

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. West Haven Board of Education

Appearing on behalf of the Student: Pro Se

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

Appearing before: Attorney Christine B. Spak
Hearing Officer

FINAL DECISION AND ORDER

The prehearing conference in this matter was held on January 12, 2005 and both parties participated and a hearing date was scheduled for February 3, 2005. During the prehearing conference the parties indicated a willingness to attempt to resolve this matter through mediation and a mediation was subsequently scheduled prior to the date of hearing. The mediation did not resolve the matter. On January 31, 2005 the Board filed a Motion to Dismiss for reasons that the moving party might not have standing for reason that they might not be the parent or guardian and for reason that the hearing officer does not have the authority to grant the desired relief. The Motion was filed less than seven business days but the Parent did respond in writing with a one page letter filed on February 1, 2005. It was unclear whether this was intended to be an Objection to the Motion. At hearing the Parent was given the opportunity for an extension of time to respond more completely to the Motion, and was offered a continuance of the hearing so that she would have adequate time to do this. The Board did not object to this. The Parent declined indicating she did not need the additional time.

At hearing the first issue of the Parent's legal identity, which issue derived from a similarity with a twin's name, was resolved to the satisfaction of the hearing officer, without objection from the Board, and the Parent was allowed to proceed in her representation of the student. The second issue was more complicated. The Parent's position was that there had been a violation of the student's due process rights, alleging that an administrator had repeatedly misstated the correct procedure in regard to writing down a refusal of an agreement. However, at hearing the Parent agreed that she did not want the student's current out-of-district program altered in any manner at the present time. The authority of the hearing officer was discussed and the Parent was given a copy of the opening statement which summarizes the hearing officer's authority in these types

of proceedings. Because the Parent was not requesting a change in the student's placement or program testimony was not taken on the underlying claims. The Board indicated that the mediator had explained at mediation that the matter might be more appropriately directed to the complaint officer rather than a special education hearing officer and at hearing the Parent indicated an intention to pursue this course.

FINAL DECISION AND ORDER:

The Motion to Dismiss is granted.