INDEX OF SCHOOL ACCOMMODATION DECISIONS HELD UNDER SECTION 10-186

SUMMARY OF CONTENTS

INDEXED AS OF JULY 2012.

CONNECTICUT STATE DEPARTMENT OF EDUCATION

INDEX OF SCHOOL ACCOMMODATION DECISIONS HELD UNDER SECTION 10-186 AS OF JULY 2012.

I. Jurisdiction

A. Filing in a Timely Manner

1. S. Et Al. v. Region #17 Board of Education, Case #89-1, October 6, 1989.

   Held that the appellant failed to take an appeal to the State Board of Education within twenty days of the mailing of the finding to the aggrieved party. The decision of the regional district was final.

   Taking an appeal is construed as filing or delivering the appropriate petition of appeal with the State Board of Education.

2. W. v. Wolcott Board of Education, Case #89-6, December 18, 1989.

   Held that the statute specifies that the petition must be taken to, not placed in the mail to, the State Board of Education within twenty days of the mailing of the finding to the aggrieved party. The Impartial Hearing Board lacks jurisdiction.

   The Connecticut Supreme Court has repeatedly held that appeals from administrative officers or Boards exist only under statutory authority. Chestnut Realty, Inc. v. CHRO 201 Conn. 350, 356 (1986). The right to appeal, being purely statutory, will be accorded only if the conditions fixed by statute are met. Fidelity Trust Co. v. Lamb 164 Conn. 126, 134 (1972).

   The time limitations of the Uniform Administrative Procedure Act (UAPA), General Statutes Section 4-166 et. seq., under which the plaintiff has appealed, are not merely procedural limitations but are essential parts of the remedy and are mandatory. Chestnut at 584. These provisions are jurisdictional in nature and, if not complied with, render the appeal subject to dismissal. Basilacato v. Department of Public Utility Control 197 Conn. 320, 324 (1985).

3. V. v. Cheshire Board of Education, Case #90-4, November 7, 1990.

   Held that petition of appeal was not timely taken to the State Board of Education, the decision of the Cheshire Board of Education is final and the case is dismissed. Based upon the postmark date of September 13, 1990, the appellant had until October 3, 1990 to preserve their rights to appeal by depositing an appeal petition with the State Board of Education. The appellant's handwritten letter of appeal was received by the State Board of Education on October 9, 1990. The petition on the form provided by the State Board of Education was received on October 18, 1990.

Neither the letter nor the petition was filed within the statutorily prescribed 20-day period.

4. K. v. West Hartford Board of Education, Case #92-11, March 3, 1993.

Held that the letter dated January 3, 1993, was not filed within the statutorily prescribed twenty-day period. In order to be a timely appeal, the appeal must be filed with the State Department of Education, not merely mailed to the State Department of Education within twenty days prescribed by statute.

5. B. v. Bloomfield Board of Education, Case #94-7, January 31, 1995.

Held that the unexecuted letter construed to be the petition of appeal was filed with the State Board of Education beyond the twenty-day period for filing an appeal. Because administrative agencies are tribunals of limited jurisdiction, they have jurisdiction to act only when enabling statutes are satisfied procedurally. Castro v. Viera, 207 Conn. 420, 428 (1988). Therefore, the Impartial Hearing Board is without statutory jurisdiction to entertain the appeal. Furthermore, due to the failure to satisfy statutory jurisdiction by filing the petition of appeal in a timely manner, the decision of the Bloomfield Board is final by operation of law.

6. P. v. Montville Board of Education, Case #94-10, May 22, 1995.

Held that the State Board of Education received the petition of appeal on the twentieth day after the mailing date of the decision rendering the appeal timely. Wherein the Board's decision was delivered to the U.S. Postal Service sometime during the day of February 1, 1995, the first full day being day number one falls therefore on February 2, 1995. The twentieth day from February 2, 1995 would then fall on February 21, 1995, which was the date that the State Board of Education received the petition of appeal.

7. R. v. Litchfield Board of Education, Case #94-18, August 23, 1995.

Held that the State Board of Education received the petition of appeal on the twenty-first day after mailing date of decision rendering the appeal untimely. Wherein the Board's decision was mailed to the appellants on June 2, 1995, state law requires that the appeal be received by the State Board of Education no later than June 22, 1995. In fact, the appeal was received by the State Board of Education on June 23, 1995, one day beyond the statutory deadline.

8. O. v. West Hartford Board of Education, Case #99-11, February 3, 2000.

Held that the State Board of Education received the petition of appeal on the twenty-first day after the notice of the decision by the West Hartford Board of Education was mailed to the petitioner. The decision of the West Hartford Board of Education was mailed on December 9, 1999. On December 30, 1999, the petition was filed with the State Board of Education. Consequently, the State Board of Education lacks jurisdiction pursuant to Section 10-186(b)(2) which states that if an

appeal is not taken within 20 days of the mailing of the decision to the aggrieved party, the decision of the Board of Education shall be final.

9. N. v. Watertown Board of Education, Case #99-13, October 9, 2000.
M. v. Watertown Board of Education, Case #99-14, October 9, 2000.

The records of both cases reveal that the Petition of Appeal was filed with the State Board of Education twenty-one (21) days and twenty-five (25) days, respectively, after the mailing of the letter issued by the Watertown Board of Education denying transportation.

10. M. v. South Windsor Board of Education, Case #01-10, February 15, 2002.

Held that Impartial Hearing Board had no authority to hear an accommodations case on the merits, de novo, unless an appeal has been filed in a timely manner. The petition of appeal was filed with the State Board of Education twenty-two days after the Board mailed its findings to the appellant. Since the appeal was not filed within twenty days, the Impartial Hearing Board lacks jurisdiction. The appeal was dismissed.

11. B. v. West Hartford Board of Education, Case #02-20, May 16, 2003.

Held that the appellant failed to file an appeal with the State Board of Education within the 20-day period prescribed in law. Therefore, the appeal was dismissed.

12. S. v. Clinton Hartford Board of Education, Case #03-38, January 20, 2004.

Held that appellant did not take an appeal of the findings and decision of the Clinton Board of Education within the twenty-day period provided by law and, as a result, the State Board of Education is without authority to hear the appeal as a matter of law. The purpose of taking an appeal to the State Board of Education under Section 10-186 is similar to the purpose for filing an appeal with the Superior Court under Section 4-183, which is to deposit the original letter of appeal to the designated body for the purpose of resolution by that body. The purpose of taking an appeal, therefore, is different from the purpose of providing service, which purpose is to provide a copy of a letter of appeal to a relevant Board of Education for notification that an appeal of its decision has been made to another body for resolution. (This decision contains a detailed discussion distinguishing taking an appeal to the State Board of Education from service on the local Board of Education).

13. H. v. Windsor Board of Education, Case #03-48, June 23, 2004.

Held that the appeal was received by the State Board of Education on the twenty-first full day after the decision of the Windsor Board was mailed to the appellant.

14. Student A v. Avon Board of Education, Case #03-49, August 31, 2004.

This petition of appeal of the denial of school accommodations by the Avon Board of Education based on a determination of non-residency and lack of qualification for homelessness under the McKinney-Vento Act, 42 USC 11431 et seq. was dismissed due to the failure to appeal to the State Board within twenty days of the mailing of the findings of the Avon Board.

15. S. v. Bloomfield Board of Education, Case #04-18, October 21, 2005.

Held that if an appeal is not taken to the State Board of Education within 20 days of the mailing of the findings of the aggrieved party, the decision of the local Board is final. Appeal dismissed.

16. S. v. Region #5 Board of Education, Case #05-05, January 19, 2006.

Held that the appeal was not taken within twenty days of mailing the decision to the aggrieved party, the decision of the Board was final. Appeal dismissed.

17. Parent v. South Windsor Board of Education, Case #09-05, February 1, 2010.

Motion to Dismiss filed by South Windsor Board of Education was granted due to failure of appellant to file the appeal with the State Board of Education within 20 days of the mailing of the funding to the aggrieved party. The appeal was filed with the State Board of Education 6 days after the statutory deadline for filing the appeal.

18. Parent v. Wolcott Board of Education, Case #10-8, February 23, 2011.

Appellant failed to file her appeal within 20 calendar days from the December 23, 2010, mailing of Wolcott's decision. Appellant filed her appeal with the State Board on January 18, 2011, which was 7 days after the appeal period had expired. Therefore, the Wolcott decision is final.

19. Parent v. Trumbull Board of Education, Case #11-7, February 7, 2012.

Appellant's failure to file the Petition for Appeal within the statutory limit of twenty days from November 30, 2011, when the decision was mailed to the parent, deprives the State Board of Education of jurisdiction over this case, and requires the dismissal of the appeal.

B. Rendering of State Decision in a Timely Manner

1. B. v. Connecticut State Board of Education, Superior Court, Case No. 50988, April 3, 1990.

Remanded proceeding from the state appellate court wherein the appellate court held that the trial court's finding that the plaintiff had established aggrievement

conferring standing to appeal was not clearly erroneous; and that the trial court erred in holding that the time limits of Section 10-186(b)(3) are mandatory rather than directory. The appellate court held that the trial court erred in sustaining the plaintiff's appeal.

Regarding aggrievement, allegations reciting aggrievement by the decision of the hearing Board constitute a sufficient articulation of aggrievement to meet the requirements of 4-183(a).

Regarding scope of review, the record contains substantial evidence to support the State Board's decision to sustain the town Board's denial of plaintiff's petition. The law is well established that if the decision of the agency is reasonably supported by the evidence, it must be sustained.

Regarding the evidence presented, the administrative record in this appeal supports by substantial evidence the State Board of Education's decision to sustain the town Board's denial of plaintiff's petition. The State Board of Education's decision is not contrary to the weight of the evidence in the record as a whole.

Court concluded that the State Board of Education decision is supported by substantial evidence and therefore the appeal is dismissed.

Regarding prejudgment evidence, hearings before administrative agencies must be conducted so as not to violate the fundamental rules of natural justice. An agency is not required to believe any witness, even an expert, nor is it required to use in any particular fashion any of the materials presented to it so long as the conduct is fundamentally fair. In the case at hand, a full and impartial hearing was held and a reasonable decision reached.

2. B. v. Connecticut State Board of Education Et Al., 19 Conn. App. 428 (August 22, 1989).

Defendant Board appealed the decision of the trial court which sustained plaintiff's appeal on the ground that the State Board failed to issue its decision within forty-five days after receipt of the plaintiff's appeal notice as required by Section 10-186(b)(3).

Regarding aggrievement, the court concluded that the trial court did not err in denying the defendant's motions to dismiss for lack of aggrievement. Regarding the rendering of the decision by the State Board within forty-five days, the public should not suffer for the dereliction of public officers. Provisions regulating the duties of public officers and specifying the time for their performance are in that regard generally directory. Unless there is a reason to believe that Legislature intended that the duty not be performed at all except within the time prescribed or that the time restriction should be considered a limitation upon the power of the tardy officer, failure to act within the time specified should not invalidate the action taken. In Weiss v. Newtown 4 Conn. App. 200, 202 (1985), we noted that our courts have previously held, on three occasions, that acts of a public official performed at a time beyond the limit prescribed in the statute are nevertheless effective.

One of the more reliable guides in determining whether a statutory provision is directory or mandatory is whether the provision is accompanied by language that expressly invalidates any action taken after noncompliance with the provision. State v. One 1976 Chevrolet Van, 17 Conn. App. 195, 198 (1989). No such invalidating language appears in Section 10-186(b)(3).

C. Conduct of Lower Hearing

1. C. v. Plymouth Board of Education, Case #90-8, December 13, 1990.

Held that "no hearing" within the meaning of Section 10-186 and the Uniform Administrative Procedure Act, Sections 4-176e through 4-180a, was held before the Plymouth Board of Education or its subcommittees concerning the school bus transportation request of Karen Cozza. While there is some logic in the parties' desire that procedural deficiencies not thwart resolution, the Impartial Hearing Board cannot ignore the clear language, purpose and logic of Section 10-186 read in conjunction with the Uniform Administrative Procedure Act. Additionally, Section 10-186 contemplates a procedure for appeal, which includes a meaningful hearing before the local Board of Education.

2. Parent v. Middletown Board of Education, Case #11-5, January 26, 2012.

Held that the appellant did not receive reasonable notice of the hearing before the transportation subcommittee. The Notice of Hearing dated November 10, 2011, setting a hearing date of November 15, 2011, was not received by the parent until late on November 14, 2011. One-day actual notice of the requested hearing is unreasonable. The email sent by the parent stating his position, in lieu of attending the hearing regarding the bus stop did not provide the opportunity to present a full case, cross-examine witnesses or examine documentary evidence. The hearing before the Middletown BOE was substantive but one-sided.

D. Standing

1. B. et al. v. Lebanon Board of Education, Case #'s 02-11 and 02-12, April 28, 2003.

Held that appellant Hooper does not have standing to appeal the final decision of the Lebanon Board because he was not a party to the transportation hearing. There was no evidence in the record before the Lebanon Board that appellant requested a hearing before it. A statement uttered by a member of the Board indicating that the whole Barker Road issue would be addressed combined with the attendance of appellant at the hearing is insufficient to deem him a party.

2. L. v. Fairfield Board of Education, Case #'s 02-13, May 28, 2003.

Held that the appeal signed by the grandmother of the student does not comport with list of eligible appellants expressed in Section 10-186(b)(2). Therefore, the grandmother is not conferred the right of appeal. Agency was not established.

II. Transportation

A. Public Schools

a. Bus stop

1. M. v. Vernon Board of Education, Case #89-2, November 3, 1989.

Held that the location of the bus stop complied with the provisions of the transportation policy of the Board of Education.

2. F. v. Ellington Board of Education, Case #89-3, November 7, 1989.

Held that Board acted in good faith and has based its decision upon safety factors. The stop on signal flashing red signal lights of a school bus displayed pursuant to Section 14-279, the advice obtained by the Board from its superintendent, bus supervisor, and resident state trooper constitute evidence that the decision of the Board was not irrational, foolish, absurd or senseless. The Board did not act in an arbitrary, capricious, or unreasonable manner.

3. C. v. Winchester Board of Education, Case #89-11, March 30, 1990.

Held that the location of the bus stop complied with the provisions of the transportation policy of the Board of Education. Therefore, the request to modify the school bus route was properly denied.

4. T. v. Ellington Board of Education, Case #90-2, November 6, 1990.

Held that the evidence in the record fully supports the decision of the local Board of Education. Regarding construction activity, there is no evidence that actual construction work or construction traffic is obstructing the existing walking path and sidewalk areas leading to the bus stop. The video tape of the walk route and photographs clearly show a safe walking route to the bus stop. The appellant's claim of substantial traffic volume and poor visibility is contradicted by the video tape.

5. F. v. Ellington Board of Education, Superior Court, Case No. 90-43943, September 11, 1990.

The plaintiffs claimed that the Ellington Board of Education acted illegally because, first, it disregarded its Transportation Guidelines and second, because the State Board of Education applied an incorrect standard of review as manifested by its conclusion that "...this Impartial Hearing Board cannot conclude that the Ellington Board of Education's decision was irrational, foolish, absurd or senseless." Regarding the first claimed error, there is ample evidence to support the hearing officer's conclusion that the bus stop is on Ridgefield Drive rendering allegations of attractive nuisance and hazardous conditions on Abbott Road inapplicable. Regarding the second claimed error, while the hearing officer did not use the precise and standard language of arbitrary, capricious or unreasonable in defining the test to be applied to the Ellington Board's decision, he employed language that is essentially the same in meaning. Consequently, he did apply the correct standard of review. The appeal is dismissed. Note, this case has been appealed to the Appellate Court of Connecticut.

6. S. v. Hampton Board of Education, Case #90-7, December 12, 1990.

Held that the Board's failure to conclude that Route 6 is a hazardous road under its transportation policy is unreasonable. Although there was a general agreement that Route 6 presented a safety problem, there was no indication that the Board expressly considered the provisions of its transportation policy regarding hazardous conditions. Although the policy does not make a specific mention of the situation of children crossing a hazardous road to enter a bus, the policy does contain a mandate that school transportation routes shall be established so as to prevent undue hazard. The appellant presented evidence that the speed limit was 50 mph and the traffic count on Route 6 consisted of approximately 13,000 cars per day.

7. G. v. Ansonia Board of Education, Case #90-6, December 20, 1990.

Although the appellant argues that the lack of sidewalks and the steepness of the hill were unsafe conditions, the guidelines used by the Board do not list those factors as hazardous conditions when reviewing a request for the assignment of another bus stop. The record demonstrates that the Board acted reasonably when reviewing those two factors.

8. H. v. Watertown Board of Education, Case #90-9, February 11, 1991.

Held that the afternoon bus stop was not reasonably unsafe. The morning bus stop is in front of her home on the same side of the street as her home. The afternoon bus stop is in front of her home but on the opposite side of the street. The traffic count conducted during the afternoon delivery period of 30 minutes reveled nine vehicles.

9. M. v. Region #16 Board of Education, Case #90-12, March 18, 1991.

Held that the request for relocation of the bus stop be denied. A review of the record and of the evidence presented at the hearing showed that there was insufficient information to indicate that the travel route for the nine-year-old student between her home and the bus stop measuring 580 feet was so unreasonably unsafe to require relocation of the bus stop to a location in front of the student's home. Furthermore, the inability of the parent to observe the bus stop from their home does not render such stop, it self, unsafe.

10. G. v. Winchester Board of Education, Case #90-14, April 26, 1991.

Held that the Winchester Board of Education's decision not to change the designated bus stop of the five-year-old student was not unreasonable given its consideration of factors bearing on the safety of his walking route to the stop, including the presence of sidewalks or areas abutting sidewalks, the width of the street (including where the sidewalk was obstructed by a fence), the light volume of traffic, the moderate speed of the traffic and the relatively unobstructed line of sight of approaching vehicles.

11. C. v. Stafford Board of Education, Case #91-2, October 25, 1991.

Held that the failure of the Board to render a decision on the issue presented by appellants is unreasonable and the matter must be remanded by the Board for a decision on the issue presented.

