parent requested a due process hearing on January 19, 2001 and a hearing was scheduled for February 23, 2001. At the pre-hearing conference the Board raised the issue of res judicata and collateral estoppel. The Board alleged that the issues had been previously determined by another Hearing Officer and were a matter of the Hearing Officer's Final Decision and Order. The parties filed briefs and reply briefs on the issues and three of the issues were dismissed and the fourth went to a hearing.

To the extent that the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *Bonnie Ann F. Callallen Independent School Board*, 835 F. Supp. 340 (S.D. Tex. 1993).

**RULING ON MOTIONS:**

The Board's Motion to Dismiss Issues Number 1, 2, and 3 is granted as it concerns matters which a prior hearing officer exercised exclusive jurisdiction and issued a clearly written final decision and well elaborated orders to all parties concerned. The Motion to Dismiss issue Number Four was not granted and the matter of transportation of the student went to a hearing.

March 20, 2001 -3- Final Decision and Order 01-019

**FINDINGS OF FACT:**

1. The student has been classified with multiple disabilities and therefore eligible for special education and related services as required in the Individual with Disabilities Education Act, 20 U.S.C. Section 1401 et seq.
2. The January 18, 2001 PPT discussed the issue of the delivery of the student to the police station. The parent's attorney was present at the PPT. (Testimony of Director of Pupil Personnel Services "DPPS", Parent's Exhibit-6)
3. There is no written policy or procedure about delivering a student to the police station if a parent or suitable person isn't available at the end of the school day to receive the student. It is the practice of the Board to deliver a student to the police station if there is no other way to contact the parent. The witness has been involved in the delivery of students to the police station. This has been done for other special education students and to the knowledge of the witness, it is the practice for non-disabled students. (Testimony of "DPPS")
4. At the end of the student's school day, he is dropped off at the grandmother's house. The parent was asked for emergency numbers to contact the parent and the Board was

not given any. The Board has the telephone number of the grandmother but that is where the child is dropped off after school. (Testimony of "DPPS")

5. The parent rested its case and did not call any other witnesses to refute the testimony of the Director of Pupil Personnel Service.
6. Transportation of the student was a very clear part of the prior hearing's Conclusion of Law, See Findings of Fact #'s 37, 28 & 43 and also Final Decision and Order # 6. (Final Decision and Order # 99-307)

#### **CONCLUSIONS OF LAW:**

1. The Hearing Officer takes Administrative Notice of Final Decision and Order # 99-307.
2. The student being taken to the police station, if no one is home to receive him, is the same procedure as for any other student.
3. There is no written policy that the Board may unilaterally determine where the student is to be delivered at the end of his academic program if and when the parent fails to make arrangements for his care upon his arrival home from school but the practice has been to deliver the student to the police station.
4. The parent was given notice at a PPT meeting that at the end of his academic program, the student will be taken to the police station if no one is home to receive him.

#### **FINAL DECISION AND ORDER:**

1. Whether and how the parent's concerns about stress should be considered by the PPT Team in the continued implementation of the gradual transition of the student from Gengras to the Board's school that was ordered by the Hearing Officer in Case No. 99-307 is dismissed as Res Judicata.
2. Whether the Board must allow the Gengras Center officials to independently determine the dismissal times and dismissal locations for the student during the continued implementation of the gradual transition of the student, from Gengras to the Board's school that was ordered by Hearing Officer in Case No. 00-307 is dismissed as Res Judicata.
3. Whether the Board must conduct psychological and/or psychiatric evaluations of the student at parent's request, or pursuant to a PPT team decision as ordered by the Hearing Officer in Case No. 99-307 is dismissed as Res Judicata.

4. The Board can unilaterally determine where the student is to be delivered at the end of his academic program if and when the parent fails to make arrangements for his care upon his arrival home from school.