

August 22, 2011

Final Decision and Order 12-0058

**STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION**

Student v. Newtown Board of Education

Appearing on behalf of the Parents: Attorney Gregory Smith  
89 West Lane  
Ridgefield, CT 06877

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

Appearing before: Attorney Mary Elizabeth Oppenheim,  
Hearing Officer

**FINAL DECISION AND ORDER**

**ISSUES:**

1. Whether the Board failed to convene a PPT to hold a manifestation determination in violation of 20 U.S.C. §1415(k);
2. Whether the expulsion hearing shall be postponed or, if the Student is expelled, whether the Parents' proposed alternative remedy shall be considered.

**PROCEDURAL HISTORY/DISCUSSION:**

This request for an expedited hearing was submitted by the Parents on August 3, 2011 and a prehearing conference convened on August 15, 2011. The Board attorney was not present at the prehearing conference, although the prehearing conference was noticed and included the instructions that "[i]f either party has a conflict, **please consult with the other party for a mutually acceptable alternative time and date.** The Board attorney's legal assistance indicated by email that the Board attorney was not available for the prehearing conference, but did not report an agreement on an agreed upon date/time for the prehearing conference.

Prior to the hearing date, the Parents' attorney submitted notice that the manifestation determination PPT meeting was convened and that the Parents withdraw their request for due process. Therefore, this matter is dismissed.

**FINAL DECISION AND ORDER:**

The matter is **DISMISSED.**