The policy of the Board of Education requires the superintendent to furnish evidence on line-of-sight visibility. No evidence was presented other than a conclusory statement that the feeling was that this street did not present these hazards. Such action is not in compliance with the Board policy. Certainly no consideration or discussion is reflected in the finding of fact and conclusions prepared by the Board.

The remedy shall be to remand the issue to the Stafford Board of Education for formal consideration and decision as to the policy.

12. Z. Et Al. V. Region #14 Board of Education, Case #91-1, December 9, 1991.

Regarding vehicular braking distance, the appellants have relied solely upon the DOT guidelines and have not introduced any evidence to show that the use of the DMV braking distance criteria is arbitrary or unsafe as applied to the existing road conditions. Regarding the backing of a school bus pursuant to Regulations Section 14-275c-18, backing maneuvers are prohibited unless they cannot be avoided. On the facts of this case, the Board of Education cannot make such a showing. Therefore, the appeal is sustained with regard to the backing maneuver.

13. M. Et Al. V. Canton Board of Education, Case #91-5, February 5, 1992.

Parents of secondary students asked the Board of Education to move the bus stop to a new location. Parents claimed two blind curves created line of sight obstructions and the stop is located at a busy intersection. Specifically, parents claim that any one hazard warrants remedial action by the Board of Education and that parents need not prove the existence of three or more conditions as stated in the transportation policy.

Held that the denial of request to change the bus stop was unreasonable. The evidence clearly established that the "s" curve on the street in question presents an unreasonably unsafe walking route for the children in grades 7-12. The Board of Education should have exercised its option to make an exception to the policy as permitted by the policy.

14. E. v. Ellington Board of Education, Case #91-8, June 17, 1992.

Held that the appellants had failed to sustain their burden of proof that the Ellington Board of Education acted in an arbitrary, capricious or unreasonable manner. Considering the speed of motor vehicle traffic, the amount of traffic, absence of sidewalks, the width of the road in question, the loss of sight of the fourth grade student at the bus stop and the distance of 6/10 of a mile to the bus stop, the Board of Education properly applied its policy.

15. L. Et Al. V. Cheshire Board of Education, Case #91-9, June 22, 1992.

Held, although the Board of Education's written school transportation policy is not comprehensive, the evidence establishes that its decision in the instant case as to the safety of the walking route and bus stop was not arbitrary, capricious or unreasonable. The absence of a meaningful set of guidelines regarding what constitutes a "hazard" affecting the safety of the bus stop locations is a serious shortcoming in the Board of Education's transportation policy.

16. P. v. Hamden Board of Education, Case #92-4, December 15, 1992.

Held that the line-of-sight obstruction caused by the hill for oncoming traffic approaching northerly along Cherry Hill, when combined with the short distance between the stop at 150 Cherry Hill and the intersection of Cherry Hill and Harrison Drive stop creates a hazardous crossing situation.

Also held that the local Board's decision to maintain tandem bus stops at 150 Cherry Hill and the intersection of Cherry Hill and Harrison Drive violates Section 14-277 of the Connecticut General Statutes and is therefore illegal. The short distance between the two stops is insufficient to permit the bus operator to signal his intention to stop in advance of making the stop as required by the statute.

17. D. v. Windsor Locks Board of Education, Case #92-9, February 4, 1993.

Held that the newly designated bus stop, although not convenient for appellant's child, does not require the school bus to attempt a backing maneuver nor does it violate any state or local regulations or rules.

The Board of Education appropriately acted to eliminate the previous backing maneuver by the school bus in order to create a safer environment. Pursuant to Regulations Section 14-277c-18, the backing procedure shall be avoided, if possible.

18. Z. v. Naugatuck Board of Education, Case #92-8, March 17, 1993.

Held that the Naugatuck Board of Education did not act in an illegal, arbitrary, capricious or unreasonable manner when it denied appellant's request for a change in bus stop from New Haven Road to a location within the Brook Valley Condominium complex. The Board of Education made a reasoned assessment and determination that the existing bus stop was safer than the proposed bus stop, and thus, warranted no exception to its general policy of not entering private roads (Section 10-220c).

The Impartial Hearing Board also suggested that the parties meet to discuss alternative solutions, which may have been obscured by the formality of these proceedings.

19. V. v. Hamden Board of Education, Case #92-12, April 23, 1993.

Held that appellant failed to meet its burden of proof by demonstrating that the combination of road conditions along Dickerman Road expose their child to an undue risk of injury from vehicular traffic.

Distinguished that references to vehicular counts per hour deal exclusively with street crossings, not where a student has to wait on the side of a road.

20. L. v. Bethel Board of Education, Case #92-14, May 28, 1993.

Held that the Board of Education conducted its investigation regarding potential abduction and abuse, and hearing on the request in a lawful manner and applied its policy in a manner that was reasoned, reasonable and consistent with the Board's past decisions.

Although the Board of Education did not identify by name the findings of fact and conclusions of law necessary to the Board of Education's decision which was adverse to the appellant, the Board of Education did state its reasons for the denial sufficiently clear for appellant to have adequate notice of why his request had been denied.

In the future, the Board of Education should state the reasons for its decision in a detailed manner to avoid confusion. Also, the Board of Education policy should be more comprehensive and express.

21. B. Et Al. v. Bethel Board of Education, Case #93-2, December 6, 1993.

Held that the Board of Education acted in a manner that was consistent with the Board's actions in similar situations and was not arbitrary, capricious or unreasonable.

The Board of Education's failure to identify by name its findings of fact and conclusions of law was not fatal under the circumstances. The written decision of the Board was sufficiently detailed in explaining the position of the Board regarding the application of the facts to the transportation policy.

The decision contained a comprehensive analysis of arguments of both parties on procedural and substantive issues.

23. Q. v. East Lyme Board of Education, Case #93-5, February 10, 1994.

Held that the Board of Education acted in a manner that was not arbitrary, capricious or unreasonable.

The appellants stipulated that the bus stop designated for their son's use conformed to the guidelines established in the transportation policy. Furthermore, despite the existence of a provision for exceptions to the policy for hazardous conditions, the appellants did not contend that the provisions for exceptions should be applied in this situation.

24. R. v. Litchfield Board of Education, Case #94-13, April 1, 1995.

Held that where confusion existed regarding the allegations made by the appellants and the responses provided by the Board of Education, the appeal was denied in part and remanded to the Board of Education for further proceedings consistent with the order of the Impartial Hearing Board.

25. B. Et Al. V. North Haven Board of Education, Case #95-3, November 9, 1995.

Held that the decision of the North Haven Board of Education that the bus stop in question is safe was made in accordance with its policy after a comprehensive investigation and inspection of alleged hazards at the bus stop. The actions of the Board of Education were not arbitrary, capricious or unreasonable.

26. H. v. Bethel Board of Education, Case #95-7, December 8, 1995.

Held that the transportation policy of the Bethel Board of Education is legally insufficient as it fails to set forth specific standards for the determination of hazardous conditions.

In particular, the definition of "obvious hazard" is vague and ambiguous. The standards of the transportation policy must be adequate, fixed and sufficient to guide the Board of Education in its application. Furthermore, the written decision failed to contain findings of fact and conclusions of law as required by Section 4-180(c).

The appeal was sustained.

27. E. Et Al. V. North Haven Board of Education, Case #95-5, December 14, 1995.

Held that the Board of Education failed to apply its transportation policy as written. The provisions of the policy regarding hazard and disability were not applied to the facts. Furthermore, the policy does not prescribe a meaningful definition of what constitutes a "hazard". A policy should be written, easy to understand and easy to apply in a predictable, consistent and reasonable manner.

The appeal was sustained.

28. Z. v. Brookfield Board of Education, Case #95-11, January 31, 1996.

Held that the decision of the Brookfield Board of Education contained no finding regarding a raised walk area on both roads traversed by the students. Also, factual information regarding the measurements of the width or grade of the streets and police radar patrols was not expressly found by the Board. Therefore, the Board's decision was made without applying the provisions of the policy to the operative facts.

Also, the policy was legally insufficient in its failure to define a "raised walk area".

The appeal was sustained.

29. E. Et Al. v. North Haven Board of Education, Case #95-12, April 8, 1996.

In the case remanded by prior decision, Case #95-5, the Impartial Hearing Board held that the bus stop presents a potentially dangerous location whereat it is reasonably probable that a vehicle traveling east on Blue Hills Road could skid on snow or ice and strike the children waiting at the bus stop. Therefore, the bus stop in question is unreasonable. The Impartial Hearing Board ordered the relocation of the bus stop.

30. B. v. Monroe Board of Education, Case #95-13, May 15, 1996.

Held that the transportation policy was legally insufficient by being incomplete, unpredictable, inconsistent and unreasonable. It fails to set forth specific standards to guide the discretion of the Board for the determination of hazardous conditions. The interplay of three operative words (i.e. hazard, dangerous and hazardous) in the policy is unclear. It is critical to know when a hazardous situation is dangerous because the policy requires transportation, not when a hazard exists, but only when a hazard is "judged dangerous." Unfortunately, the policy provides no guidance for determining when any of these three hazardous situations is deemed dangerous. Also, the findings of the Board addressed safe stopping distances without receiving evidence of speed limits and stopping distances.

The Board of Education was ordered to revise its transportation policy and redetermine the merits of the case based on the new policy.

31. J. v. Canton Board of Education, Case #97-13, March 2, 1998.

The actions of the Canton Board of Education were consistent with the provisions of its policy. The Board of Education conducted a comprehensive investigation, which produced substantial factual evidence regarding walking route, vehicular traffic, road conditions and hazards. The facts were applied to the policy fairly. The Board of Education provided an additional stop to respond to the complainant's concerns. Held actions of the Board of Education were not arbitrary, capricious or unreasonable.

32. A. v. Naugatuck Board of Education, Case #97-16, June 5, 1998.

Held that the provisions of the policy concerning line of sight obstructions and stopping distances were applicable only when vehicles have to operate at speeds under 25 miles per hour. Thus, the policy could reasonably be limited to those situations where the posted speed limit is less than 25 miles per hour because of the presence of some obscuring object. The decision of the Board of Education is sustained.

33. D. v. New Milford Board of Education, Case #97-23, July 22, 1998.

While the New Milford Board of Education conducted a thoughtful, in-depth review and attempted to apply its transportation policy in a reasonable manner, the evidence showed that during the winter months, because of snow accumulation on the road, the students are forced to wait for the bus on the roadway in violation of its own requirement that the bus stop shall be "at least five feet from the shoulder of the highway." Therefore, the appeal is sustained.

34. S. v. Westport Board of Education, Case #97-21, August 5, 1998.

Held that the change in the bus stop for the high school student from his driveway to a location 200 feet from his residence was not arbitrary, capricious or

unreasonable. Since the curbside transportation was erroneously provided for five months, the Board of Education made a reasonable business decision to correct its mistake. Furthermore, the appellant failed to prove by a preponderance of evidence that the Board acted in violation with the law. The appeal was dismissed.

35. F. v. Shelton Board of Education, Case #98-8, April 28, 1999.

Held that the denial by the Board of Education of the requested change of the school bus stop was not arbitrary, capricious or unreasonable. The request would require the Board of Education to enter a private road at the Maples Condominium which road is packed gravel for about half its distance and traverse a railroad crossing.

36. M. v. Oxford Board of Education, Case #98-10, July 8, 1999.

Held that the actions of the Board of Education were not arbitrary, capricious or unreasonable. The Board of Education conducted a proper review and applied its policy in a reasonable manner. The Impartial Hearing Board may not substitute its judgment for that of the Board of Education even if it feels that the Board's actions do not represent the best solution to the problem.

37. A. v. Bethel Board of Education, Case #98-11, July 15, 1999.

Held that the actions of the Board of Education were not arbitrary, capricious or unreasonable. The Board of Education followed its transportation policy and properly determined that the children are not confronted by a hazard as defined in the policy.

38. B. v. Bethel Board of Education, Case #99-5, November 23, 1999.

Held that the Board's decision to declare whether the school administration's position of denying the requested change was arbitrary and unreasonable. The correct standard for the local Board to have used was whether the administration proved by a preponderance of the evidence that school accommodations had been denied. The case was remanded to the Board for a decision in compliance with state law.

39. M. v. Berlin Board of Education, Case #99-3, December 20, 1999.

Held that the Appellant failed to prove that the findings by the Berlin Board of Education not to relocate the bus stop were arbitrary, capricious or unreasonable. Reasonable minds can disagree as to the safety of the designated walking route.

40. W. v. Berlin Board of Education, Case #99-6, December 20, 1999.

Held that the Appellant failed to prove that the finding of the Berlin Board of Education which denied the extension of the Kindergarten students' courtesy bus stop to the first grade students was not arbitrary, capricious or unreasonable.

41. Y. v. Berlin Board of Education, Case #99-2, December 20, 1999.

Held that Appellants have proven that the finding of the Berlin Board of Education was unreasonable in that it failed to apply the Section 14-300c requirements regarding a pedestrian walking on a roadway without sidewalks or shoulders when reaching its decision. The case was remanded to the Berlin Board of Education limited to a fresh evaluation of lines of sight in both directions and location of bus stop in compliance with its operational guidelines and Section 14-300c.

42. P. v. Rocky Hill Board of Education, Case #00-1, October 5, 2000.

Held that the decision of the Board that buses would no longer enter cul-de-sacs requiring students to be dropped off at street entrances was a change to Policy 3541 concerning transportation of students on streets not having sidewalks. No showing was made by the Appellant that this decision was arbitrary, capricious or unreasonable.

43. J. and Morin v. Trumbull Board of Education, Case #00-10 and 00-11, November 24, 2000.

Held that at the bus stop in the morning the children must wait in the traveled portion of the road due to the topography of the stop and the foliage. Therefore, petitioners have sustained their burden of proof and the Trumbull Board of Education is ordered to provide school accommodations in accordance with this decision.

44. C. v. Manchester Board of Education, Case #00-6, December 6, 2000.

Held that after reviewing the record, the Board of Education met its procedural duties in responding to the Appellant's petition. The appeal was dismissed.

45. D. v. Trumbull Board of Education, Case #00-13, December 31, 2000.

Held that the Board of Education did consider the criteria set out in the Transportation Policy when reaching its conclusion. The appeal was dismissed.

46. C. L. v. Ashford Board of Education, Case #00-2, January 13, 2001.

Held that Appellant's action of petitioning the town zoning authority to establish the designation of a "scenic road" contributed directly to the hazardousness of the road by preventing the town or Board of Education from abating the hazards. Appellants have invited the conditions, and, in a sense, "consented" to the attendant problems.

Decision of the Board of Education was not illegal, arbitrary, capricious or unreasonable.

47. F. v. Region #12 Board of Education, Case #00-20, March 5, 2001. (Companion Cases B. #00-19, N. #00-21 and J. #00-22)

Held that the Board failed to find facts, introduce its policy into evidence and meet its burden of proving that the child was ineligible for the requested transportation. Without findings and conclusions and without a transportation policy in evidence, the Board's decision was made without any fixed rules or standards and, thus, was arbitrary in violation of Section 10-186(b)(4). The case was remanded for a new hearing.

48. F. v. South Windsor Board of Education, Case #00-14, March 22, 2001.

Held that Appellants failed to establish by a preponderance of evidence that the decision of the Board to move the bus stop from the intersection of two streets to a driveway in close proximity was arbitrary, capricious, unreasonable or illegal. The case was dismissed.

49. K. v. Naugatuck Board of Education, Case #01-05, November 30, 2001.

Held that the bus stop located 1,300 feet from the Appellant's home is within the maximum walking distance for the five-year-old student. Appellant's argument failed to provide any basis to conclude that the actions of the Board of Education were arbitrary, capricious or unreasonable.

50. W. v. East Granby Board of Education, Case #01-02, December 6, 2001.

Held that the fair preponderance of the evidence shows that the East Granby Board of Education examined the continued viability of the site in question in a rational manner after a full and fair consideration of the issues raised by the Appellant. The Board exercised some discretion under its policy concluding that the present bus stop, with the precautions made, was suitable in spite of some known peripheral hazards.

51. M. v. North Haven Board of Education, Case #01-03, December 19, 2001.

Held that the decision of the Board was fair and anchored on fixed standards and a discernable guiding principle. The school administration exercised discretion under the policy to reach their conclusion. The Appellants disagree with application of the standards but agree that the standards existed. The Appellants appeal was dismissed.

52. L. v. Region #13, M. v. Region #13, Case #s 01-07 and 01-08, January 14, 2002.

In these companion cases held that although the location of the bus stop is not optimum, there is no safer alternative location. The Board considered all of the facts

and potential alternatives and then determined that the current location was the most appropriate pursuant to its policy. The appeal was dismissed.

53. C. v. Clinton Board of Education, Case #01-06, January 24, 2002.

Held that the decision of the Clinton Board of Education, at Appellants request, to relocate the bus stop closer to Appellants home is a local decision. The Impartial Hearing Board does not decide where to locate a stop among acceptable options. The relocated stop is consistent with the Board's policy. The appeal was dismissed.

54. M. v. North Branford Board of Education, Case #01-01, February 6, 2002.

Held that the transportation policy of the Board is legally insufficient: transportation policy fails to set forth specific standards to guide the discretion of the Board when it determines whether hazardous conditions exist for pupils walking to a stop and waiting at a bus stop with no sidewalk. The actions of the Board in denying Appellants request were arbitrary and capricious. The appeal is sustained.

55. K. v. Plainfield Board of Education, Case #01-24, November 25, 2002.

Held that the Board applied existing standards set forth in its Transportation Policy to the facts presented. Case was dismissed. Note, that the appellant parent was informed by the Board that other students residing on her street were assigned to the bus stops which alleviated appellant's chief concern regarding isolation.

56. V. v. Lebanon Board of Education, Case #02-08, January 28, 2003.

Held that the Board of Education was not arbitrary, capricious or unreasonable when it decided not to relocate the bus stop from its current location approximately 2/10 of a mile from the kindergarten student's home to the student's driveway at the student's home.

