

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS
BUREAU OF SPECIAL EDUCATION APPEALS**

In re: Adam¹

BSEA #1708888

**RULING ON SCHOOL DISTRICT'S MOTION TO DISMISS PARENT'S AMENDED
HEARING REQUEST OR, IN THE ALTERNATIVE, DISMISS CERTAIN CLAIMS AS
BEYOND THE STATUTE OF LIMITATIONS**

This matter comes before the Hearing Officer on the request of the Taunton Public Schools to dismiss, or otherwise limit, Parent's² *Amended Hearing Request*, which was filed as part of its *Response* to the *Amended Hearing Request* on October 6, 2017. As discussed during Pre-Hearing Conferences on September 26 and November 2, 2017, I am construing this request as a *Motion to Dismiss or, in the alternative, Dismiss Certain Claims as Beyond the Statute of Limitations*. The Parties argued the motion during the Pre-Hearing Conference on November 2, 2017. For the reasons set forth below, the District's Motion is DENIED, though the statute of limitations is clarified as to the multiple facets of Parent's claim.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

On April 19, 2017, Parent filed a *Request for Expedited Hearing* with the Bureau of Special Education Appeals ("BSEA") against the Taunton Public Schools (Taunton or "the District"). Most, but not all, of her *Hearing Request* involved an incident that had occurred on or about March 10, 2016 involving her son Adam, and the District's failure to convene a timely manifestation determination meeting in connection with that incident. An expedited hearing was held regarding this issue on May 4, 9, and 10, 2017 before the undersigned Hearing Officer, who issued an Order "clarifying that the expedited hearing would address only issues that required expedited status: specifically, the manifestation determination and school discipline that had occurred. . . A decision as to whether Adam was receiving a Free Appropriate Public Education (FAPE) up to and at the time of the March 2016 incident was expressly reserved for a later proceeding."³

Following a decision in Adam's favor on May 18, 2017, the parties have reconvened several times to address the issues remaining for hearing and implementation of the decision, which has been difficult due to Adam's absences from school, at least some of which are the result of a suspension. At a Pre-Hearing Conference on September 18, 2017, Taunton requested clarification as to the scope of the second hearing, and the parties agreed that Parent would

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

² Both the original *Hearing Request* and the *Amended Hearing Request* were filed by Parent of Adam and his former guardian. This Ruling refers to them together as "Parent."

³ *In Re Taunton Public Schools and Adam*, 23 MSER 67, 68 (Reichbach 2017).

submit an *Amended Hearing Request* fleshing out her allegations. She submitted the *Amended Hearing Request* during the Pre-Hearing Conference held on September 26, 2017.

On October 2, 2017, I issued an Order [October 2nd Order] outlining Taunton's compliance with my previous Order as well as the issues remaining for the hearing, which was scheduled for December 19, 20, and 22, 2017. In pertinent part, the Order noted that after some discussion I had concluded that the following issues remained open for hearing:

- A. Whether Taunton discriminated against [Adam] in violation of § 504 of the Rehabilitation Act of 1973, through
 1. a pattern of suspensions without manifestation determination meetings;
 2. changes in [Adam]'s classes (removal from Junior ROTC, change from general education computer course to special education course) without parental consent;
 3. involvement of other systems (i.e. the Department of Children and Families; the courts/police (filing charges, No Trespass Order));
 4. comments made by staff members; and/or
 5. punishments disproportionately severe for offenses

- B. Whether Taunton violated the Individuals with Disabilities Education Act, by
 1. failing to implement accepted, expired Individualized Education Programs through
 - a. failure to conduct manifestation determination meetings when required;
 - b. alteration of IEPs without the consent of his parent/guardian (i.e. Junior ROTC, computer classes); and/or
 - c. failure to provide required accommodations; and/or
 2. changing [Adam]'s placement one or more times without the consent of his parent/guardian by suspending him beyond ten days in a given school year at any time between April 19, 2015 and his suspension on March 10, 2016.

