

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Berlin Board of Education v. Student

Appearing on behalf of the Student: Attorney Michael Gilberg
P.O. Box 26
Granite Springs, NY 105271

Appearing on behalf of the Board: Attorney Alyce Alfano
Shipman & Goodwin, LLP
One Constitution Plaza
Hartford, CT 06103-1919

Appearing before: Attorney Brette H. Fitton
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Is the Planning and Placement Team's recommendation for a psychiatric evaluation of Student appropriate and should one be conducted?
2. Is Planning and Placement Team's recommendation for Student to be placed in a therapeutic approved program appropriate and if so, should Student be placed in such a program?

PROCEDURAL HISTORY AND SUMMARY:

On April 4, 2017, Parents received a request for a special education due process hearing filed by the Berlin Board of Education and the Connecticut State Department of Education appointed this Hearing Officer to hear the case. A prehearing conference was held on April 18, 2017. The Attorney for the Board joined the conference. Parent did not. The Hearing Officer then called the Parent to ask if she would join the conference. Parent acknowledged receiving notice of the prehearing conference, but indicated that she did not want to participate at that time. Parent stated that she was in the process of hiring an attorney. Given the existing 45-day deadline for the mailing of the final decision and order and in the absence of Parent's willingness to participate in the conference, the Hearing Officer set May 15, 2017 as the initial hearing date. The deadline for mailing the final decision and order was established as May 19, 2017. On May 8, 2017, Parent sent an email to the Hearing Officer requesting a postponement of the hearing stating she was obtaining an attorney. The Board objected to the request. After a consideration of the relevant factors, Parent's request for a postponement was denied. Attorney Gilberg filed an appearance on behalf of Parent on Sunday, May 14, 2017, with a request to postpone the hearing. This request for a postponement was not timely and was denied. The hearing in this matter was opened on Monday, May 15, 2017. Attorney Gilberg appeared by phone and indicated he would not attend the hearing. The Board placed objections to Attorney Gilberg's renewed request for a postponement on the record. After a consideration of the relevant factors,

the request to postpone the hearing to another date was granted. June 12, 2017 and June 14, 2017 were set as hearing dates and the mailing deadline was extended to June 16, 2017.

On May 31, 2017, the parties indicated that the issue of a psychiatric evaluation had been resolved and requested a postponement of June hearing dates so that the parties could explore placement options for the program that had been developed for Student. An extension of the mailing deadline was also requested. These requests were granted. July 5, 2017 was set as the new hearing date and July 14, 2017 was set as the new mailing deadline.

On June 22, 2017, the parties jointly requested a postponement of the July 5, 2017 hearing date and of the July 14, 2017 mailing deadline, as the Student was undergoing an assessment for admission to a program on July 17, 2017, July 18, 2017, and July 19, 2017. After a consideration of all of the relevant factors, these joint requests were granted. August 8, 2017 was set as the new hearing date and August 11, 2017 was set as the new mailing deadline. On July 31, 2017, the Board withdrew its hearing request without prejudice.

FINAL DECISION AND ORDER:

In light of the above facts, the case is dismissed.