57. B. v. North Haven Board of Education, Case #02-15, January 31, 2003.

Held that the Board of Education was not arbitrary, capricious or unreasonable when it decide not to relocate the bus stop from its current location approximately 100 feet from the second grade student's driveway to her home which is on the same side of the street of the current bus stop

58. B. et al. v. Lebanon Board of Education, Case #s 02-11 and 02-12, April 28, 2003.

Held that the Lebanon Board of Education acted in an arbitrary and capricious manner when its decision failed to properly apply several of its findings of fact to its transportation policy which would ultimately require the relocation of the bus stop. Therefore, the Board's decision was not supported by the evidence. The Board was ordered to relocate the bus stop consistent with current policy.

59. H. v. Waterford Board of Education, Case # 02-23, September 9, 2003.

Held that no "hazardous conditions" or "illicit activity" existed along the walking route which presents a danger to the student. The Petition for Appeal was dismissed.

60. H. et al. v. R.S.D. #10 Board of Education, Case # 02-25, September 29, 2003.

Held that the inability of the parent to see their child at the bus stop from their home does not make the bust stop unsafe. Appellant did not meet her burden of proof.

61. R. v. Danbury Board of Education, Case # 03-12, October 27, 2003.

Held that the movement of the bus stop for the kindergarten student to .09 miles from her home was consistent with the Board policy. The student's pediatrician wrote a note stating that the student who has asthma should not walk in excess of .25 miles. The appeal was dismissed.

62. W. v. Bristol Board of Education, Case # 03-16, November 12, 2003.

Held that the public school bus stop located in Huntington Woods Complex, a private housing complex, complies with the standards established by the Board. The appeal was denied.

63. G. v. New Milford Board of Education, Case # 03-13, November 12, 2003.

Held that appellant has not met his burden of demonstrating that the New Milford Board's denial to relocate the bus stop was illegal, arbitrary, capricious or unreasonable. Allegations regarding misinformation provided by the Procedural Advisor, misstatement of facts, legal insufficiency of standards, misapplication of Board policy and denial of evidentiary offerings were dismissed.

64. L. v. Berlin Board of Education, Case # 03-15, November 26, 2003.

Held that the Board could reasonably rely on the opinion of the police officer, police report, map and photographs of the site to conclude compliance with Board policy and state law. Found that the activated flashing lights and stop sign on the school bus may reasonably be found to constitute appropriate safety provisions pursuant to local policy.

65. V. v. R.S.D. #10 Board of Education, Case # 03-19, December 8, 2003.

Held that subsequent to a head on collision with a school bus and reckless motorist at a bus stop located at a day care center, the Board acted reasonably in relocating the bus stop after a thorough investigation by the Connecticut State Police, bus carrier and other individuals. Appellants failed to meet their burden of proof.

66. C. et al. v. Clinton Board of Education, Case #s 03-32 and 03-36, December 8, 2003.

Held that the relocation of the bus stop previously established at the daycare provider at 15 Kenilworth Drive and King's Grant Road, approximately 1/10 of a mile from the daycare provider, was consistent with the policy of the Board. Appellants failed to meet their burden of proof.

67. F. et al. v. Clinton Board of Education, Case #s 03-02, 03-08 and 03-09, December 17, 2003.

Given the evidence presented, the Appellant has failed to prove that the Clinton Board acted in disregard of its policy. In view of that, the Impartial Hearing Board is without authority to alter the relocated bus stop established for the students. The Board's decision is supported by substantial evidence in the record as a whole. Therefore, the actions of the Board were not arbitrary, capricious or unreasonable.

68. S. v. R.S.D. #10 Board of Education, Case # 03-18, December 15, 2003.

Even though the school bus could turn around in the cul-de-sac where the prior bus stop was established, the relocation of the bus stop at the intersection of Millbrook Lane and Scoville Hill Road was consistent with the Board policy concerning line of sight and vehicular traffic. Appellant failed to sustain their burden of proof.

69. C. vs. West Hartford Board of Education, Case # 03-39, March 1, 2004.

Held that the Board's reluctance to change a bus stop based on safety and central location, without a complete and up-to-date investigation, was unreasonable. The investigation was flawed by the lack of an initial site visit, no site visit at the time of bus pick up (or drop off), and the use of 2002 traffic count data. (Case on appeal at Superior Court).

70. L. vs. Clinton Board of Education, Case # 03-42, March 31, 2004.

Parent's request that bus stop be moved less than 1/3 miles to driveway to accommodate family schedule and to allow parent to see five-year old child Board bus was denied. Board of Education decision was consistent with policy and did not warrant exercise of discretion to grant exception.

71. B. vs. Wallingford Board of Education, Case # 03-14, March 23, 2004.

Held that despite errors made by the Wallingford Board of Education which misattributed a regulation as a state statute and posted on its web site an out-dated version of the Board policy, the actions of the Board not to relocate the bus stop were not arbitrary, capricious or unreasonable. Also, the offer of the Board to pick up the student with a minibus containing both regular and special education students was reasonable.

72. B. vs. Region #10 Board of Education, Case # 03-44, May 6, 2004.

Held that due to procedural irregularities in conducting the hearing, the Regional Board acted in a manner that was arbitrary, capricious, unreasonable and illegal. Procedurally, the Regional Board (1) failed to make its transportation policy part of the record (2) used its transportation policy when rendering its decision (3) received into the record two items of evidence in the absence of the Appellant and (4) considered the additional evidence when rendering its decision.

The case was remanded to the Regional Board for further proceedings to address the procedural errors.

73. G. New Milford Board of Education, Case # 03-43, April 7, 2004.

Held that the New Milford Board of Education did not deny school accommodations with respect to the designation of a bus stop for the High School student. The Board considered the evidence of alleged hazards offered by the appellant.

74. C. Et. Al v. Vernon Board of Education, Case # 04-03 to 04-05, Nov. 7, 2004.

Held that appellants failed to present any evidence of arbitrary or capricious conduct by the Board when it denied the relocation of the bus stop from the intersection of Ravens Croft and Hatch Hill Road. The primary argument is the tape recording of a post-hearing discussion between unidentified individuals indicates there was no meaningful discussion among the members of the Board prior to making its decision.

75. R. v. Watertown Board of Education, Case # 04-09, November 11, 2004.

Held that the appellant has not met the burden of demonstrating that the Watertown Board's denial of her request to change the afternoon bus stop to be the same as the original morning bus stop was arbitrary, capricious or unreasonable.

76. L. v. Watertown Board of Education, Case # 04-06, November 23, 2004.

Held that the appellant has met the burden of demonstrating that the Watertown Board's denial of her request to change the bus stop was arbitrary, capricious and unreasonable. The location of the bus stop contravenes the Board's transportation policy by assigning students to wait on the traveled portion of a highway. The assignment of 13-15 students at the bus stop also contravenes the Policy.

Therefore, the Board is ordered to make arrangements to provide transportation services consistent with its written policy.

77. F. v. Hamden Board of Education, Case # 04-12, January 5, 2005.

Held that the Hamden Board relocated the bus stop for students attending Wintergreen Magnet School operating in accordance with Section 10-264l, in a manner that was not arbitrary, capricious or unreasonable. New bus stops were positioned within the walking distance from the student's residence in accordance with the Transportation Guidelines.

78. S. v. Monroe Board of Education, Case # 04-17, August 25, 2005.

Held that the standards expressed in the Transportation Policy do not require, nor must they require, as a matter of law, the adoption of the "no drop" policy requested by Appellants for their first grade child. Appeal denied.

79. G. v. Torrington Board of Education, Case # 05-03, December 19, 2005.

Held that the Board acted properly when it applied its Transportation Policy to the walking route and bus stop in question which is at the intersection of a dead-end road that the student lives on and the main thoroughfare. Appeal denied

80. P. v. New Canaan Board of Education, Case # 05-04, January 26, 2006.

Held that Appellant failed to prove by a preponderance of the evidence that the Board of Education applied its policy in an arbitrary, capricious or unreasonable manner even though the width of one road which leads to the bus stop measures two to four inches under twenty-two feet as specified in the policy. Appeal denied.

81. C. v. Region #15 Board of Education, Case # 05-06, January 16, 2005.

Held that the Appellant has not demonstrated that the decision of the Board was arbitrary, capricious or unreasonable. There was adequate evidence in the record before the Board to justify the conclusion it reached in denying the relocation of the bus stop for a high school student. Appeal denied.

82. G. v. North Branford Board of Education, Case # 05-13, August 16, 2006.

Held that the North Branford BOE properly applied its transportation policy which sets forth fix standards for determining bus stops. The bus stop did not have any of the hazardous conditions described in the policy.

83. Parent v. Montville Board of Education, Case # 06-05, March 12, 2007.

After reviewing the appeal based on a number of allegations, the Board followed its transportation policy regarding the bus stop and safety conditions. The appeal was denied.

84. Parents v. Vernon Board of Education, Case Nos. 07-1, 2, 3 and 4. October 29, 2007.

The Board of Education committed procedural errors by failing to prepare a final decision, deliver said decision and produce a transcript of the hearing at the request of the Parents. Therefore the State Board of Education is permitted to consider this matter de novo or with a fresh look. Based on the record of the hearing below, evidence presented at the October 2007 hearing before the Impartial Hearing Board, and the viewing of the site, it is found that the Vernon Board of Education sustained its obligation to establish by a preponderance of evidence that petitioners were not eligible to receive the change to the bus stop in question.

Finally, the Hearing Board recommended amendments to the Transportation Policy of the Vernon Board of Education.

85. Parent v. R.S.D. #10 Board of Education, Case # 07-10. November 26, 2007.

Although Parent's concerns for safety are significant, he did not carry the burden of proof by a preponderance of the evidence demonstrating that the bus stop was unsafe. While the lower record contained several factual omissions, afternoon delivery time at the bus stop and hours of sunset and summary of investigation and conclusion of compliance with district policy, among others, when weighing the errors and omissions against visual inspection and uncontested facts, the Board of Education did not act in arbitrary, capricious or unreasonable manner.

Finally, the Hearing Board recommended amendments to the Transportation Policy of the Vernon Board of Education.

86. Parent v. Berlin Board of Education, Case # 07-13. November 30, 2007.

Held that Appellant has not met her burden that the decision of Berlin Board of Education was arbitrary, capricious, illegal or unreasonable with respect to (1) distance that child walks to bus stop; (2) potential for snow on sidewalks; (3) vehicles exceeding the speed limit and (4) denial of due process by submission of a written statement of a Police Officer in lieu of his appearance.

Further held that Appellant has met her burden that the decision of the Berlin Board of Education was arbitrary, capricious, illegal and unreasonable with respect to denying the Appellant an opportunity to present evidence related to the weight of the child's backpack and her medical condition. The provisions of the policy concerning "Physical Handicaps" were not applied to the facts of this case. Therefore, case was remanded in part.

87. Parent v. Plymouth Board of Education, Case # 07-11. December 31, 2007.

Parent failed to meet her burden of proof by a preponderance of evidence that the findings of the Plymouth Board of Education were arbitrary, capricious, unreasonable or illegal. While the bus stop is in front of the child's residence, it is on

the opposite side of the street. Parent was dissatisfied with crossing procedures direct by the school bus driver.

Procedural errors were committed during the hearing before the Plymouth Board of Education. However, the errors are not significant enough to conclude that Board of Education acted in violation of Section 10-186.

88. Student v. Berlin Board of Education, Case # 07-20, May 19, 2008. Also, see # 07-13.

Held that, after reviewing case on remand regarding the application of the "physical handicaps" provision of the Board of Education policy, the parent failed to prove by preponderance of evidence that the Board of Education failed to apply policy in a manner that was arbitrary, capricious or unreasonable. The Board of Education took numerous steps to accommodate physical limitations of student when carrying her heavy backpack to the bus stop.

89. Student v. Ellington Board of Education, Case # 07-26, September 2, 2008.

Held that nothing in the record establishes that there exist hazards within the meaning of the transportation policy at either designated bus stop nor along the walking route. Appellant failed to meet his burden of proof.

90. Student v. Shelton Board of Education, Case # 08-4, December 1, 2008.

Held that the Shelton Board of Education properly applied its policy and guidelines to the case at hand. The appeal is dismissed.

91. Student v. Naugatuck Board of Education, Case # 08-06, February 23, 2009.

Parents appealed from Naugatuck Board of Education's decision not to relocate their kindergarten age child's bus stop. Petitioners claimed that the stop was unsafe because in the winter the snow was plowed at the side of the road where the child had to wait for the bus in the traveled portion of the road. Held: Appeal sustained. It was unreasonable to require a student to wait at a bus stop in the traveled portion of the road.

92. Student v. New Milford Board of Education, Case # 08-13, September 21, 2009.

Held that the action of the New Milford Board of Education to deny the relocation of the bus stop at appellant's home was not arbitrary, capricious or unreasonable.

93. Student v. Naugatuck Board of Education, Case # 09-03, December 31, 2009.

Held that the relocation of the bus stop by the Board of Education was consistent with its policy and, therefore, the Board of Education did not act in a manner that was arbitrary, capricious or unreasonable.

94. Parent v. Newington Board of Education, Case # 09-06, February 22, 2010.

Held that the decision of the Newington Board of Education to relocate the bus stop was in violation of its transportation policy, and, therefore, arbitrary, capricious and unreasonable. State Impartial Hearing Board conducted an on-site observation. Said State Board ruled that the body of water along the walking route to the bus stop fits within the definition of a pond or waterway specified in the transportation policy of the Newington Board of Education. Furthermore, the State Board concluded that the pond or waterway lacks sufficient natural barriers to prevent it from being a hazard to students who pass by it while walking to the bus stop.

95. Parent v. Newtown Board of Education, Case # 09-09, March 26, 2010.

Held that the Newtown Board of Education decision to deny a change of the bus stop for the appellant was not arbitrary, capricious or unreasonable.

96. Student v. North Haven Board of Education, Case # 09-11, May 26, 2010.

Held that the walking route to the bus stop located 3/10 of a mile from Appellant's home is a route that may be safely negotiated by a high school student. The student's medical condition was considered by the North Haven Board. The Appellant's appeal is denied.

97. Student v. Somers Board of Education, Case # 10-10, March 22, 2011.

Held that the Board did not act in an arbitrary, capricious or unreasonable manner in denying the request for a change of bus stop.

98. Student v. New Milford Board of Education, Case # 11-1, December 22, 2011.

Held that the Board of Education did not act in an arbitrary, capricious or unreasonable manner in denying the request for a change of the bus stop. The Board properly applied its policy regarding line-of-sight visibility. Regarding students walking more than one half hour before sunrise, the hearing Board did not find that the sunrise on the shortest day of the year is unique only to the appellant. Other seventh grade students are similarly situated requiring them to walk to the bus stop when visibility is limited.

99. Parent v. Monroe Board of Education, Case # 11-3, January 19, 2012.

Held that the current bus stop meets the Board's published safety standards for students in middle school and high school.

100. Parent v. New Milford Board of Education, Case # 11-6, February 27, 2012.

Parent appealed from New Milford Board of Education's decision not to relocate his elementary school student child's bus stop. Petitioner claimed that the bus route required his daughter to remain on the bus for too long a

time when being dropped off in the afternoon. Appeal dismissed. The Board of Education did not act unreasonably in refusing Petitioner's request.

101. Parent v. North Haven Board of Education, Case # 11-2, April 13, 2012.

Held that the walking distance of 450 feet from the second grade student's home to the bus stop was not arbitrary, capricious or unreasonable. While student claimed a medical condition, school records indicate that: no request was made from parent or medical provider to restrict student activities in school, student regularly participated in physical education activities in school and during recess; and that on only two occasions in two years did the student see the school nurse for assistance with her medical issues.

b. Eligibility

1. V. and L. v. West Hartford Board of Education, Case #88-4, November 8, 1989.

Held that the Board acted in an arbitrary manner when it granted "case specific exceptions" to other students without establishing any written standard of review for such exceptions. The appellants failed to establish eligibility under the written provisions of the policy.

2. V. and L. v. West Hartford Board of Education, RECONSIDERED DECISION, Case #88-4, August 24, 1990.

While the prior impartial hearing Board concluded that the King Philip School case specific exception demonstrated an inconsistent application of fixed standards contained in the West Hartford Transportation guidelines, and such application rendered the actions of the school Board impermissibly arbitrary, this impartial hearing Board concludes differently. The fixed rules and standards published by the West Hartford Board of Education were applied in a predictable manner.

A single deviation or aberration from predictable standards and guidelines should not compel ongoing deviations or aberrations into infinity.

3. R. v. Region #16 Board of Education, Case #89-9, February 28, 1990.

Held that the appellant has failed to sustain her burden of proof that the Region #16 Board of Education acted in an illegal, arbitrary, unreasonable or capricious manner in denying her child school accommodations by way of transportation.

With regard to the claim that the student is asthmatic, there was no evidence presented to indicate that her medical problems rise to the level that would require door-to-door transportation to and from school.

4. B. v. Canton Board of Education, Case #89-10, March 5, 1990.

   Held that the Canton Board of Education has properly applied its transportation policy to the facts of the situation at hand. The children of the appellants were not unreasonably denied educational accommodations by the actions of the Canton Board of Education.

5. T. v. Vernon Board of Education, Case #90-5, December 4, 1990.

   Held the appellants have not shown that the appellee, in the application of its transportation guidelines, requires the students who use the pathway to trespass on private property to reach the bus stop. The students have permission of the owners to walk across the property and the actual use is not inconsistent with the abutter ownership. Michalczo v. Woodmont, 175 C 535, 543 (1978).

6. P. Et Al. v. Meriden Board of Education, Case #91-6, January 28, 1992.

   Parents of two elementary school students claimed that the walking route to school was unsafe due to the absence of traffic control signals at two intersections. The Board of Education did find that there were two potential hazards and ordered temporary bus transportation until the hazards were remedied.

   Held that the Board of Education maintains a comprehensive transportation policy and such policy was diligently and logically applied in this case. The Board of Education was sensitive to the needs of the two students.

7. F. v. Winchester Board of Education, Case #93-4, December 2, 1993.

   Held that the Board of Education failed to follow its own policy regarding the measurement of the walking distance from the student's home to the school. The testimony given by an employee of the Board of Education indicated that the recommended walking route was not measured to the Fay house. The actual walking distance was in excess of the one-mile policy of the Board. Therefore, the actions of the Board of Education were arbitrary.

