

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. New Britain Board of Education

Appearing on behalf of the Student: Mr. William F. Murphy
Surrogate Parent
40 Shore Drive
Waterford, CT 06385

Appearing on behalf of the Board: Attorney Michael P. McKeon
Sullivan, Schoen, Campane & Connon, LLC
646 Prospect Avenue
Hartford, CT 06105-4286

Appearing before: Attorney Mary Elizabeth Oppenheim
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Whether the Student's current program is appropriate.
2. If not, whether the Student requires a one-to-one aide, and any additional services/ supports to receive an appropriate education.

SUMMARY:

The Board received this request for hearing filed by the Surrogate Parent on January 27, 2006. [Exhibit H.O.-1] The hearing was scheduled to convene on March 1. A scheduling notice was issued on February 2, which ordered that the Surrogate Parent shall submit confirmation in writing that the Student, who is over the age of majority, has full knowledge and agreement that the Surrogate Parent was acting on her behalf in the matter. [Exhibit H.O.-3] No such confirmation was filed by the Surrogate Parent, although exhibits subsequently submitted by the Board included a consent to the continuation of services from a surrogate parent dated February 16, 2006. [Exhibit B-21] That consent, however, does not indicate that the Student had knowledge and agreement that the Surrogate Parent was acting on her behalf by filing this request for hearing, nor was it appropriately submitted by the Surrogate Parent to the hearing officer.

On February 28, 2006, at 6 p.m., the Surrogate Parent submitted a facsimile that stated, "I see no reason for having the hearing on [the Student]. I will not be there on Wednesday, March 1." [Exhibit H.O.-2]

At the hearing on March 1 the Board's attorney was present. The Student and the Surrogate Parent were not present. The Board's attorney reported that the Student and Surrogate Parent attended a Planning and Placement Team meeting on February 16 [Exhibit B-21], and that the Board was under the impression that the matter had been resolved. The Board's attorney noted that while he had attempted to ascertain whether the Surrogate Parent was planning to proceed with the hearing, he had not received a response from the voice mail message, nor did he receive a copy of the facsimile sent to the hearing officer. The Surrogate Parent failed to submit a copy of his notice of February 28 to the Board's attorney, despite the scheduling order which indicated that "any written communication submitted to the hearing officer shall also be forwarded to the opposing party."

While the notice submitted by the Surrogate Parent was neither a request to withdraw the hearing request or a notice that the matter had been resolved through settlement, it is concluded, based on the submission of February 28 and the non-appearance of the Surrogate Parent, that the Surrogate Parent does not intend to proceed in this matter.

FINAL DECISION AND ORDER:

The matter is **DISMISSED**, without prejudice