

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Berlin Board of Education

On behalf of the Parents:

Attorney David C. Shaw
34 Jerome Avenue
Suite 210
Bloomfield, CT 06002

On behalf of the Board of Education:

Attorney Linda L. Yoder
Shipman & Goodwin, LLP
One American Row
Hartford, CT 06103-2819

Hearing Officer:

Stacy M. Owens, Esq.

FINAL DECISION AND ORDER

ISSUES:

1. Whether the individualized educational program (“IEP”) developed for the Student on February 3, 2003 adequately meets the Student’s special needs?
2. Whether the IEP developed on February 3, 2003 complies with the requirements of 20 U.S.C. 1412 (a)(5)(A) of the Individuals with Disabilities in Education Act?
3. Whether the Board should reimburse the Parents for their payment for an independent evaluation?

SUMMARY/PROCEDURAL HISTORY

By letter dated August 5, 2003, Attorney David Shaw, on behalf of the Parents, requested a hearing in the above-stated matter. On August 6, 2003, the undersigned was appointed as hearing officer to preside over the hearing, rule on all motions, determine findings of fact and conclusions of law, and issue an order.

A prehearing conference was scheduled for August 15, 2003. During the prehearing conference, Attorney Shaw and Attorney Linda Yoder, on behalf of the Board, appeared.

Dates for hearing were selected and the issues were discussed. Hearings were scheduled for September 3 and 5, 2003.

By letter dated August 29, 2003, Attorney Yoder indicated the parties had discussed the terms of a settlement, but had not finalized such terms into a written agreement. As such, she requested a continuance of the initial hearing date scheduled for September 3, 2003 until September 5, 2003. Attorney Yoder's request for continuance was granted.

By letter dated September 4, 2003, Attorney Shaw requested the cancellation of the September 5, 2003 hearing, indicating settlement of the matter was imminent. On the same day, the request to cancel the hearing for September 5, 2003 was granted. Counsel for both parties were informed that the record would remain open, awaiting written notification of settlement. The parties were given a deadline of September 15, 2003, to provide notification of whether the case was settled. Having not received notification of settlement from the parties, by letter dated September 19, 2003, the Hearing Officer informed counsel for the parties that a hearing was scheduled to move forward on September 29, 2003.

FINDINGS OF FACT:

1. By letter dated September 22, 2003, Attorney Shaw notified the Hearing Officer the case had been settled and requested "the Hearing Officer review the enclosed settlement agreement and order its implementation."
2. On September 24, 2003, the Hearing Officer canceled the hearing scheduled for September 29, 2003.

CONCLUSIONS OF LAW

In accordance with Section 10-76h-16(d) of the Regulations of Connecticut State Agencies ("Regulations"), "A settlement agreement shall not constitute a final decision, prescription or order of the hearing officer. The settlement agreement may be read into the record as an agreement between the parties only."

In this particular case, Attorney Shaw has requested that the Hearing Officer order the implementation of the settlement agreement between the parties. As provided in section 10-76h-16(d) of the Regulations such request is not within the authority of the Hearing Officer to order. However, after having reviewed the agreement, the undersigned places a copy of the Agreement provided by Attorney Shaw in the case file and deems it a part of the official record.

FINAL DECISION AND ORDER

This matter is **dismissed** without prejudice.