8. T. Et Al. v. Greenwich Board of Education, Case #94-5, February 9, 1995.

   Held that where parents are given the option to attend a school other than the school designated by the Board of Education under the redistricting plan, provided the parents furnished their own transportation, the Board of Education was not denying school accommodations by transportation. The plan adopted by the Board of Education clearly provided for transportation service for eligible students who attended the designated schools under the redistricting plan. Under Section 10-220(a), the Board of Education is providing as nearly equal advantages as may be practicable. The option elected by the parents provides their own district advantage minus transportation.

9. P. v. Manchester Board of Education, Case #94-4, January 9, 1995.

Held that the method of measurement to determine "walking distance" was consistently followed for nearly ten years leads to the conclusion that the method used was neither arbitrary, capricious nor unreasonable. Where the Board policy articulates two separate methods to measure walking distances, the use of one does not conclusively establish prohibited action by the Board.

10. L. Et Al. v. Enfield Board of Education, Case #95-1, September 27, 1995.

Held that the Policy of the Enfield Board of Education fails to limit or guide the absolute discretion of the Board of Education to determine the presence of a hazard. Furthermore, the failure of the Board of Education to render findings of fact and conclusions of law renders the decision arbitrary, capricious and unreasonable.

As a matter of law, administrative regulations must have adequate, fixed and sufficient standards to guide the agency in its application, to avoid decisions that would otherwise be a purely arbitrary choice of the agency. Ghent v. Planning Commission 219 Conn. 511, 517 (1991).

11. A.C. v. Southington Board of Education, Case #96-9, January 27, 1997.

Held that the method of measuring the walking distance to an apartment complex in which some units are located at a distance from the driveway entrance is not arbitrary, capricious or unreasonable when the policy prescribes the linear measure as the route between the school and the student's residence from a point at the curb or edge of a public road or highway nearest to the student's residence.

12. W. v. Marlborough Board of Education, Case #96-6, March 13, 1997.

Held that the Board of Education failed to notify the appellants of its intention, after concluding the hearing, to visit the site of the walking route and to reopen the hearing to take additional evidence, and the subsequent visit to the site and reopening the hearing, deprived the appellants of their statutory right to respond to evidence received and considered by the Board. (1) The parents were denied the opportunity to cross-examine witnesses or to present their own evidence pursuant to Section 4-177c(a)(2) and (2) the evidentiary record was not "based exclusively on the evidence in the record" pursuant to Section 4-180(c). These actions caused the Board of Education to act in an illegal, arbitrary, capricious and unreasonable manner.

13. B. v. Region #10 Board of Education, Case #97-17, June 10, 1998.

Held that the prescribed walking route for the children was in excess of the maximum distance permitted for the respective grade groupings as expressed in the policy, and thus, constitutes a hazard in violation of the policy. Furthermore, the exception provision of the policy may be applied only where required to protect the safety of children walking to or from the bus stop or school. The exception

provision is not applicable to the protection of vehicles or their passengers. The Board of Education improperly applied this provision of its policy. The actions of the Board of Education were arbitrary, capricious and unreasonable.

14. J. v. Windsor Locks Board of Education, Case #99-9, March 23, 2000.

Held that the Board of Education decisions not to place a crossing guard at the intersection of Spring Street and West Street does not render the walking route dangerous in violation of established policy nor is said action arbitrary, capricious or unreasonable. The sixth grader must walk .8 of a mile to school and pass by said intersection which has a traffic control signal. Traffic was light and vehicles were not observed as traveling at excessive speeds.

15. J. Et Al v. Rocky Hill Board of Education, Case #00-3, 00-4 and 00-5, November 30, 2000.

Held that the decision was reached without applying fixed rules or standards, but rather was based on unarticulated expectations on the part of the Board of Education. The Board's findings did not expressly address appellants' principal claim that the children (grades 1-3) have to cross the street where there are no stop signs or crossing guards and the traffic count exceeds 20 vehicles per hour. Furthermore, the Board of Education relies on the Board's "general expectation" that parent's will, if necessary, assist the children across the street.

16. L. v. West Hartford Board of Education, Case #00-9, January 9, 2001.

Held that actions of the Board of Education were not illegal, arbitrary, capricious or unreasonable. The new location of the bus stop provided considerable safety for all students. The appeal was dismissed.

17. R. v. North Haven Board of Education, Case #00-16, February 1, 2001.

Held that the Board of Education properly applied its policy for this 9th grade high school student. The posted speed limit is less than the maximum speed stated in the policy, sidewalks exist on portions of Sackett Road eliminating crossing from Locust Avenue and the light at Elm Street Extension may be tripped by the crossing button at least one way.

18. H. v. Naugatuck Board of Education, Case #00-15, April 2, 2001.

Held that the Board properly applied its transportation policy in a manner that was not arbitrary, capricious or unreasonable. The walking route contained sidewalks and crossing guards at appropriate locations. The Petition was dismissed.

19. N. et al. v. Ellington Board of Education, Case #01-12 to 01-22
August 2, 2002.

Held that the Ellington Board of Education acted in a reasonable manner and followed its clearly articulate policy when it denied transportations services to all elementary schools from the day care center, when the day care center moved from the center of town to an area served exclusively by one school. If a private day care facility is in close proximity to the twenty-year-old Board sponsored program in the center of town, and will not require the rerouting of buses with the attendant increase in cost and complexity, then the Board will provide town-wide bus service. The Board has been consistent in applying this policy.

20. D. v. Rocky Hill Board of Education, Case #02-03, October 22, 2002

Held that the Rocky Hill Board of Education acted in a manner that was not arbitrary, capricious and unreasonable. The appellee policy make no provision to accommodate disabled parents.

21. G. v. Waterford Board of Education, Case #02-07, November 29, 2002

Held that the findings of the Board were not arbitrary, capricious or unreasonable. The walking route does not present any hazards as defined in the Transportation Policy.

22. H. v. R.S.D. #8 Board of Education, Case #02-06, December 10, 2002

Held that the appellant failed to prove that Region #8 acted in disregard of its Transportation Policy and that its action was arbitrary or capricious. The record was devoid of proof that the length of the bus ride to the Vocational-Technical School in Windham had an adverse effect on her safety, health or any other aspect of life. The appeal was dismissed.

23. S. v. Plainfield Board of Education, Case #02-09, January 6, 2003.

Held that the Boards denial of appellant's request to be transported to the school of her choice rather than the designated school was not arbitrary, capricious or unreasonable. The Board maintains statutory authority to redistrict public school attendance.

24. A. v. Bristol Board of Education, Case #02-24, October 8, 2003.

Held that the walking route alleged to have narrow, hilly and curvy streets was not unsafe for the student. The Petition for appeal was dismissed.

25. B. v. East Hartford Board of Education, Case #03-11, November 25, 2003.

Held that the appellant failed to prove that the Board disregarded its transportation policy, or acted in an arbitrary or capricious manner when it denied transportation to the fourth grade student who walks less than the one-mile maximum walking distance (4,870 feet). All potential hazards have been abated by the assignment of two security officers.

26. M. v. Vernon Board of Education, Case #03-21, December 1, 2003.

Held that the appellant failed to prove by a preponderance of evidence that the Board acted in an arbitrary, capricious or unreasonable manner when it denied transportation to a 10th grade student at Rockville High who walked 1.8 miles to school.

27. J. Et Al. vs. Hamden Board of Education, Case #03-22 - 03-31, March 17, 2004.

In a case concerning the denial of transportation service to all Pre-Kindergarten students attending Highville Mustard Seed Charter School, the Impartial Hearing Board of the State Board of Education held that the findings of the Hamden Board of Education were arbitrary and capricious. For the past six years the Hamden Board of Education provided transportation to all Highville students and received reimbursement for transportation in accordance with the provisions of Section 10-66ee(f) and 10-273a. Sections 10-186 and 10-220, when read together, require the Board to provide transportation wherever reasonable and desirable (Case is on appeal at Superior Court).

28. R. vs. Rocky Hill Board of Education, Case #04-10, December 14, 2004.

Held that the Board's decision to eliminate many bus stops on cul-de-sacs to accommodate the longer school day and to accommodate daylight pick-up and drop-off requirements was done in a manner that was not arbitrary, capricious or unreasonable. Visual sight of the bus stop from the home is not required.

29. B. vs. Naugatuck Board of Education, Case #05-02, December 12, 2005.

Held that in the hearing before the Board, said Board failed to prove ineligibility by a preponderance of evidence. In denying school accommodations by transportation for the high school student, the Board acted in an unreasonable manner. Appeal sustained.

30. A. v. Danbury Board of Education, Case #06-03, February 2, 2007.

Held that while the Impartial Hearing Board had significant concerns regarding the walking route and the potential for a hazardous condition within the meaning of the transportation policy, the appellants failed to meet their burden of proof to show by

a preponderance of the evidence that the Board's denial was arbitrary, capricious or unreasonable. Appeal was dismissed.

31. Student v. Bristol Board of Education, Case #06-09, May 9, 2007.

Held that the action by the Board was arbitrary and unreasonable: it was made without specific findings of fact about the conditions at the intersection of streets with respect to the parent's claims that the intersection is dangerous and was made pursuant to invalid policy or regulations causing the student to be denied school accommodations beginning with the 2007-2008 school year. Also, held that the transportation policy of the Board fails to limit or guide the absolute discretion of the Board to determine the presence of a hazard and is thus illegal.

The appeal was sustained and the matter remanded to the Board for rehearing and redetermination consistent with this decision and pursuant to a revised and valid transportation policy containing adequate, fixed and sufficient standards.

32. N. v. Griswold Board of Education, Case # 07-5. October 24, 2007.

Appellant met her burden of proof that the Griswold Board of Education acted in unreasonable manner. The Griswold Board of Education stipulated to certain facts regarding the walking route to the bus stop which rendered said route unsafe under a number of provisions of the Transportation Policy. The defense of the Griswold Board of Education that it cannot safely provide transportation to and from Appellant's residence is unacceptable. The Board of Education maintains a statutory obligation to provide transportation.

33. Student v. Willington Board of Education, Case # 08-01. November 10, 2008.

Held that the Board of Education acted arbitrarily and capriciously in failing to apply the express provisions of its guidelines to the transportation policy. The notations on the guidelines given to the parent contained the statement "Accepted 11/9/82, Reviewed 5/13/02" establishing an undeniable level of legitimacy. Although initially the guidelines were advisory, they were ratified and became the policy of the Board of Education at all the relevant times.

34. Student v. Naugatuck Board of Education, Case # 09-01. September 11, 2009.

Held that the Naugatuck Board of Education did not act in an arbitrary, capricious or unreasonable manner when it determined that the student could walk along a private improved road to the bus stop. While travel along the private road is arduous, the decision of the Board not to travel on a private road pursuant to Section 10-220c is reasonable.

35. Parent v. R.S.D. 10 Board of Education, Case # 11-4. February 20, 2012.

In a case that was remanded to the R.S.D. 10 Board to examine and collaborate with the parent regarding the walking route in question to

ascertain if it complies with its own Policy regarding stopping distance, it was reported as an additional fact that a section of the route probably did not meet the 215 feet stopping distance. There is no evidence as to the location of the section. Held that the mere fact that a section of the route did not meet the 215 feet stopping distance is not enough to justify a finding that the Board acted in a manner that was arbitrary, capricious or unreasonable. There should be evidence showing that the deviation was of a nature that rendered the walking route unsafe for that finding to be made. The appeal was dismissed.

36. Parent v. Manchester Board of Education, Case # 11-7. March 30, 2012.

Held that appellants have failed to prove by a preponderance of evidence that the decision of the Board of Education to deny transportation to a kindergarten student who was within walking distance to the designated school was arbitrary, capricious or unreasonable. This case addresses the original walking route to school at a distance of .9 miles and a school administration exception allowing the child to walk .5 miles to a bus stop.

B. Private Schools

a. Bus stop

1. C. v. Vernon Board of Education, Case #89-4, December 6, 1989.

Held that the Board acted in an unreasonable manner when it failed to apply the provisions of its policy concerning exceptions. Case was remanded to the Board for reconsideration under the exceptions provisions.

2. S. v. Southington Board of Education, Case #89-7, February 26, 1990.

Held that the Southington Board of Education did not act in an arbitrary, capricious or unreasonable manner when applying its transportation policy to the facts of the situation at issue. Therefore, the student was not eligible for transportation service to junior high school.

3. G. v. Middletown Board of Education, Case #99-1, December 6, 1999.

Held that the matter was remanded to the Board for reconsideration due to the fact that the stopping distances provided by the police were incorrect in that the stopping distances failed to include driver reaction time.

4. G. v. Middletown Board of Education, Case #99-12, February 25, 2000.

Held that appellant failed to prove that the actions of the Board of Education were arbitrary, capricious or unreasonable when it implemented its policy concluding that

the 25 mph speed limit on the road where the bus stop is located provided acceptable lines of sight to permit adequate braking distances.

b. Eligibility

1. A. Et Al. v. Stafford Board of Education, Case #94-8, February 17, 1995.
Held that the Board of Education must provide transportation services to eligible students at St. Edward School, Stafford, Connecticut, a nonpublic, nonprofit school, on various days when the St. Edward School is in session during the public school springs vacation even when the Stafford Public Schools were closed. Section 10-281 was enacted to provide the "same kind" of bussing in a uniform manner. The law was intended to equalize transportation. It is basically a question of getting all children to school by public transportation. Providing 180 days of transportation service for public school children versus 176 days of transportation service for nonpublic school children was not uniform based on the calendar of the nonpublic school which required 180 days of school. Furthermore, the transportation expenditure limits of "an amount double the local per pupil expenditure for public school transportation during the last completed school year" illustrates the intent of legislature that it recognizes that on occasion the expenditures for transportation services for nonpublic school students might be substantially higher than for public school students. The case in point is an example when increased expenditures may occur when buses are transporting nonpublic school students only.

Note, the doctrine of "capable of repetition, yet evading review" is discussed in the decision.

Stafford BOE v State Board of Education et al., 243 Conn. 722 (1998)
Held that: (1) phrase "same kind of transportation services," as used in school transportation statute, does not mean that nonpublic school students shall be transported only on days when public schools are in session; and (2) state Board of Education's interpretation of statute to require that school districts provide transportation to nonpublic school students regardless of whether public school are in session did not violate First Amendment's establishment clause or state constitution.

C. Vocational Schools

a. Vocational Agriculture

1. P.B. v. Milford Board of Education, Case #92-6, January 12, 1993.

Held that the decision of the Milford Board of Education to pay the sum of $15.60 per day ($2,808.00 per school year) to the mother of the student for transporting her daughter to the Vo-Ag Program at Trumbull High School was arbitrary, capricious and unreasonable.

Pursuant to Section 10-97(b), the Milford Board of Education is required to furnish "the reasonable and necessary cost of transportation" for any student of the district enrolled in a vo-ag program. Providing parents with a mileage reimbursement rate of $0.26 does not meet the Board of Education's obligation to provide the reasonable and necessary cost of transportation especially when the parent is unable to continue to provide permanent transportation to her daughter.

b. Vocational-Technical

1. H. v. Stafford Board of Education, Case #04-01, October 6, 2004

Held that a Board of Education shall not be required to expend for transporting a student to a vocational school an amount greater than the foundation level ($5,891 for fiscal years 2000 to 2005, inclusive). Therefore, the sophomore enrolled at the school experience the curtailing of bus transportation during the current year when the foundation is reached.

III. Residence

A. Permanent

1. A. v. Fairfield Board of Education, Case #88-16, August 28, 1989.

Held that the appellant was not a resident of Fairfield during the 1988-89 school year and therefore was not entitled to free school accommodations.

Evidence offered by the Board of Education included surveillance of addresses in Westport and Fairfield, verification of post office forwarding address, and verification of motor vehicle registrations and operator's license.

2. R. v. Trumbull Board of Education, Case #88-10, May 11, 1989.

Held that the appellant, who was living with relatives, was not a resident of Trumbull during a portion of the 1988-89 school year. Pursuant to Section 10-253(d), in order for the children of the appellant, who reside with relatives in Trumbull, to be eligible for free school accommodations in Trumbull, it must be proven that the intent of the relatives and the appellant that such residence is to be permanent, provided without pay, and not for the sole purpose of obtaining school accommodations.

Also, held that the appellant is not precluded from establishing a valid residence in Trumbull.

3. G. v. Fairfield Board of Education Et Al., Case #89-8, February 26, 1990.

Held that a mentally retarded student residing in a residential facility in Norwalk, Connecticut since September 1976 was a resident of Norwalk despite the

appointment of the student's plenary guardian in May 1989 who resides in Fairfield, Connecticut. In particular, concluded that residence "generally requires both physical presence and an intention to remain." Martinez v. Bynum, 461 U.S. 321, 330 (1983).

The Connecticut State Department of Education, through the Commissioner of Education, has defined permanent resident "as one who resides in a district and who has a permanent intention to remain within the district; however, it may not be for the sole purpose of obtaining an education within the district...", Circular Letter C-13, September 29, 1986.

The totality of the facts clearly demonstrate that the student has always resided in Norwalk, attended Norwalk, Public Schools, did not come into the Norwalk district in order to receive educational services and the intent manifested by the interested parties on the student's behalf is for him to remain in Norwalk, Connecticut. Therefore, the student is determined to be a resident of Norwalk.

4. M. v. Bristol Board of Education and Region #10 Board of Education, Case #90-10, January 20, 1991.

The Bristol Board of Education has shown, by a preponderance of the evidence, that the student is not a resident of the school district as defined in Section 10-253(d) because his residence in Bristol is not permanent and is for the sole purpose of obtaining school accommodations. The appellant admitted that he misrepresented his address to the Bristol Board of Education. Furthermore, a letter from the appellant addressed to the Bristol Board of Education clearly implies that the student's residence at his sister's home in Bristol is for the purpose of finishing his final year at Northeast School.

The appellant has consistently refused to give any reason for the student's continued residence in Bristol after his family moved to Burlington but has said that the reason is personal.

