# STATE OF CONNECTICUT DEPARTMENT OF EDUCATION

Student v. New Britain Board of Education

Appearing on behalf of the Parents: Attorney Gary J. C. Woodfield

41 Lexington Street New Britain, CT 06052

Appearing on behalf of the Board: Dr. Jon Walek

Director Pupil Personnel Services New Britain Board of Education

272 Main Street

New Britain, CT 06050

Appearing before: Attorney Patricia M. Strong

Hearing Officer

## **FINAL DECISION AND ORDER**

## **PROCEDURAL HISTORY:**

This hearing was requested on February 3, 2003. Another hearing officer was assigned to the case, but after he recused himself, this hearing officer was assigned on February 5. The issues in this expedited hearing involve the Parent's challenge to the manifestation determination by the Board. On February 7 the Board's representative wrote to the hearing officer advising that the Director of Pupil Services had withdrawn the Board's request for an expulsion of the student at the February 4 hearing before the Board's Expulsion Committee. He asserted that this action resolved the need for a hearing challenging the previous manifestation determination made the New Britain High School team. A prehearing conference was held on February 10. The issue of mootness was discussed and the Parent's attorney agreed that if he verified the information, the case would be withdrawn. If there was a need for a hearing, he would notify the hearing officer. As of this date, there has been no withdrawal filed or any communication from the Parent's attorney regarding the need for a hearing.

### **CONCLUSIONS OF LAW:**

1. It appears that the case is moot based on the actions taken at the February 4 Expulsion Committee meeting revoking the high school administration's request for an expulsion of the student. If there is no issue in dispute, the case is moot and there is no jurisdiction to proceed further. "[M]ootness is evaluated throughout the pendency of the litigation." Fetto v. Conn. State Dept. of Education, 181 F.Supp.2d 53 (D.

Conn. 2002). See also <u>Board of Education of the Town of Stafford v. State Department of Education</u>, 243 Conn. 772, 777 (1998). "A case becomes moot when due to intervening circumstances a controversy between the parties no longer exists."

2. Section 10-76h-18 permits the hearing officer to order, sua sponte, the dismissal of a case for failure of a party to prosecute a hearing.

### FINAL DECISION AND ORDER:

The Parent has failed to withdraw or to prosecute the case, and, therefore, it is ordered that this case shall be **dismissed** without prejudice.