

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. Torrington Board of Education

Appearing on behalf of the Parents: Father appeared pro se

Appearing on behalf of the Board: Attorney Michael McKeon  
Sullivan, Schoen, Campane & Connon  
646 Prospect Avenue  
Hartford, Connecticut 06105

Appearing before: Attorney Stacey M. Owens, Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

Whether a medical evaluation and a doctor's note is necessary to allow the Student to leave class and go to the bathroom.

Whether the Board is responsible for the cost of the medical evaluation.

**SUMMARY:**

The Student was once on medication that increased the frequency of her need to urinate. She is no longer using the medication and the Parent feels his daughter should be allowed to raise her hand and ask permission to go to the bathroom. The Parent alleges that the Board insists that the Student needs a doctor's note to leave class and use the bathroom.

**FINDINGS OF FACT:**

A prehearing conference was held on April 12, 2001 during which it was determined that the sole issue before the Hearing Officer was a Section 504 issue that was not within the jurisdiction of the Hearing Officer to hear and render a decision. (Exhibits P-1, P-2) The Hearing Officer informed the parties of her lack of jurisdiction and the likelihood of dismissal based on such. The Board's Attorney stated that he would have a Section 504 hearing scheduled and a hearing officer appointed by the local board within a reasonable timeframe.

A special education hearing in this matter was originally scheduled for April 23, 2001 pending the scheduling of the Section 504 hearing. By letter dated April 12, 2001, the Board's Attorney informed the Hearing Officer of his unsuccessful endeavors to secure a

hearing officer and schedule a Section 504 hearing prior to the April 23, 2001 special education hearing date, and thus requested a postponement.

A postponement was granted and the special education hearing was rescheduled for May 7, 2001.

By letter dated April 30, 2001, the Board's Attorney informed the Hearing Officer that a hearing officer had been appointed, and the Section 504 hearing is scheduled for May 15, 2001. (see Attorney's letter)

### **CONCLUSIONS OF LAW:**

In accordance with Connecticut General Statutes Section 10-76h(d)(1), hearing officers have the authority to hear systemic and procedural claims under *both* IDEA and Section 504. However, in those matters in which Section 504 *only* claim is filed local district must have procedures in place to guarantee a due process hearing before an impartial hearing officer. 34 CFR Section 104.7(b), 66 FR 19493 (2001)  
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### **FINAL DECISION AND ORDER:**

Based on a review of the Parent's exhibits and discussions during the prehearing conference, this Hearing Officer lacks jurisdiction over the Parent's Section 504 claim because it is not necessary to the resolution of any IDEA issues.

Furthermore, correspondence from the Board's Attorney acknowledges the Parties' election of a more proper forum for due process of the Section 504 claim.

Therefore, the case is **DISMISSED** without prejudice.