5. W.G. v. Bozrah and Norwich Boards of Education, Case #90-3, February 25, 1991.

Held that the town of Bozrah is currently responsible for providing educational accommodations to the student and has been so responsible since June 6, 1990. The sole surviving parent, a resident of Norwich, placed his son in the home of another person in 1980 who also resided in Norwich. Social Security payments were made to the person for the care of the child. In 1983, the child was committed to the Department of Children and Youth Services, which placed him in foster care with the same person who had cared for him since 1980. The parent resided in a Norwich retirement home from approximately 1980 to 1989. In June of 1989, the parent became a patient at a skilled nursing care facility in Bozrah. The student resided in Norwich from 1978 to 1990 at which time he was placed out in a facility in New London.

There is no question that the student is a special education child who has been placed by the Department of Children and Youth Services pursuant to Section 10-76d(e)(2). This statute states that the responsible town is the town "under whose jurisdiction the child would otherwise be attending school." Normally, educational nexus is the town of residence of the parent. However, the Impartial Hearing Board finds that Sections 10-76d(e)(2) and 10-253(d) must be read together in this case when determining where the child would otherwise be attending school. In the instant case, the Department of Children and Youth Services received custody after the father and placed the child in the care of another person, which suggests a residence apart from the father, but in the same town. Secondly, the town must identify the legal residence of the child under Section 10-76d(e)(2) (see L.S. Et Al. v. Granby BOE, Case #88-1) and Section 10-253(d) is the only statute which assigns financial responsibility in a situation such as exists in this case, even though a Section 10-253(d) placement was not made. The provisions of Section 10-253(d) regarding the intent of the child and nonrelatives that the residence is to be permanent, provided without pay and not for the sole purpose of obtaining school accommodations, must be examined to determine "under whose jurisdiction the child would otherwise be attending" (Section 10-76d(e)(2)). It is clear that the person who cared for the child was in fact paid by the surviving parent, by social security payments of the decedent mother, and by the Department of Children and Youth Services for foster care.

6. Bozrah Board of Education v. State Board of Education Et Al., Superior Court, Case No. 097917, March 30, 1992.

Held that the State Board of Education decision was grounded upon evidence in the record and the State Board of Education's application of law logically followed from the facts. Therefore the Bozrah Board of Education failed to demonstrate that the State Board of Education's decision was unreasonable, arbitrary, illegal or an abuse of discretion.

Regarding the scope of judicial review, the court may not retry the case or substitute its own judgment for that of the agency. Determination of issues of fact by the administrative agency should be upheld if the record before the agency affords a substantial basis of fact from which the fact in issue may be reasonably inferred. The court's ultimate duty is only to decide whether, in light of the evidence, the agency has acted unreasonably, arbitrarily, illegally or in abuse of its discretion.

Regarding the burden of proof, the State Board of Education interpretation of Section 10-186(b)(1) as assigning the burden of proof to both Boards at the combined hearing appears reasonable and is entitled to deference by this court.

Regarding the interpretation of Sections 10-76d(e)(2) and 10-253(d), the State Board of Education decided that because the father put the child in the care of another, it would have to analyze residency by examining the validity of the initial placement out of the parental home. The State Board of Education held that no placement was made under Section 10-253(d) because the placement by the father was for pay. Therefore, the State Board of Education decided that the father's move from

Norwich to Bozrah transferred the child's residence to the town of Bozrah and triggered Bozrah's obligation pursuant to Section 10-76d(e)(2).

Bozrah BOE v. State Board of Education et al., 228 Conn 433 (1994)
Held that the judgment of the Appellate Court must be affirmed. The Appellate Court, 30 Conn. App 720 held that: (1) question of whether town Board of Education or state Board of Education was responsible for costs of special educational needs of minor following placement with foster parent, who intended to be paid for her services, and placed in residential facility was not governed by statute determining school privileges for children in certain placements and for nonresident children pursuant to Section 10-253(d), but rather was governed by statute pertaining to duties and powers of school Boards to provide special education pursuant to Section 10-76d(e)(2), and (2) under statute, Board of Education of town in which father resided was responsible for minor's special educational needs.

7. K. v. West Hartford Board of Education, Case #90-13, April 8, 1991.

Appellant contended that she is entitled to free public education accommodations in the West Hartford Public Schools even though she moved to Newington temporarily, three months, with the intent to return to West Hartford. Note that due to the appellant's admission that she did not live in West Hartford for three months, residency is not an issue. The reasonableness of the Board's policy regarding interim attendance pending re-establishment of residency is at issue. Therefore, the review is not de novo but is based on the standards of arbitrary, capricious or unreasonable action.

Held that the appellant could not present any evidence indicating that the Board has applied a more flexible or more lenient policy to a student whose living arrangement presented a comparable situation. The Board was not legally obligated to provide gratuitous services. The exercise of discretion in affording the two week grace period is not subject to review. The Impartial Hearing Board has no authority to substitute its judgment for that of the local Board in matters that are purely discretionary.

8. S. v. Stratford Board of Education, Case #91-3, December 20, 1991.

Like Koplowitz, this case addresses a request by appellants for educational services while admitting that they no longer reside in Stratford.

9. B. v. West Haven Board of Education, Case #90-19, September 17, 1991.

The fact that the children of divorced parents spend one more night in New Haven each week than in West Haven is not, of itself, sufficient to establish their non-residence in West Haven. The evidence shows that the children resided in West Haven when both parents lived there. They continue to dwell in West Haven, not on a temporary, but on a regular, scheduled basis and continue to be active in West Haven socially even after their mother has moved to New Haven.

Under the Board of Education's policy concerning residency of students, a child residing with a parent who is a bona fide resident of West Haven entitled to school accommodations in West Haven.

A resident of a place is one who is an actual stated dweller in that place. The determination of residence is not based on a fixed formula, but depends on a number of factors that include where a person considers himself or herself to be resident, physical presence, where the person is living, and other actions of the person that would demonstrate an intention of residence.

Therefore, the Board of Education failed to establish that the children are no longer residents of West Haven.

Note that the Superior Court sustained the hearing officer's decision on narrow grounds. Since this decision was rendered, the law was amended by shifting the burden of proof to the party claiming eligibility. Superior Court, Case No. 324011, October 14, 1992.

10. B. And J. v. East Haddam and East Hampton Board of Education Et Al., Case #90-11, October 17, 1991.

Held that father of the two students is a bona fide resident of East Hampton and has more than a passing interest in the welfare of the students. The interest dates from August 1, 1990, and that the town of East Hampton is the town under whose jurisdiction the students would otherwise be attending school for purposes of assigning educational responsibility pursuant to Section 10-76d(e)(2).

The two students are children of divorced parents. Legally, mother has custody of the children. Actually, mother has not maintained frequent contact with the children since 1985. Father has had more frequent contact as the noncustodial parent. On October 31, 1989, the children were committed to the care of the Department of Children and Youth Services (DCYS) due to the neglect of the parents. Each child has been placed in a foster home in various towns.

Father has been a resident of East Hampton since 1989. Mother has been a resident of various towns and most recently resided in East Haddam. In November 1990, DCYS notified East Hampton of its determination that father was more involved with the children and that it did not appear that mother would play a role in the children's lives. Father has entered into service agreements with DCYS regarding procedures and responsibilities of parents to their children that are used to facilitate reunification of families.

Because the two children are special education students placed by DCYS in foster homes, the provisions of Section 10-76d(e)(2) apply. The responsible LEA is the Board of Education under whose jurisdiction the children would otherwise be attending, unless none can be identified, in which case it would be the LEA of the placement town. Held that the determination of nexus by DCYS is not binding

upon any involved party, including the Impartial Hearing Board of the State Board of Education.

Further held that mother has abdicated her parental responsibilities. Regardless of the divorce decree, she has no interest in providing for the welfare of her children. The legislative history of Section 10-76d reveals that the "more interested parent" approach is consistent with the goals of the statute. Thus, the father evidences more interest than the mother and his residence in East Hampton is sufficient to tie jurisdiction to East Hampton pursuant to Section 10-76d(e)(2).

11. B. v. New Canaan Board of Education Et Al., Case #90-18, January 24, 1992.

This case was heard following a remand by the Superior Court to an Impartial Hearing Board for rehearing. The prior decision of the Impartial Hearing Board is not contained in this index.

The issue of residency arises from the fact that the Baerst house is located on a parcel of land which is located primarily in Norwalk, with a small part in New Canaan. The house itself lies primarily in Norwalk, with a small part of the house in New Canaan. The family participates extensively in New Canaan. The family participates extensively in New Canaan activities and consider themselves New Canaan residents.

Held that the appellant is a resident of Norwalk. The case revolves around the physical location of the property and house. It is only because the property and house are divided by the New Canaan/Norwalk boundary that an issue arises. The majority approach of common law case decisions which is adopted by the Impartial Hearing Board is that "If the line so divides the house that the portion in one jurisdiction is sufficient in itself to constitute a habitation, whereas the other is not, the domicile is the former jurisdiction. If the line divides the house somewhat equally and it can be ascertained where the occupant actually sleeps, that is a preponderating circumstance and decisive in the absence of other proof." 25 Am Jur 2d, Domicile, Section 38.

The minority approach, adopted by Baerst, argues that the significant of the locus of the family's community activities could be construed not only as evidence of "intent" but as a claim that based on the nature of the property division, there is a right of election of place of residence. (Review the decision for a comprehensive discussion of the majority and minority approaches.) NOTE: The Superior Court sustained the second decision of the Impartial Hearing Board. SEE this case for a comprehensive discussion on the methods for determining residency in boundary line disputes. Conn. SBE Et Al. V. Baerst Superior Court, Case No. CV92-0508805, February 10, 1993.

12. B. v. State Board of Education Et Al., 34 Conn. App. 567 (May 31, 1994).

Held that the "majority approach" used by the Impartial Hearing Board regarding town boundary line property must yield to a broader standard of review based on the

circumstances presented in the case. The Appellate Court applied a fact based "constellation of interest approach" which takes into account not only the location of physical property, but also other factors associated with the interests of appellant and his family. The facts revealed that appellant has mail delivered by a New Canaan post office, uses New Canaan emergency ambulances, snow removal and police services, maintains a New Canaan address on auto registrations and drivers licenses, maintains library cards from New Canaan and votes in New Canaan despite the fact that dwelling is physically located in Norwalk and about 85 percent of the acreage is located in Norwalk.

Note that the New Canaan Board of Education has filed a petition for certification to appeal the case to the State Supreme Court.

13. F. Et Al. v. Hamden Board of Education Et Al., Case #92-3, October 28, 1992.

Held that a high school student of divorced parents who has decided to leave the household of the custodial parent and live with her maternal grandmother has established permanent residency with her grandmother.

This case has created an unusual situation where the mother, herself a Hamden resident, is intervening seeking to defeat the claimed Hamden residency with the grandmother; at the same time she seeks to regain custody which would arguably place the student back in clear status as a Hamden resident. The father currently resides in Rocky Hill.

Section 10-253(d) states that the intention of 1) the relative with whom the child is living and 2) the child or parent that the residence is to be permanent, provided without pay and not for the sole purpose of obtaining school accommodations. The father did not intend that the child's residence with the grandmother was for the sole purpose of obtaining school accommodations. Note that the father has granted permission for the daughter to stay with the grandmother within the context of his setting where the daughter has never had a physical home with her father since the divorce.

Regarding permanent residence, the arrangement is permanent in the sense that there is no planned end to the residence. Permanency in the life of a child of divorced parents is often an elusive concept.

Regarding "provided without pay," the term pay is tied to the concept of remuneration for services or goods. All of the money which changed hands was earmarked for the daughter's support and living expenses.

Regarding the Residence Form signed by the parties which asks for a listing of the "major" reasons for the residence, the fact that the parties stated "to finish school in Hamden" is not construed as the "sole" reason for the residence.

14. R. v. Derby Board of Education Et Al., Case #92-2, February 4, 1993.

Held that a current majority age student voluntarily placed in the Oak Hill Program when she was a minor established residency separate and distinct from her mother and sister who became plenary guardians. Note that the facts of this case are controlling.

The student born in 1972 was found to be a resident of Hebron, Connecticut. In 1989, the student was transferred to a group home in Hebron where she continues to like. In 1992, the sister was appointed plenary guardian and the mother was standby plenary guardian by the Probate Court in Hebron. In 1992, the sister moved from Bridgeport to Derby where she continues to reside. Until this time, Bridgeport provided school accommodations.

The preponderance of evidence shows that the student of majority age would establish the residence of her placement. No evidence was produced as to where the student would reside were she not in the group home. Consequently, Section 10-76d(e)(2), "under whose jurisdiction the child would otherwise be attending school" is not applicable. Therefore, based on common law principles of residency we look to the student's intent (plenary guardian). Also, when applying the Residency Issue Guidelines, State Department of Education, the indicia of residency points to Hebron.

Held that, (1) Section 1-1d merely provides that the age of majority is eighteen. It does not affect the obligation of a municipality under the special education statutes, including the relevant provisions of Section 10-76d, to continue to provide special education to an eligible student until he or she attains age twenty-one. Such person is still a child for purposes of the special education statutes until age twenty-one. The State Board's decision to the contrary was an error of law. (2) After consideration of the evidence, the Court concludes that there is not sufficient evidence of the required intent to support the Board's factual finding that M is a legal resident of Hebron. Furthermore, it was an error of law to substitute C's intent for that of her sister M in attempting to ascertain the latter's legal residence. The Board's more fundamental error was in concluding that M's physical location, age or residence automatically determined which municipality is obligated to provide her special education. Section 10-76d(d) is the controlling statute. Bridgeport BOE with the consent of M's mother arranged for M to be placed in Oak Hill, Hartford, requiring the provisions of Section 10-76d(d) to govern the funding of that placement and any extension of that placement, including the shift to the facility in Hebron, until M attained the age of twenty-one. Bridgeport's placement of M in Oak Hill did not sever her link to Bridgeport, nor did it relieve Bridgeport of the obligation to continue to fund her special education. Likewise, the subsequent transfer of M to Oak Hill's facility in Hebron did not sever her link to Bridgeport nor relieve Bridgeport of its obligation. The court was not called upon in this appeal to determine whether Bridgeport or Derby is obligated to fund M's special education. Therefore, the appeal of Region No. 8 is sustained.

15. R. Et Al. v. Thompson Board of Education Et Al., Case #92-10, March 4, 1993.

Held that children of a divorced couple who live six months with each parent in Putnam and Thompson were found to be residents of Thompson.

Appellant met her burden of proof by demonstrating that there are bedrooms for the children in each home, the children have always attended Thompson Public Schools, the children's primary friends are in Thompson, they attend religious activities in Thompson, they participate in recreational activities in Thompson and maintain apparel in both homes. The Respondent's argument that the children reside six months of the ten month school year in Putnam was unconvincing.

16. O. v. Berlin Board of Education, Case #92-7, March 22, 1993.

Held that the petitioner sustained her burden of proving that she, and her children, were bona fide residents of Berlin during the period commencing with the 1989-90 school year through the present.
The family unit of two spouses and three children voluntarily separated resulting in the mother and three children moving to Berlin while the father remained behind in the dwelling in New Britain. The mother and her three children resided with relatives in Berlin. Sometime later, the mother rented an apartment in Berlin. No marital discord is present. The mother and three children moved because they favored the Berlin school system.

Section 10-253(d) is not applicable in that the legislative history reveals that the law was intended to apply to children living apart from their parents. Where a parent has moved with the children to a home of a relative, this law will not bar the child from receiving free school privileges. Furthermore, the facts demonstrate that the mother and children are more connected to Berlin than to New Britain.

17. S. v. Cheshire Board of Education Et Al., Case #93-9, June 30, 1994.

Held that based upon the "constellation of interest" approach used by the Appellate Court in Baerst v. State Board of Education, 34 Conn. App. 567 (May 1994), the appellants are deemed residents of Cheshire even though their dwelling unit is physically located in the town of Wallingford. The Impartial Hearing Board concluded that in Baerst, the Appellate Court did not limit its holding to cases where a town boundary line intersected the dwelling.

The facts in this case reveal that school age children residing in the same street have been permitted enrollment in the Cheshire school system for 40 years with the consent of Cheshire school officials. Also, the nearest Wallingford residence to the street in question is over one mile away. The house in Wallingford is adjacent to numerous residences in Cheshire.

18. P. v. Wilton Board of Education Et Al., Case #94-2, December 1, 1994.

Held that the policy of the Wilton Board of Education was more liberal in granting access to the Wilton Public Schools than state statutes. The policy enabled children of legal school age who reside with parents or legal guardians to be entitled to attend Wilton Public Schools. Temporary guardianship was obtained by the Penrods on August 24, 1994 by order of the Probate Court. The policy does not qualify or limit the type of guardianship that is necessary to qualify under the policy.

19. D. v. Fairfield Board of Education Et Al., Case #94-9, March 31, 1995.

Held that appellants did not meet their burden of proof by a preponderance of evidence that they were residents of the town of Fairfield during the period of time from September 1, 1994 through December 1, 1994. Through appellant's actions since that time, they are residents as of December 1, 1994. The three male students of the appellant contended that they resided in Fairfield with their grandmother and not in Bridgeport with their mother and father. In addition to surveillance reports of the movements of the three students and the testimony of a neighbor of the grandmother who said that the grandmother confined in her that her grandchildren were living in Bridgeport, the hearing officer was persuaded by the evidence regarding the toiletries, clothing, dishes and bedding of the three boys found at the Bridgeport house. Furthermore, the family pets were found at the Bridgeport address.

20. G. v. Windsor Board of Education Et Al., Case #94-11, March 30, 1995.

Held that in spite of appellant's unconventional lifestyle and ties to the community, the appellant presented probative evidence in accordance with the Residency Issues Guidelines that her strongest ties were with Windsor, not Hartford. Furthermore, the "constellation of interest" approach adopted in Baerst v. State Board of Education, 34 Conn. App. 567 (1994), was relevant to the instant case regarding its reference to community orientation and consistency with relevant case law.

