

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Darien Board of Education

Appearing on behalf of the Parent:

Attorney Peter L. Truebner
100 Prospect St. (South Tower)
Stamford, CT 06901

Appearing on behalf of the Board:

Attorney Susan C. Freedman
Shipman & Goodwin, LLP
One American Row
Hartford, CT 06103-2819

Appearing before:

Mary H.B. Gelfman, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Has the Board offered a free appropriate public education in the least restrictive environment for Student?
2. If not, is placement at Hazelden Treatment Center appropriate to Student's special education needs?
3. Is the Board responsible for funding Student's placement at Hazelden?

PROCEDURAL HISTORY:

This hearing was requested on November 17, 2003, and assigned to this hearing officer on November 18, 2003. Initially, the Parent was Pro Se, and an attempt to schedule a pre-hearing conference failed. A pre-hearing conference, by conference telephone call, was held on December 8, 2003: Attorney Truebner appeared for the Parent, and Attorney Freedman appeared for the Board.

At the pre-hearing conference, the parties requested a continuance to provide for settlement negotiations. The hearing officer granted their request, pursuant to Sec. 10-76h-9(e), R.C.S.A. An advisory opinion proceeding was held on November 20, 2003.

Mediation scheduled for November 25, 2003, did not forward. At the pre-hearing conference the hearing officer extended the deadline for the final decision and order from January 2 to February 1 and the hearing was scheduled for January 30, 2004.

On January 29, the hearing officer received a FAX dated January 28, requesting another continuance. The reason given was a fluid family situation: Student, who is 18 years of age, had moved from his mother's home to his father's home in another state. The hearing officer's response to this request for a continuance is included as Appendix A to this decision.

To the extent that the procedural history, summary, and findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *Bonnie Ann F. v. Calallen Independent School District*, 835 F. Supp. 340, 20 IDELR 736 (S.D. Tex. 1993)

CONCLUSIONS OF LAW AND DISCUSSION:

1. Sec. 10-76h-9, R.C.S.A., provides for one 30-day continuance for settlement negotiations. Other requests for continuance of a scheduled hearing must meet specific requirements, including filing five days prior to the scheduled hearing and provision of a proposed alternative date for convening the hearing.
2. In order to comply with the requirements of Sec. 10-76h-7(d), R.C.S.A., and 34 C.F.R. § 300.511, a special education hearing must be completed and a decision rendered within forty-five days of the request for hearing. Specific extensions of this deadline may be made by a hearing officer pursuant to state regulations at Sec. 10-76h-9.
3. Special education hearing requests dismissed without prejudice may be requested again at any time. If the parties wish, they may request appointment of the hearing officer previously appointed to hear the case: if that hearing officer agrees, such appointment will be made by the Due Process Unit, State Department of Education.

FINAL DECISION AND ORDER:

This matter is **DISMISSED WITHOUT PREJUDICE.**