- C. If the answer to (A) or (B) is yes, what is the appropriate remedy?

On October 6, 2017, Taunton addressed this Order in its *Response to Parent's Amended Hearing Request*. Specifically, Taunton requested dismissal of: (1) any new allegations contained in the *Amended Hearing Request* pertaining to issues or claims that arose prior to September 26, 2015, as beyond the statute of limitations; (2) any allegations contained in the *Amended Hearing Request* that are not new allegations pertaining to issues or claims that arose prior to April 19, 2015, as beyond the statute of limitations; (3) any allegations pertaining to issues through February 28, 2016, because before that date fully accepted IEPs were in place for Adam, which had not been rejected prior to their expiration; and (4) the entire *Hearing Request*, on grounds that it is "vague, and lacks specificity of identifying the issues for hearing, and otherwise includes unsupported allegations." At the Pre-Hearing Conference that took place on November 2, 2017, Counsel for Taunton suggested that the three hundred (300)-day statute of limitations applicable to claims filed under M.G.L.c. 151B, be applied to those of Parent's claims filed pursuant to Section 504 of the Rehabilitation Act of 1973 ("Section 504") that are not intertwined with her IDEA-based claims.

Parent, *pro se*, did not file a written response to the District’s Motion. She did, however, offer arguments during the Pre-Hearing Conference that took place November 2, 2017. Specifically, she argued that all issues in her *Amended Hearing Request* appeared in her original *Hearing Request*; that the District had withheld information from herself and/or Adam’s former co-guardians, and made misrepresentations to them; and that Adam’s former co-guardians had not knowingly accepted his previous IEPs.

DISCUSSION

A. Standard for Ruling on Motion to Dismiss

Pursuant to the *Standard Adjudicatory Rules of Practice and Procedure*, 801 CMR 1.01(7)(g)(3) and Rule XVII(B) of the BSEA *Hearing Rules for Special Education Appeals*, a hearing officer may allow a motion to dismiss if the party requesting the appeal fails to state a claim on which relief can be granted. This rule is analogous to Rule 12(b)(6) of the Federal Rules of Civil Procedure and as such hearing officers have generally used the same standards as the courts in deciding motions to dismiss for failure to state a claim. Specifically, what is required to survive a motion to dismiss “are factual ‘allegations plausibly suggesting (not merely consistent with)’ an entitlement to relief.”⁴ In evaluating the complaint, the hearing officer must take as true “the allegations of the complaint, as well as such inferences as may be drawn therefrom in the plaintiff’s favor.”⁵ These “[f]actual allegations must be enough to raise a right to relief above the speculative level . . . [based] on the assumption that all the allegations in the complaint are true (even if doubtful in fact). . . .”⁶

B. Parent’s Amended Hearing Request Survives a Motion to Dismiss in its Entirety

In her *Amended Hearing Request*, Parent alleges that Adam’s state and federal rights, as a special education student, have been “impeded, violated, and denied;” that Adam was denied a free appropriate public education (FAPE) as guaranteed by Section 504; that he failed courses “[d]ue to a discriminatory trend of out of school suspensions;” that he was removed from JROTC as a result of discrimination; that the school discriminatorily attempted to involve Adam with the criminal justice system and the Department of Children and Families (DCF) (attempting to press charges, referring the family to DCF in an attempt to pressure Adam’s co-guardians to accept an extended evaluation, and the delivering a no-trespassing order when Adam arrived at school for a manifestation determination meeting); and that school officials made discriminatory comments to Adam and/or his family. Taking these allegations as true, as I must for purposes of a Motion to Dismiss, I conclude that they plausibly suggest that Parent is entitled to relief. As such, Taunton’s Motion to Dismiss the *Amended Hearing Request* in its entirety is DENIED.

C. Statute of Limitations Applicable to FAPE Claims Pursuant to the IDEA and Section 504

Unless a State has a specific time limitation for IDEA claims (and Massachusetts does not), the IDEA requires that the moving party “request an impartial due process hearing within 2

⁴ *Iannocchino v. Ford Motor Co.*, 451 Mass. 623, 636 (2008) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 557 (2007)).

