

COMMONWEALTH OF MASSACHUSETTS

Division of Administrative Law Appeals

Bureau of Special Education Appeals

In Re: "Uriel"¹

&

BSEA #1503636

Westwood Public Schools

RULING

This comes before the Bureau on the Motion of Children's Hospital to Quash and/or Limit 7 subpoenas duces tecum issued by the Westwood Public Schools to individuals associated with Children's Hospital. Westwood opposes the Motion to Quash. A Hearing on the Motion was scheduled to take place telephonically on March 6, 2015. Westwood's counsel was unable to participate and, as the affected participants had submitted written memoranda in support of their perspectives and requests, the Hearing Officer determined that oral arguments would not significantly aid understanding of the issues and would delay resolution. Therefore this Ruling is issued without a Hearing. After careful consideration of the uncontested facts presented thus far in this proceeding, the issues outlined for resolution by the BSEA, and the context in which the disputed discovery requests arises, I make the following rulings in conformity with M.G.L. c.30A§12, 801 CMR 1.01 (10)(g) and BSEA Rule VIII C.

1.) The subpoena duces tecum issued to Janice Ware, M.D., will be limited to ensure relevance. The Student's entire medical file, appropriately sanitized of personal information concerning patients, students and family members whose health is not at issue in this Hearing shall be made available to Westwood. In addition, in accordance with Westwood's request, Dr. Ware shall produce copies of any evaluations, observations, meeting notes, memoranda, correspondence (electronic and print), appointment records and bills/invoices in her possession

¹ "Uriel" is a pseudonym selected by the Hearing Officer to protect the privacy of the Student in documents available to the public.

and control concerning her work with Uriel. Dr. Ware shall examine her records and produce copies of any scholarly articles on VCFS she consulted/wrote in conjunction with her treatment of Uriel or, if unduly burdensome, a bibliography. Dr. Ware shall also indicate, after an examination of her records, the number of individuals with VCFs she has directly treated in a professional capacity.

2.) The subpoena duces tecum issued to Joseph Gonzalez-Heydrich, M.D. is limited to ensure relevance. Dr. Gonzalez-Heydrich shall produce copies of any and all evaluations, observations, meeting notes, memoranda, correspondence (electronic and print), appointment records, and bills/invoices in his possession and control concerning his work with Uriel. Dr. Gonzalez-Heydrich need not reproduce records that duplicate those being produced by Dr. Ware.

3.) The subpoenae duces tecum issued to 5 members of the Board of Boston Children's Hospital Trust by Westwood seeking 13 years of personal financial information about Uriel's Parent, who is not a Board member, and several named Trusts, are Quashed. The information the subpoenae purport to seek is not relevant to the issues to be decided in this BSEA proceeding and will not aid the Hearing Officer's ability to weigh the truly relevant evidence and arguments. Furthermore, the number, target and intrusiveness of the subpoenae fall far outside the customary parameters of BSEA practice without reasonable justification, raising concerns about Westwood's intent in serving these subpoenae.

4.) The Documents due to Westwood pursuant to the subpoenae duces tecum as modified shall be available to Westwood no later than March 18, 2015. This production schedule will leave insufficient time for the Parties to prepare for Hearing, currently scheduled to begin on March 25, 2015. Therefore the Hearing will be rescheduled to April 7, 8 & 9, 2015 beginning at 10:00 a.m. at One Congress St., Boston, MA.

By the Hearing Officer

Lindsay Byrne
Dated: March 10, 2015