21. T. v. Rocky Hill Board of Education, Case #95-9, December 20, 1995.

Held that the appellants admission that her business address is in the town of Rocky Hill and that her residence is in the town of New Britain causes the Impartial Hearing Board to conclude that the actual residence of the appellant and her children is in New Britain.

22. Student G. v. Hartford Board of Education Et Al., Case #95-2, May 3, 1996.

Held that under the facts of this case both parents living in Hartford and East Windsor have a nexus to their special education child, currently living in foster care in Windsor, who is deemed a resident of both Hartford and East Windsor. Pursuant to Section 10-76d(e)(2) the residence of the child, under whose jurisdiction the child

would otherwise be attending school, remains with the town of residence of both parents.

The "most interested parent" standard is applicable to the case at hand. However, both parents stand virtually on equal footing. Both have continuing legal rights with the child and both expressed interest in the progress of the child. To find by a preponderance of evidence that the child will be residing with either parent at any time in the foreseeable future would be nothing more than engaging in speculation.

23. H. v. Fairfield Board of Education Et Al., Case #95-15, August 9, 1996.

Held that based on the totality of circumstances, the student resides in Milford. The grandparents of the child have only established a long-term day care arrangement for the convenience of the divorced mother who works on a full-time basis. Furthermore, even more evidence exists establishing the student's residence in Milford, rather than Fairfield.

24. Student E. v. Farmington Board of Education Et Al., Case #95-14, September 13, 1996.

Held that the testimony of the father of the student was convincing that the student would have otherwise resided with him in Farmington, not in Region No. 6 where the mother resides. Pursuant to Section 10-76d(e)(2), the responsible Board of Education is that "under whose jurisdiction the child would otherwise be attending school." The father testified that had the events which prompted him to seek commitment of his child, and the child's subsequent placement with DCF not occurred, the child would have continued to reside with him in Farmington. Note that by stipulation between the parents, the father was granted physical custody in 1993.

25. L. v. Wolcott Board of Education Et Al., Case #96-1, December 20, 1996.

Held that the appellant's admission that his residence is located in Cheshire and the testimony of the Cheshire Town Assessor caused the Impartial Hearing Board to conclude that the appellant was resident of Cheshire. The appellant's address, 2119 Meriden Road, Wolcott and his motor vehicle appearing on the Wolcott Grand List caused confusion.

26. N. v. Woodbridge Board of Education Et Al., Case #96-2, January 8, 1997.

Held that the dwelling was located wholly within the town of Ansonia which becomes the town of residence for educational purposes. The A-2 survey prepared by a professional engineer and land surveyor illustrates that the dwelling is located wholly within Ansonia. Therefore, the geographical location of the dwelling is the only relevant consideration in this case. The family ties to the Woodbridge community are not controlling.

Also, see Board of Education of Town of Cheshire vs. State Board of Education (Superior Court No. CV940364754, October 4, 1995).

27. P. v. Newington Board of Education, Case #96-9, January 28, 1997.

Held that the children were residents of Newington even though they spent most nights between September 1996 through January 1997 at the home of their aunt and uncle in New Britain. A resident is an actual stated dweller, not a transient dweller. The father, recently divorced, continued to own a condominium in Newington and made arrangements, like a single parent, for the care of his children while they were in his custody. The fact that the children spent some nights in New Britain, while a factor to be considered, is not determinative.

28. Student M. v. Clinton Board of Education Et Al., Case #96-12, June 26, 1997.

Held that the special education child who has been committed to the Department of Children and Families since 1991 and placed in Lake Grove School since February 1994 is a resident of Clinton, where his father resides, which is the responsible Board of Education "under whose jurisdiction the child would otherwise be attending school." Section 10-76d(e)(2). The mother's testimony indicated that her living arrangements since April 1996 have not been permanent and she is still looking for a place of her own.

Clinton BOE v. State Department of Education, No. CV970083016 (1998). Clinton Board challenged the decision to make Clinton fund the educational costs of a special education student at the Lake Grove School. The student is in the custody of the Connecticut Department of Children and Families. The court finds for the Defendants. The decision of the SBE concluded that Clinton was the "nexus town" for purposes of Section 10-76d(e)(2) and was solely responsible for the Lake Grove School education expenses. In this case where the issue is one of law, the court has the broader responsibility of determining whether the administrative action resulted from an incorrect application of the law to the facts found or could not reasonably or logically have followed from such facts. When a state agency's determination of a question of law has not previously been subject to judicial scrutiny, the agency is not entitled to special deference. Assuming that the plaintiff is correct that the mother of the student permanently resided in Chester and Moodus, and that Section 10-76d(e)(2) allows for assignment of liability to more than one Board of Education, the plaintiff must still demonstrate that the impartial hearing Board improperly considered the comparative stability of the father's residence in determining where his son would "otherwise be attending school." The plaintiff failed to meet this burden. The decision reflects a reasonable approach. It was logical to consider the transient nature of the mother's circumstances, and to conclude that the father's residence was a more likely home for the child.

29. Student R. v. Fairfield Board of Education, Case #96-14, July 28, 1997.

Held that the special education child of divorced parents who lived with the father for three years in Miami, Florida prior to being privately placed in DeSisto School,

Stockbridge, Massachusetts in March of 1995, is not a resident of Fairfield, Connecticut which is the permanent residence of the mother who is the Managing Conservator under the divorce decree issued in Travis County, Texas on April 25, 1980. The student did not demonstrate any physical presence in Fairfield and was in fact estranged from his mother during the period of 1992-95. Note that the decision addresses the application of Sections 10-186, 10-76d(e)(2) and 10-253(a), (c) and (d).

30. O. v. Redding Board of Education, Case #97-5, February 6, 1998.

Held that the lease of an apartment is relevant to the proceedings only as evidence of residence in the town but in view of the appellant's testimony that he wasn't a resident during the period in question, the lease is of no probative value. Furthermore, the subsequent withdrawal of their daughter from school renders moot the issue of residency. The appeal was dismissed. Note, the appellant brought separate action in Superior Court regarding breach of contract (lease) and contends that he is merely exhausting his remedies.

31. V. v. North Stonington Board of Education, Case #97-11, April 6, 1998.

Held that while the mother resides in Groton and works evening hours at Foxwoods Casino, the daughter resides with grandparents in North Stonington where she spends most of her days and nights and where she keeps her belongings. The child's residence tracks the provisions of Section 10-253(d): resides with relatives, permanent and without pay, and not for the sole purpose of obtaining free school accommodations. Note that the grandfather lists his granddaughter as a dependent on his tax returns.

32. M. v. West Haven Board of Education, Case #97-18, April 14, 1998.

Held that appellant's admissions that she and her son were not living in West Haven, but were living in Bridgeport with the intent of returning to West Haven, offered no proof of permanent residency in West Haven. Her appeal was dismissed.

33. Student J. v. Hartford Board of Education Et al., Case #95-2, June 12, 1998 (Supplemental Decision).

Although some evidence presented a slight change in the attitudes of both parents, such evidence does not rise to the level that allows a finding of nexus with either parent. The key word for interpretation of Section 10-76d(e)(2) is "under whose jurisdiction the child would otherwise be attending school." The Legislature apparently focused on the towns where the parents live as being the responsible agencies, assuming that all children have either living parents with whom they could live, or no parents, in which case the town in which the child is placed would assume responsibility. Using the "more interested parent" standard, that parent is presumed to be the one with whom the child would be living but for the placement. If the student were to live outside the foster home with his parents, the selection of one over the other as more interested would be arbitrary and capricious.

If the determination of nexus is to assign fiscal responsibility, a finding of joint nexus would give effect to the purpose of the statute. The statute does not specifically prohibit a finding of joint nexus. Based on the foregoing, the student has nexus with both Hartford and East Windsor.

34. W. v. New Canaan Board of Education, Case #97-22, August 17, 1998.

The appellant conceded that the family residence is now located in Stamford. His extenuating circumstances, as well as the applicability of federal laws implicating rights of the disabled, are not controlling. The appellant did not intend to permanently move out of New Canaan and has been attempting to relocate within the district. The appeal is denied.

35. B. v. Hamden Board of Education Et Al., Case #97-19, September 8, 1998.

Held that the appellant proved that her children live with her at her brother's house in Hamden. Observations of the children being transported on occasion from a New Haven address, home of their grandmother, was not probative of permanent residency in New Haven. Concerning children living with relatives or nonrelatives for the purposes of obtaining free school accommodations pursuant to Section 10-253(d), this law is not applicable to the instant case. Ms. Brown and her children live at the home of her brother Daniel Williams in Hamden. The Board of Education assumed that Ms. Brown and her children were living with her mother in New Haven and thus requested the affidavit from Mr. Williams. Since the family, mother and children, were living together, and not divided, this statutory section does not apply.

36. M. v. Cheshire Board of Education, Case #98-2, February 23, 1999.

Based on legislative history and a logical reading of the statute, the Impartial Hearing Board concluded that physical location of the dwelling in a community is the controlling factor when determining residency of people living on municipal boundary line property. In a case in which the appellants dwelling was wholly in the town of Hamden, the student cannot exercise any choice of school districts under the law. However, if the dwelling was located on the property line, then the choice of school districts would be available.

The State Legislature established and later perfected a bright-line test that first dealt with the majority of taxes paid to the town and then ultimately refined the standard by addressing the location of the dwelling. This was done to establish an equitable standard and to avoid being arbitrary and rigid.

Finally, it was concluded that interpreting the statute otherwise would create a bizarre result. Under Appellant's request, he would be permitted to send his child to a school district where he (1) maintains no physical presence of his dwelling, (2) does not pay property taxes on the dwelling and (3) cannot elect members to the Board of Education.

37. M. v. Windsor Locks Board of Education Et Al, Case #98-7, April 16, 1999.

After reviewing the substantial evidentiary record, the Impartial Hearing Board concluded that the Complainant failed to meet his burden of proof that his daughter was actually, physically residing in Windsor Locks with an acquaintance of the parents. Therefore, the evidence supports and the Board found that the daughter resides with her parents and sibling in East Hartford.

While the Complainant owned a single family dwelling in Windsor Locks, acquired in 1997, the town had not issued a certificate of occupancy due to a substantial punch list of necessary repairs. The family temporarily resided in various locations in Windsor, Waterbury, Rhode Island and ultimately East Hartford. The affidavit of the friend of the parents who resided in Windsor Locks was not found credible to prove that the daughter was living there permanently, without pay and not for the sole purpose of receiving free school accommodations. Furthermore, the surveillance conducted by a private investigator showed that the daughter was staying with her immediate family in East Hartford on various days in January, 1999.

38. C. v. Region #5 Board of Education, Case #98-9, June 16, 1999.

Held that appellants, 18-year residents of Orange, continued to be permanent residents of Orange when they sold their single family house and temporarily moved to East Haven while their new house was under construction in Orange. In July 1998 appellants sold their home in Orange and on the same day purchased property in Orange with the intent to build a house thereon as their permanent residence. In June 1998, in anticipation of the sale of their house, appellants moved to another home owned by them in East Haven, living there from June 1998 until May 1999, when the new house was completed.

The Impartial Hearing Board held that the appellants demonstrated their intent to continue to live in Orange permanently as supported by case law. The residence in East Haven was temporary.

Furthermore, it was held that the Board of Education misapplied to the appellants its policy concerning "future residents" which permitted access to Region #5 public schools if a family moved in by December 31st of the school year. Failure to establish new residency by December 31st triggered policy provisions regarding tuition payments. The appellants were not subject to this policy as they were current residents temporarily residing outside Orange, not future residents living in East Haven.

40. B. v. West Hartford Board of Education, Case #99-10, March 1, 2000.

Held that appellant met her burden of proof that she resided in West Hartford. For seven consecutive years, the two students, ages 7 and 11, resided with their mother at their grandmother's home attending public school therein when attaining schooling. In the Spring of 1999, the mother moved to East Hartford. Held that the two children continued to reside with grandmother in accordance with Section 10-253(d).

Students residence was continuous, hence permanent, and not for pay. Furthermore, the evidence of surveillance was unconvincing.

41. M. v. Waterford Board of Education, Case #99-7, March 3, 2000.

Held that where a child resides in a dwelling located in one town (Montville), its residence for school purposes is in that town, even where a portion of the real property on which the dwelling is located is in another town. The subject dwelling does not fall within the category of the "divided dwelling". Even though all of the appellant's children have attended school in Waterford for a substantial period of time, and that Waterford provided, over the last ten years, snow and trash removal, public library cards, voting privileges and written invitations to register the children for school, their claim of "estoppel" is unpersuasive. Appellants have not suffered any injury while receiving free school privileges from Waterford.

M. et al. v. State BOE, CV000502744S (2001)
Appeal of a boundary line dispute wherein the impartial hearing Board concluded that the minor children were not entitled to a free public education in the Waterford public schools but were residents of Montville. Held that (1) Section 4-183(j) authorizes the court to determine if the administrative findings, inferences, conclusions, or decisions are in violation of constitutional provisions, but it does not grant to the court the authority to declare a state statute unconstitutional, (2) Section 10-186, as amended from time to time regarding residency, is not ambiguous enabling the impartial hearing Board to conclude that the dwelling unit of the plaintiff is located solely within the town of Montville, (3) Waterford is not estopped from applying Section 10-186 even when it permitted access to its public school for many years in error. See the decision for a discussion on the application of the equitable principle of estoppel.

42. V. v. Region #10 Board of Education, Case #00-17, February 4, 2001.

Held that Appellant failed to meet the tri-partite standard set forth in Section 10-1253(d). The facts are undisputed that the living arrangements for her daughter are temporary. Subsequent to home foreclosure,, a friend of the Appellant has graciously allowed Appellant's daughter to live there pending reunification with the family.

43. C. v. West Hartford Board of Education, Case #00-26, July 5, 2001.

Held that while Mother, residing in Hartford, and Father were living apart from each other with the children placed primarily with one of them, the intent of the parents was that the children live at Abbotsford Avenue, West Hartford, in order to maintain a sense of normalcy with both parents. The children are residents of West Hartford.

44. C. v. Windsor Board of Education, Case #01-11, June 11, 2002.

Held that the Student terminated her residence in the Town of Windsor on January 4, 2002. As of that date, the Board ceased to become responsible for providing her with a free public education.

45. B. and S. v. Bloomfield Board of Education, Case #02-01, October 23, 2002.

Student found to be actual resident of Bloomfield and entitled to free public education pursuant to Connecticut General Statutes, Section 10-186(b)(2) and 10-235d where nephew moved from mother's home in Hartford to uncle's home in Bloomfield to receive male guidance, supervision and discipline and to assist uncle with family duties and care of grandparents living with them.

46. D. and S. v. Hamden Board of Education, Case #02-05, December 29, 2002.

Held that given the evidence before the Impartial Hearing Board, there is no basis on which to conclude that the four children of the appellants reside with their grandparents in Hamden. The prevailing evidence suggests that the children reside in New Haven.

47. C. v. West Hartford Board of Education, Case # 00-26, February 22, 2003.

On remand from the Connecticut Superior Court the Impartial Hearing Board of the State Board of Education held that the "actual residence" of the children was West Hartford.

48. O. v. R.S.D. #14 Board of Education, Case # 02-19, April 29, 2003.

Held that the redistricting of public schools pursuant to Section 10-220(a) by the Regional Board did not constitute a denial of school accommodations nor did the Board act in an arbitrary, capricious or unreasonable manner. The Boards act of granting an exception to the older sibling at the parents request does not require equal treatment for the other sibling.

49. B. v. Madison Board of Education, Case # 02-21, May 9, 2003.

The parties executed a settlement agreement which was approved and entered as an order of Impartial Hearing Board of the State Board of Education. The agreement required the withdrawal of the student effective June 20, 2003.

50. M. v. Glastonbury Board of Education, Case # 02-17, May 15, 2003.

Held that due to the parent's loss of tenancy at a leased property the family relocated to Portland during the school year. Held that the students were residents of Portland.

51. K. v. Norwalk Board of Education, Case # 02-18, May 12, 2003.

Held that during the 2002-2003 school year, the two students resided in Bridgeport and thus the Norwalk Board properly denied school accommodations. The investigation performed by the Board was not fatally flawed.

52. W. v. Canterbury Board of Education, Case # 03-40, February 10, 2004.

Held that the student resides in Norwich, not Canterbury. A Service Agreement entered into between the student's parents and DCF removed the child from Canterbury and placed the child in his paternal grandparents' home in Norwich. In early September 2003, student was taken from paternal grandparents to reside in Plainfield with his mother who moved to her parents' home. In October 2003, Superior Court ordered that the DCF Service Agreement which provides for temporary residence in Norwich should remain in effect.

53. P. v. Newington Board of Education, Case # 03-45, August 20, 2004.

Held that even though the State Board concluded in its decision in 1997 that appellant resided in Newington, the situation has changed overtime. The evidence demonstrates that the two children are current residents of West Hartford. Daily schedule are overseen by relatives in West Hartford. Daily schedules are overseen by relatives in West Hartford, virtually all before and after school time is spent in West Hartford, meals, showers, dressing takes place there; and older brother resides there and occasionally, their younger half-sister sleeps there. Also their mother visits them there.

54. G. v. East Hampton Board of Education, Case # 03-41, November 15, 2005.

While the appellant had on a number of occasions used his relative in East Hampton address for visiting, voting, paying automobile taxes and receiving mail, this was insufficient to establish residency in East Hampton. Briefly, appellant's disabled son was born in Maryland in 1985 while he was stationed in the Navy. His son has been residing/living in a residential rehabilitation center in Massachusetts since 1995 and has received school accommodations from each state where his father has been stationed. Prior to being stationed in Italy in 2001, appellant's duty station in Middletown, Rhode Island which provided school accommodations for his son.

55. W. v. Trumbull Board of Education, Case # 04-14, January 31, 2005.

Held that the appellant failed to meet her burden of proof by a preponderance of the evidence in that the documentation submitted belies hers and her witness's testimony. If anything her medical statement and registration of her vehicle supported the Board's position, rather than her own. Furthermore, surveillance of the student revealed that the student left appellant's condominium located in Bridgeport every morning and was dropped-off at the bus stop in Trumbull every morning during the period of surveillance.

