

DIVISION OF ADMINISTRATIVE LAW APPEALS

COMMONWEALTH OF MASSACHUSETTS

Bureau of Special Education Appeals

In Re: Rafael¹

&

BSEA# 1609348

Norton Public Schools

RULING ON NORTON'S MOTION FOR COSTS AND SANCTIONS

This comes before the Hearing Officer on Norton's Motion for Costs and Sanctions, submitted on September 21, 2016. Norton argued in support of the Motion at the Prehearing Conference held on September 17, 2016. (See Transcript at p. 20-46) The Parents and their Advocate did not attend the Prehearing Conference. They have not submitted any opposition to the School's Motion. Upon close examination I find that the School's Motion accurately recites the history of the Discovery process in this proceeding. I further find the School's Motion and argument, in so far as they present examples of the Advocate's failure to follow BSEA Rules and Orders and to conform her communications, submissions and conduct to commonly accepted norms of civil behavior, to be supported in the Administrative Record. I therefore find that the School's Motion for Costs and Sanctions has a reasonable and ample factual basis. 801 CMR 1.01(10)(d); BSEA Rule X. See also: *Anderson v. Boston School Committee*, 105 F.3d 762 (1st Cir. 1997); F.R.C.P. 11.

The School submitted two Motions to Renew its Request for Costs and Sanctions, one on October 21, 2016 and one on October 26, 2016. These Motions detail additional grievances about the Parents' Advocate's conduct of this appeal. To the extent those Motions are grounded in events reflected in the Administrative Record, the failure of the Advocate to serve a copy of

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

the Parents' October 6, 2016 Motion to Place this matter "Off-Calendar" on opposing counsel for example, the School's Motions have sufficient factual support to warrant the requested findings. Other grounds asserted by the School may require more targeted fact finding.

As additional grounds for sanctions may arise as this matter progresses through the Hearing it will be more efficient to address all the supporting factual claims at once. Furthermore, the type and scope of relief, if any is warranted, may not be determined without a clear understanding of the extent of the Advocate's malfeasance, and of any countervailing relief to which the Student may be entitled.² Therefore, a substantive ruling is reserved until the conclusion of this matter by Decision, Dismissal or Withdrawal.

ORDER

The Motions of the Norton Public Schools for Costs and Sanctions, submitted on September 21, October 21 and October 26, 2016 remain under advisement.

By the Hearing Officer

Lindsay Byrne
Dated: November 1, 2016

² The Parents are advised that they may be deemed responsible, in equity or otherwise, for any sanctions imposed due to the improper conduct of their Advocate.