56. G. v. Seymour Board of Education, Case # 04-15, August 17, 2005.

Held that based on the written statement of the student and the credibility of appellant's witnesses, the student is a resident of Ansonia, not Seymour. The testimony of the appellant's mother and the student in question was confused and contradictory. The appellant has not established that a permanent change of his son's residence has occurred.

57. A v. Trumbull Board of Education, Case # 05-10, April 22, 2006.

Held that the student of divorced parents was residing in Ansonia with one parent and not in Trumbull with the other as claimed. The conflicting testimony of family members was not deemed credible evidence for the parent to satisfy the burden of proof.

58. H. v. Windsor Board of Education, Case # 05-11, June 13, 2006.

Held that after considering the evidence which included surveillance of the student and conflicting documentary exhibits, the student was not a resident of the Town of Windsor. Appellant failed to meet her burden of proof by a preponderance of the evidence.

59. S. v. East Haven Board of Education, Case # 06-02, February 1, 2007.

The Probate Court granted temporary guardianship to appellant for five articulated reasons. The Impartial Hearing Board concluded that the East Haven Board violated its own policy and its statutory duty by concluding that the student was in East Haven solely for the purpose of an education. The appeal was retained.

60. N. v. Waterford Board of Education, Case # 06-01, February 2, 2007.

Appellant failed to prove that her presence in the community was a permanent living arrangement. Appellant who resided in New London arranged for her daughter to stay at Aunt's house in Waterford pending appellant's relocation to North Carolina. Impartial Hearing Board concluded that the living arrangement was not permanent and was provided solely for the purpose of obtaining free school privileges. The appeal was denied.

61. V. v. Bloomfield Board of Education, Case # 06-07, February 23, 2007.

The grandfather of the student admitted that she does not live with him in Bloomfield and the investigation conducted by the Board of Education revealed that the student was regularly transported from a street in Hartford. The Impartial Hearing Board concluded that appellant failed to meet her burden of proof. Appeal was denied.

62. C. v. R.S.D. #5 Board of Education, Case # 06-04, March 15, 2007.

Held that the investigation conducted by the Board of Education revealed that the student is regularly brought to school by his mother from her home in Hamden. Also, even though the grandparent is also the guardian residing in Orange, the mother testified that she meets with her son's teachers, called the school on his behalf when he is unable to attend due to illness and accompanies him to medical appointments. Held that parent failed to sustain her burden of proof.

63. E. v. R.S.D. #10 Board of Education, Case # 06-08, April 16, 2007.

While the student had a physical presence at the guardian's home in Burlington, the student did not have a present intent to become a permanent Burlington resident. An initial communication from the student's mother expressed intent to remain in Burlington until the end of the 2006-2007 school year. It is reasonable to conclude that the living arrangement was made solely for the purpose of obtaining a free school accommodation. The appeal was denied.

64. Student v. Windsor Board of Education, Case # 06-10, June 8, 2007.

Held that the student was not a resident of the Town of Windsor but was a resident of Hartford. The investigation by the Board included surveillance which clearly placed the student outside of the alleged home each morning. The appellant failed to sustain her burden of proof. The appeal was denied.

65. Student v. Waterford Board of Education, Case # 06-11, July 2, 2007.

Held that the appellants have not proven by a preponderance of the evidence that they have moved to Waterford. The evidence supports a finding that the student and his immediate family reside in New London and that the student and his mother occasionally sleep in Waterford even though a certificate of occupancy was issued on January 30, 2007.

The student was not a resident of Waterford from January 31, 2007 through April 9, 2007.

66. Student v. Madison Board of Education, Case # 06-12, August 30, 2007.

Held that the student is not a resident of Madison. The evidence presented on his behalf does not establish his residency by a fair preponderance. The evidence in the record in fact supports the Board's determination of non-residency.

67. Student v. Bloomfield Board of Education, Case # 07-08, November 16, 2007.

Held that the student was not a resident of Bloomfield at the commencement of the 2007-2008 school year and remained a non-resident to the date of the hearing. The father admitted that his daughter lives with her mother in Hartford.

68. Student v. Madison Board of Education, Case # 07-15, April 14, 2008.

Held that Father has established by a preponderance of evidence that Student was a resident of Madison on November 30, 2007, and continues to reside there. Further held that this decision only addresses Student's residency in November 2007: it is not intended as a reversal of prior decisions concerning Student that addressed his residency status on prior dates.

69. Student v. Wolcott Board of Education, Case # 07-21, June 6, 2008.

Held that the parent of two children each by two former wives living in two different towns with each ex-wife maintaining joint legal custody with primary custody as specified in the separation agreement, failed to prove that the children resided with him in a third town for a majority of time during the week. In a typical two week period each respective child sleeps 9 nights with the mother and 5 nights with the father.

70. Student v. Windsor Board of Education, Case # 07-23, June 3, 2008.

Held that a preponderance of evidence does not support Student's claim of residence. The evidence presented in support of the claim of residence lacks significantly in its probative value and weight when compared to that submitted by the Windsor Board of Education. Student's evidence is scant and presents an inconclusive picture. Therefore, Student has not met his burden of establishing residency by a fair preponderance of the evidence.

71. Student v. Fairfield Board of Education, Case # 07-20, November 20, 2008.

Held that, pursuant to Section 10-253(d), high school student was entitled to free school privileges while living with a family friend. The residence was not for the sole purpose of obtaining school accommodations. Reasons for the residence include student's close relationship with friend's parent, close relationship with friend, and part-time employment in Fairfield. Also, student had been living for several years with another non-relative in Fairfield which would have continued had the non-relative not passed away.

72. Student v. Watertown Board of Education, Case # 07-19, May 8, 2008.

Held that parents who sold their house in Watertown and moved in with relatives in Waterbury are residents of Waterbury and are not entitled to school accommodations from Watertown. Section 10-253(e) regarding children living in a temporary shelter does not apply to this matter. The children are entitled to school accommodations in Waterbury.

73. Student v. Bridgeport Board of Education, Case # 07-22, July 14, 2008.

Held that student failed to prove actual residence constituting physical presence and living as a householder during significant parts of each day. The surveillance

conducted on the various dates is persuasive in demonstrating the fact that on every day surveillance was conducted such surveillance showed facts consistent with student's residency at Milford Point, Milford. Student failed to establish his right to school accommodations in Bridgeport.

74. Student v. East Hartford Board of Education, Case # 07-25, December 4, 2008.

Held that East Hartford Board of Education is the jurisdiction that the 18-year-old student would otherwise attend if he was not placed in the 24 hours a day hospital care facility for extended periods of time. The residence of the student's mother is unclear. The East Hartford Board of Education entered into an agreement within the meaning of Section 10-76a to provide student with special education services. Student still has a nexus to East Hartford without meeting the traditional requirements of physical presence.

75. Student v. Salem Board of Education, Case # 08-07, April 3, 2009.

Held that student is not a resident of the Town of Salem. Further held that student has not met burden that he a resident of East Lyme. Student's mother who has custody moved to Maryland for a job assignment. Mother put the house up for sale. Student enrolled at the Modd Secondary School for the Deaf in Washington, D.C. Father who lived in East Lyme testified that while son's visits from time to time, he does not live with him in East Lyme.

76. Student v. Wethersfield Board of Education, Case # 08-14, April 20, 2009.

Held that the evidence arrangement made for the child, if any, was made solely for the purpose of obtaining free school accommodations from the Wethersfield Board of Education. Student lives in the Town of Windsor and is eligible to attend the Windsor Public Schools. Further held, as of November 2008, student was not entitled to a free public education in Wethersfield.

77. Student v. Farmington Board of Education, Case # 08-15, May 29, 2009.

Held that appellants failed to sustain their burden of proof. Appellants failed to satisfy the Board of Education policy regarding residency. Appellants are not residents of Farmington. Further held that appellants were residents of New Britain. Note, case was appealed to Superior Court, which remanded case to State Board of Education for further findings on two questions.

78. Student v. Windsor Board of Education, Case # 09-08, February 19, 2010.

Students were denied residency by the Town of Windsor. Students had lived with both parents in Windsor. Students' mother had marital problems, and was staying at times with her boyfriend in Hartford, at which time students would stay with her. Father still resided in Windsor. It was found that, because students had no

connection with Hartford, and the bulk of their activities were in Windsor, students were residents of Windsor, and entitled to free school there.

79. Student v. Bloomfield Board of Education, Case # 09-10, May 4, 2011.

Held that in a case involving parents who share joint legal custody, shared parenting and shared physical custody of their child in order to provide "full day management" of the child's daily routine for medical purposes, the Appellant has met the burden of proof demonstrating residency even though the child moves back and forth between Hartford and Bloomfield.

80. Student v. Windsor Board of Education, Case # 09-14, May 17, 2011.

Held that substantial evidence of the use of a Hartford address for social services, housing assistance and motor vehicle licenses clearly demonstrated by a preponderance of evidence that the student and family reside in Hartford. The submission of a lease for a Windsor residence without proof of actual residence was unpersuasive. The appeal was denied.

81. Student v. Stratford Board of Education, Case # 10-9, March 24, 2011.

Held that the students are residents of Bridgeport, not Stratford. Subsequent to the breakdown of her marriage, the mother and her two children moved from Stratford to Bridgeport where she signed documents in September 2009 and March 2010 identifying her two children as exclusive occupants of the Bridgeport apartment.

B. Out of State

1. L. S. Et Al. v. Granby Board of Education Et Al., Case #88-1, November 9, 1989.

Held that a multiply disabled student residing in a licensed community home in Granby who, at the time of this appeal had not achieved majority status and whose parents had moved to the State of Massachusetts, was a resident of Dracut, Massachusetts. In particular, concluded that the Board of Education acted in a manner inconsistent with Section 10-76d(e)(2) in its failure to identify any jurisdiction as the legal residence for L.S.

Pursuant to Section 10-253(c), it would have been possible to find legal residence in Dracut and rely on the language of Section 10-253(c) to deny funding.

2. M. L. v. New Canaan Board of Education Et Al., Case #90-15, May 20, 1991.

Held that since it is undisputed that M. L. has not been a resident of New Canaan during the 1990-91 school year, the student is ineligible for school accommodations provided by the New Canaan Board of Education. During the school year, the student resided with his parents in Pond Ridge, New York. Pursuant to Section 10-

253(c), a Board of Education is not required to provide school accommodations for any child whose legal residence is in another state.

The student's classification as a special education student does not warrant an exception to local residency policy or state law based upon the "best interests" of the student. Furthermore, the New Canaan Board of Education did not waive the provisions of the local residency policy.

3. M. T. v. Windham Board of Education Et Al., Case #93-10, August 12, 1994.

Held that the minor child's residence in the case of legal separation of its parent is that of the parent to whose custody it has been legally given. The Connecticut Superior Court has entered an order on April 26, 1993, pursuant to the agreement of the parties, wherein the custody of the child is joint with "primary physical residence" to be with his father. Currently, the father is a resident of Westerly, Rhode Island, while the mother resides in Windham, Connecticut. The child is a resident of Westerly, Rhode Island.

The student is a client of the Connecticut Department of Mental Retardation and a resident of the John Dempsey Regional Center in Putnam. If the child wasn't placed in Dempsey Regional Center in Putnam, he would be living with the father.

C. Waiver of Tuition

1. F. v. Cromwell Board of Education Et Al., Case #91-10, July 18, 1992.

Held that under the Cromwell Board of Education Administrative Regulation on Non-Resident Attendance, the action of the Board of Education in requiring the payment of tuition as a condition of the continued enrollment of a "student requiring special expenditures" was not arbitrary, capricious or unreasonable. On or about March 1, 1992, the student and her family relocated their residence to the town of Colchester and thereafter to the town of Middletown. At a PPT meeting in May 1992 at Cromwell High School, the student informed staff of her new residence. The regulation permitted school attendance in the district where the student desires to complete a school year when the parents have moved out of the school district after January 1 of the school year provided that the student does not require special expenditures and provides her own transportation.

The student was not a resident of Cromwell entitled to a free public education after March 1, 1992. The act of the Cromwell Board of Education in assessing tuition for the remainder of the school year was consistent with its written regulation. Note that the standard of review applied by the hearing officer was the standard of arbitrary, capricious or unreasonable action, not the determination of actual residency. See companion case Aithal v. Cromwell Board of Education Et Al., Case #91-11.

2. A. v. Cromwell Board of Education Et Al., Case #91-11, July 18, 1992.

Held that under the Cromwell Board of Education Administrative Regulation on Non-Resident Attendance, the requirement of the payment of tuition as a condition of condition of continued enrollment of a regular student was arbitrary, capricious or unreasonable and in violation of its regulation. On or about May 8, 1992, the students and their family relocated their residence to the town of Durham. The two students were not residents of Cromwell entitled to free public education after May 8, 1992. The act of the Cromwell Board of Education in assessing tuition for the remainder of the school year was in violation of its own regulation. See companion case F. V. Cromwell Board of Education Et Al., Case #91-10, for a description of the regulation.

3. M. v. Region #15 Board of Education Et Al., Case #98-2, November 23, 1998.

Held that the Board of Education decision denying the reimbursement of the prepaid tuition in accordance with its established written policy was not arbitrary, capricious or unreasonable. One paragraph of the tuition agreement drafted by the superintendent varied from the policy wherein it states that the Board may reimburse the tuition upon a showing of unavoidable circumstances preventing the establishment of residency during the first semester. While the appellant may have a claim against the Board based on the tuition agreement executed by the superintendent as its agent, that is an issue of contract and must be argued in another forum.

4. L. v. Middletown Board of Education Et Al., Case #05-09, May 30, 2006.

Held that the appellant moved from Middletown to Portland on December 10, 2005, residing in a single-family house. While the policy of the Middletown BOE permitted a tuition waiver in certain circumstances, the policy as written was unworkable with respect to elementary students. The previous rule permitting students to remain in Middletown public schools upon completion of the third semester was nullified when the school system changed from a four semester to a trimester school year.

D. Homeless

1. J. v. Somers Board of Education Et Al., Case #05-07, March 1, 2006.

Held that the mother and three children enrolled in the Somers Public Schools while living in a motel in Enfield, which was a fixed, regular and adequate nighttime residence. While the McKinney-Vento Homeless Assistance Act, expressly incorporated by reference in Section 10-253(f), provides that each homeless child or youth who lacks a fixed, regular and adequate night time residence and includes children who are living in motels due to lack of alternative adequate accommodations, the seminal issue is whether the motel room is adequate. Children living in motel rooms are not rendered homeless per se. In the case at hand, the motel room was adequate housing for the family for the beginning of the 2005-2006

school year. Thus, the Somers BOE was not required to provide any school accommodations beginning with the 2005-2006 school year.

2. Students v. Hamden Board of Education, Case #07-07, December 26, 2007.

While the parents and the Hamden Board of Education reached a settlement for this year resulting in the withdrawal of their appeal for most matters, counsel for the parent asserted that the Hamden Board of Education violated the McKinney Vento Homeless Assistance Act when it issued an "interview order" that the children be enrolled in Meriden where the homeless shelter was located and whether the Hamden Board of Education failed to address the exclusion of the child for the period from the first day of school until the day of the hearing.

Held that the matter is moot due to the fact that there is no "actual controversy" which could be resolved by a decision in this case. State v. Nardi 187 C. 109, (1982), State v. McElveen 261 c. 198 (2002).

IV. Other Accommodation

A. Safe School Environment

1. P. v. Danbury Board of Education Et Al., Case #89-12, July 31, 1990.

Held that Section 10-220 imposes a duty to provide a student with a place where he or she can learn, be free of harassment, molestation and other distractions, which would endanger the student or interfere with the student's ability to get an education. However, school Boards are not guarantors of children's safety and need only take reasonable steps to insure that discipline and safety are maintained. In this case, we are dealing with a student having personal problems with a nonstudent resulting in physical threats, who is not permitted on school grounds in the first place. Further, there have been no proven instances of violence towards the student on school grounds, and most importantly, the Danbury Board of Education has formulated a plan to deal with the problem.

2. M. v. Region #13 Board of Education, Case #93-6, April 14, 1994.

Held that Section 10-186 does not impose a duty to place a regular education student in a private school when the designated public school is unfit for the particular student due to psychological anxiety over the air filtration system. Section 10-186 only permits Boards of education to make arrangements for students, excluding special needs, to attend public school. The student in question is not a special needs student.

The air quality at the Memorial School led to the student's brother missing school, receiving medical procedures and developing severe emotional problems. The student witnessed all the problems her brother experienced and developed anxiety

that the same thing would happen to her. The Board of Education offered three solutions:

1. Placement at Memorial School in a classroom with a new air filtration system;
2. Placement in a public middle school out of district; or
3. Placement at Lyman School for fifth grade and placement at Strong School for sixth grade.

Held that the second and third proposals were not arbitrary, capricious or unreasonable.

B. Tuition

1. M. v. Sterling Board of Education, Case #01-23, August 12, 2002.

Held that the State Board of Education has jurisdiction under Section 10-186 to determine whether the denial of a waiver request of the local policy regarding the payment of tuition to a high school pursuant to Section 10-34 constitutes a denial of a school accommodation under Section 10-186. When a local Board of Education offers an alternative choice insofar as school accommodations, it has a concomitant responsibility, much as it does with any other school accommodation, to act in a manner which is not arbitrary, capricious, unreasonable or illegal.

Based on the evidence, the appeal was denied. The Sterling Board of Education has used consistent standards when granting late waivers requests. Regarding sibling waivers, while the policy does not expressly address this matter, the Boards longstanding practice has been consistently applied over the last eight years.

V. Procedure

A. Burden of Proof

a. Residency

1. A. v. Fairfield Board of Education, Case #88-16, August 29, 1989.

Section 10-186(b)(1) provides that the Board of Education, having alleged ineligibility for school accommodations, has the burden of proving such by a preponderance of evidence. The Board of Education satisfies that burden if the evidence presented induces in the mind of the trier of fact that a responsible belief that it is more probable than otherwise that the pupil is ineligible.

b. Transportation

1. B. v. Canton Board of Education, Case #89-10, March 5, 1990.

The burden of proof is on the moving party to demonstrate by a fair preponderance of the evidence that the Board's decision was in derogation of its own established regulations or was arbitrary or unreasonable, thereby depriving the affected student of schooling.

2. O. v. Berlin Board of Education, Case #92-7, March 22, 1993.

Public Act 92-170, effective July 1, 1992, amended Section 10-186(b)(1) by stating that the party denied school accommodations based on residency shall have the burden of proof.

It is well settled that the burden of proof at a hearing is procedural, as opposed to a substantive right. It is also well settled that, absent clear legislative intent to the contrary, changes in procedural rights are given retrospective effect. Therefore, in this appeal, which was initiated and heard after the adoption of Public Act 92-170, the Petitioner will have the burden of proving, by a preponderance of the evidence, that the Ornstein children were residents of Berlin during the period in question.

3. C. v. East Haddam Board of Education, Case #04-08, February 28, 2005.

While the Board granted a hearing regarding appellant's request for a change in the bus stop for their daughter, the Board improperly shifted the burden of proof to the parent to prove by a preponderance of evidence that the designated bus stop was hazardous. Pursuant to Section 10-186(b)(1), the burden of proof is with the party claiming ineligibility for school accommodations except in the case of residency. It was the Board that claimed the appellants were ineligible for a change in school accommodations.

B. General Procedural Rights

1. C. v. Region #12 Board of Education, Case #92-13, April 5, 1993.

The principal claim is that the bus stop is unsafe due to the speed of passing vehicles and by a recent fatal accident in the vicinity. Secondly, claim is made that procedural errors were committed, they were harmless. The evidence is convincing that the Region #12 Board of Education properly applied its transportation policy.

Furthermore, it was found that appellant failed to prove that the Region #12 Board of Education (1) ignored evidence, (2) prepared and typed "Findings of Fact" prior to deliberations, (3) violated the rights of appellant by permitting a witness to read into the record a document which had been properly excluded as hearsay by failure to demonstrate prejudice.

2. E. Et Al. v. North Haven Board of Education, Case #95-5, December 14, 1995.

Held that the notice of the hearing was deficient and thereby clearly prejudiced the appellant's rights. The notice was deficient because it failed to give the appellant directions about the method of access (rear door) into the building where the hearing was held. The appellant's failure to gain access effectively prevented her from presenting her views in violation of Section 4-177a and 10-186(b)(1).

3. N. v. Vernon Board of Education, Case #99-8, December 20, 1999.

Held that when the Board of Education renders a decision in a contested case, the decision must contain findings of fact and conclusions of law. The Board of Education failed to make the required findings and conclusions. Such findings and conclusions are necessary for understanding the basis of the Board's decision and for determining whether the decision is arbitrary, capricious or unreasonable. Furthermore, it appears that the Board of Education considered additional information outside of the hearing process at its meeting on October 25, 1999. The appellant was not at that meeting, did not receive notice of it and did not have an opportunity to respond to the information presented to the Board of Education.

The case was remanded to the Board of Education with direction that it redetermine the issues in a manner that provides the appellant with an opportunity to respond to the information presented to the Board of Education. If the decision is adverse to the appellant, the decision must contain findings and conclusions necessary to the decisions as required by Section 4-180(c).

VI. Evidence

A. Testimony

1. A. v. Fairfield Board of Education, Case #88-16, August 28, 1989.

The petitioner's failure to produce a witness within her power to produce and who would naturally have been produced by her, permits the inference that the evidence of the witness would have been unfavorable to her cause.

2. F. v. Ellington Board of Education, Case #89-3, November 7, 1989.

The stop on signal flashing red signal lights of a school bus displayed pursuant to Section 14-279, the advice obtained by the Board from its superintendent, bus supervisor, and resident state trooper constitute evidence that the decision of the Board was not irrational, foolish, absurd, or senseless.

3. R. v. Trumbull Board of Education, Case #88-10, May 11, 1989.

Inconsistencies in the testimony of the appellant seriously impaired her credibility.

Pursuant to Section 10-253(d), in order for the children of the appellant, who reside with relatives in Trumbull, to be eligible for free school accommodations in Trumbull, it must be proven that the intent of the relatives and the appellant that such residence is to be permanent, provided without pay, and not for the sole purpose of obtaining school accommodations.

Evidence offered by the Board of Education included surveillance of addresses in Trumbull and Bridgeport.

4. B. v. Connecticut State Board of Education, Superior Court, Case No. 50988, April 3, 1990.

Remanded proceeding from the state appellate court wherein the appellate court held that the trial court's finding that the plaintiff had established aggrievement conferring standing to appeal was not clearly erroneous; and that the trial court erred in holding that the time limits of Section 10-186(b)(3) are mandatory rather than director. The appellate court held that the trial court erred in sustaining the plaintiff's appeal.

Regarding aggrievement, allegations reciting aggrievement by the decision of the Impartial Hearing Board constitute a sufficient articulation of aggrievement to meet the requirements of 4-183(a).

Regarding scope of review, the record contains substantial evidence to support the State Board's decision to sustain the town Board's denial of plaintiff's petition. The law is well established that if the decision of the agency is reasonably supported by the evidence, it must be sustained.

Regarding the evidence presented, the administrative record in this appeal supports by substantial evidence the State Board of Education's decision to sustain the town Board's denial of plaintiff's petition. The State Board of Education's decision is not contrary to the weight of the evidence in the record as a whole.

Court concluded that the State Board of Education decision is supported by substantial evidence and therefore the appeal is dismissed.

Regarding prejudgment evidence, hearings before administrative agencies must be conducted so as not to violate the fundamental rules of natural justice. An agency is not required to believe any witness, even an expert, nor is it required to use in any particular fashion any of the materials
presented to it so long as the conduct is fundamentally fair. In the case at hand, a full and impartial hearing was held and a reasonable decision reached.

B. Documentary

1. R. v. Trumbull Board of Education, Case #88-10, May 11, 1989.

   The affidavits submitted by the relatives pursuant to Section 10-253(d) appear to have been, at least in part, fraudulent, and made only for the purpose of inducing the Board of Education to allow the children of the appellant to remain in the Trumbull schools.

2. R. v. Region #16 Board of Education, Case #89-9, February 28, 1990.

   With regard to the claim that the student is asthmatic, there was no evidence presented to indicate that her medical problems rise to the level that would require door-to-door transportation to and from school. The appellant's physician submitted a letter stating: "...is being treated in this office for allergies and asthma. Because those problems are aggravated by cold weather, transportation to and from school is recommended."

C. Newly Discovered Evidence

1. S. Et Al. v. Region #17 Board of Education, Case #89-5, January 14, 1990.

   Held that the Board of Education acted in an arbitrary and unreasonable manner in refusing to permit appellants the opportunity to present newly discovered evidence. The determination by the previous Impartial Hearing Board on September 25, 1989 (see Case #89-1) that the decision of the regional Board of Education on August 7, 1989 was final cannot bar another hearing on the same issue based on a claim of new evidence, provided such evidence was unavailable at the date of the earlier hearing.

   The doctrines of collateral estoppel and res judicata are not applicable where there is a claim of newly available evidence relevant to the issue under consideration.

   Pursuant to Section 4-178, the regional Board of Education may exclude irrelevant, immaterial or unduly repetitious evidence. The evidence that the appellants sought to introduce into the record on October 4, 1989 before the regional Board of Education did not fall into these categories.

   The case was remanded to the regional Board of Education with direction to provide the appellants with the opportunity to present its newly available evidence.

2. S. Et Al. v. Region #17 Board of Education, Case #89-13, June 18, 1990.

   The remand, which was ordered after the second state hearing, was limited to the introduction of newly discovered evidence. The regional Board of Education should not have accepted the letters offered at the third hearing, since it was clear that such letters were available to the appellant's attorney prior to the first hearing held on July

31, 1989. However, even if the letters were considered, the actions of the Board of Education were not arbitrary, capricious or unreasonable, since it was not at all clear that the child's alleged problems were such that the failure to meet the request of the guardian was necessary for the child to benefit from the education which he was offered by the Board.

D. Direct and Cross Examination

1. S. v. Brookfield Board of Education, Case #89-14, July 3, 1990.

During the course of the hearing before the local Board of Education, the appellant, appearing pro se, was informed that he should present information or statements and that the Board would ask questions of the individuals who were testifying. The appellant was not permitted to question the witnesses directly when he attempted to do so on at least two occasions. The appellant did not object to this procedure during the course of the hearing.

Section 4-177c provides that each party to a hearing shall be afforded the opportunity to cross-examine other parties and witnesses at the hearing on all issues involved. Section 4-178 provides that a party to a hearing may conduct cross-examinations required for a full disclosure of the facts. These procedural rights were violated at the hearing when Ms. Schneider was prevented from asking questions of the witnesses. These substantial procedural rights' violations require that this matter be remanded to the Board.

2. F. Et Al. v. Vernon Board of Education, Case #90-16, August 20, 1991.

Held that the Vernon Board of Education violated the procedure set forth in the UAPA and, therefore, the case was remanded. The failure to recognize people who had not been sworn in at the outset of the hearing violated Section 4-177c(a) which affords parties the right to call and cross examine witness. Also, Section 4-177a was violated which provides interested persons with the right to request party or intervenor status during a hearing. Instead, the chairman of the Board of Education set the format and tenor of the hearing by limiting those who could address the Board. Additionally, the Board improperly considered evidence not contained in the record in violation of Section 4-180(c).

VII. Motions and Orders

A. Transportation

1. C. v. Vernon Board of Education, Case #89-4, December 5, 1989.

The failure of the Vernon Board of Education to consider the appellant's request under a certain provision of its transportation policy was unreasonable.

The appellant was denied transportation services unreasonably. The case is remanded to the Board for consideration and decision under the appropriate provisions of the policy.

2. S. Et Al. v. Region #17 Board of Education, Case #89-5, January 14, 1990.

The action of the regional Board of Education in denying the appellants a full opportunity to present evidence on their request for reassignment or transportation services were arbitrary and unreasonable. The Board shall provide the appellants with a hearing and an opportunity to rebut the factual basis of the Board's August 7, 1989 decision with newly available evidence. Within thirty days from the date of this decision, the Board shall report to the Commissioner of Education its actions taken in compliance with this order.

3. S. v. Brookfield Board of Education, Case #89-14, July 3, 1990.

Substantial procedural violations require that this matter be remanded to the Board. In view of the fact that the 1989-90 school year is over and that new bus stops will have to be established for the next school year, the problem might well be avoided. Another hearing may be avoided if the Board administratively addresses the issue of when and where an isolated child is to be picked up at a bus stop.

4. F. Et. Al. v. Vernon Board of Education, Case #90-16, August 20, 1991.

A Preliminary Ruling and Order required the Board to clarify its denial, in accordance with Section 4-180(c), which requires written findings of fact and conclusions of law necessary to the decision.

The Final decision ordered the case remanded to the Board to provide the appellants with the opportunity to present their full case in accordance with the UAPA.

a. Motion to Dismiss

1. B. v. Wallingford Board of Education, Case #03-13, April 13, 2004.

Wallingford Board's Motion to Dismiss was denied. While parent filed an appeal with the State Board in a timely manner, the parent failed to file the appeal "simultaneously with the local or regional Board of Education." Board argues that subject matter jurisdiction is lacking because of the failure to comply with the statutory appeal conditions. Legislative history reveals that the amendment was enacted, not to create another condition precedent to jurisdiction being established, but rather to set a time line along which the progress of certain responsibilities are measured. The amendment added the requirement to simultaneously serve the local Board was designed to secure order, system and dispatch in the proceedings. The requirement is stated in the affirmative and is unaccompanied by negative words addressing consequences of failing to file with the local Board.

2. **Student v. Wethersfield Board of Education, Case #10-5, March 5, 2011.**

Motion to Dismiss with prejudice is granted on the ground that the issue is moot. Appellant who filed the accommodations appeal has withdrawn the students from Wethersfield Public Schools and enrolled them in the Hartford Public Schools. The appeal became moot upon withdrawal of the students in that an actual controversy no longer exists. Therefore, the State Board lacks jurisdiction.

B. Residence

a. Motion to Dismiss

1. R. Et Al. v. Thompson Board of Education Et Al., Case #92-10, March 4, 1993.

Respondent's claim that the appellant failed to list all of her children on the original petition of appeal did not bar her from amending the petition subsequent to the twenty-day statutory period for filing a timely appeal.

It is not disputed that appellant filed a timely appeal of the Thompson Board of Education decision. Section 10-186 does not require the appellant to name each child in the petition of appeal. The fact that the child omitted in the petition was one of the subjects of the decision by the Thompson Board of Education, the appeal should be construed to include all of her children. Also, the Thompson Board of Education received timely notice of the appeal and did not show any prejudice by the failure of appellant to name one of her children on the petition.

b. Motion for Default

1. C. v. Cromwell Board of Education Et Al., Case #93-7, March 16, 1994.

Impartial Hearing Board granted respondent Board's Motion for Default of Cerutti for her failure to appear.

The appellant failed to appear at hearings scheduled for January 24, 1994 and February 17, 1994. On February 22, 1994, the Impartial Hearing Board directed the appellant to produce a valid medical reason for her absence as was the appellant's claim. On March 4, 1994, the appellant hand delivered a brief written statement prepared by her physician which
failed to address that appellant's condition prevented her from attending the hearing or to provide other details. See Section 4-177(c) regarding default.

VIII. Final Decision and Other Judgments

A. Petition for Reconsideration

a. Error of Fact or Law

1. V. and L. v. West Hartford Board of Education, Case #88-4, December 22, 1989.

   Held that the petition for reconsideration was granted.

2. Student v. R.S.D. #5 Board of Education, Case #06-4, April 23, 2007.

   Parent Petitioner's claim of error of facts as alleged is not found. A review of the finding of facts contained in the decision indicated no error. The finding of fact was consistent with the statements given by the student's mother.

   Petition failed to meet his burden of proof pursuant to Section 4-181a(A).

3. Parent v. Berlin Board of Education, Case #07-11 and 07-13. March 19, 2008.

   Board's Petition was denied due to failure to file said Petition for reconsideration within the time period prescribed in Section 4-181(a)(1). The period of filing expires as a matter of law at the conclusion of the fifteenth calendar day even if such day is a weekend of a holiday when the State Board of Education is closed. Given this conclusion, there was no need to address the remaining issues.

b. New Evidence

1. V. v. Region #10 Board of Education, Case #03-19, January 29, 2004.

Held that the petition for reconsideration stated good cause for reconsideration and was granted. New evidence consisted of a prior study performed by the Department of Transportation in 20001, which determined that the sight distance is adequate for the 35 m.p.h. speed limit. Held that the subsequent study performed by the State Police in September 2003, immediately subsequent to an accident was reasonable and reliable. Second, the newspaper article, appearing after the completion of the local hearing process concluded that the Boards Transportation Committee and bus carrier reviewed each bus stop in the Spring of 2003 to assure conformance with the transportation policy, does not displace the reliability and credibility of the study performed by the State Police in September 2003.

2. Parent v. Vernon Board of Education, Case #06-06, May 7, 2007.

Subsequent to the Petition filed by the Board pursuant to Section 4-181a alleging that new evidence has been discovered which materially affects the merits of the case

and which for good reason was not presented in the agency proceeding, the Petition was granted and the new evidence was received at the hearing. Held that since a student who bullied the student in question has moved to another school district, the special situation determined by the Impartial Hearing Board at the first hearing no longer exists. Therefore, the Vernon Board of Education is no longer acting in an arbitrary, capricious or unreasonable manner. The order requiring transportation through the end of the 2006-2007 school year was vacated.

c. Other Good Cause

1. V. and L. v. West Hartford Board of Education, Case #88-4, December 22, 1989.
Held that the petition for reconsideration was granted.

2. Student A v. Avon Board of Education, Case #03-49, October 6, 2004.

Appellant has not demonstrated good cause for re-consideration of a decision to dismiss the appeal as untimely (beyond a 20-day period) and therefore defective.

3. Student v. Fairfield Board of Education, Case #05-12, May 7, 2007.

After reviewing numerous allegations made by Petitioner, the Impartial Hearing Board concluded that the existence of an actual controversy is an essential requisite to appellate jurisdiction. It is not the province of the Impartial Hearing Board to decide "moot" questions from which no practical relief can follow. In this matter regarding residency, the withdrawal of the students from Fairfield public schools and the subsequent enrolment in Bridgeport public schools removes the actual controversy stripping the state of subject matter jurisdiction.

B. Res Judicata and Collateral Estoppel

1. S. Et Al. v. Region #17 Board of Education, Case #89-13, June 18, 1990.

One of two issues presented was whether the doctrines of res judicata and collateral estoppel apply to a decision of an administrative agency when a request to present alleged newly discovered evidence has been remanded upon appeal, to the administrative agency. This matter was remanded for the purpose of providing the appellants with a hearing and an opportunity to rebut the factual basis of the regional Board's August 1989 decision with newly available evidence. The regional Board claims that since there was no attempt to seek judicial review of the August 1989 decision of said Board, the factual findings contained in the decision are conclusive and are not subject to any further review.

It is not necessary to address this claim. The decision of the regional Board of Education was not arbitrary, capricious or unreasonable even when all of the evidence, including the "newly discovered evidence" are subject to consideration by the Impartial Hearing Board.

2. E. v. Ellington Board of Education, Case #93-2, December 4, 1993.

Held that the instant appeal before the Impartial Hearing Board involves the same cause of action between the parties as in the final decision of the State Board of Education's Impartial Hearing Board in Edwards v. Ellington Board of Education, Case #91-8 (1992) and is therefore barred by the doctrine of res judicata. The same parties were involved, the same issues were raised and the matter was administratively decided. No pertinent new conditions or new issues exist in the instant appeal. The legal doctrine of res judicata deals with whether a judgment in a first action is a bar to a later action between the same parties.

The same principle of res judicata applies in administrative proceedings as in judicial proceedings. Corey v. Arco Lycoming Division 163 Conn. 309 (1992), Carothers v. Cappozzello 215 Conn. 82 (1990).

IX. Table of Cases

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