⁵ *Blank v. Chelmsford Ob/Gyn, P.C.*, 420 Mass. 404, 407 (1995).

⁶ *Golchin v. Liberty Mut. Ins. Co.*, 460 Mass. 222, 223 (2011) (internal quotation marks and citations omitted).

years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the complaint.”⁷ There are two exceptions to this statute of limitations, which apply when a parent is prevented from requesting a hearing due to “specific representations” by the [school district] that it had resolved the problem forming the basis of the complaint,” or the district withheld information from the parent that it was required to provide under IDEA.⁸ Although the analysis for § 504 and IDEA claims differs,⁹ courts and the BSEA have applied this two-year statute of limitations to FAPE claims brought pursuant to § 504 because the two are intertwined.¹⁰

D. Parent’s Original FAPE Claims Are Limited to the Period from April 19, 2015 to April 19, 2017, Inclusive of Beginning and End Dates

Parent filed her original *Hearing Request* on April 19, 2017 alleging that the District had violated Adam’s right to FAPE (primarily through, but not limited to, its handling of an incident that had occurred in March 2016), and that it had discriminated against him on the basis of his disability in so doing. She clarified these assertions in her *Amended Hearing Request*, which she filed in September 2017, and added others. Pursuant to Rule I(G) of the BSEA *Hearing Rules*, “to the extent the amendment merely clarifies issues raised in the initial hearing request, the date of the initial hearing request shall be controlling for statute of limitations purposes.” As such, those of Parent’s FAPE claims that were alleged in her initial *Hearing Request* and merely clarified in her amendment, whether based in the IDEA or in § 504, run from April 19, 2015. Specifically, these claims are that Taunton violated the IDEA in any of the ways outlined in Section B of my October 2nd Order,¹¹ that Taunton discriminated against Adam in violation of § 504 through a pattern of suspensions without manifestation determination meetings, and that Taunton changed Adam’s courses without parental permission.

Parent has argued, at several Pre-Hearing Conferences, that the District perpetrated fraud on, or at least misled, Adam’s former co-guardians and as a result, she qualifies for an exception to the statute of limitations. Parent has not, however, identified any specific information Taunton withheld that it was required to provide, nor has she explained clearly how the District made specific representations that it had resolved a particular problem. Unless she is able to prove, through evidence at hearing, that the District engaged in this prohibited behavior, Parent’s FAPE claims are limited to the period of April 19, 2015 to April 19, 2017.

⁷ 20 U.S.C. §1415(f)(3)(C).

⁸ 20 U.S.C. §1415(f)(3)(D).

⁹ Whereas to prevail on her IDEA claims Parent must establish that Taunton failed to provide Adam with a FAPE in the Least Restrictive Environment (LRE), to prevail on her claims pursuant to § 504, Parent must prove that during the relevant time period Adam was disabled; he was “otherwise qualified” to participate in school activities; the District received federal financial assistance; and Adam was “excluded from participation in or denied the benefits of the educational program receiving the funds, or was subject to discrimination under the program.” *Blunt v. Lower Merion Sch. Dist.*, 767 F.3d 247, 274-75 (3rd Cir. 2014) (internal citations omitted).

¹⁰ See *P.P. ex rel. Michael P. v. West Chester Area Sch. Dist.*, 585 F.2d 727, 736 (3rd Cir. 2009); see also *Blunt*, 767 F.3d at 269 (“same two-year statute of limitations for bringing administrative claims also applied to other legal claims premised on the IDEA, such as claims under § 504”); cf. *Fry v. Napoleon Cmty. Sch.*, 580 U.S. ____, 137 S.Ct. 743, 758 (2017) (outlining, in exhaustion context, factors to be examined to determine whether a § 504 claim is independent of an IDEA claim).

¹¹ See page 2, *supra*.

The District asserts that Parent’s FAPE claims are further limited by the fact that until February 28, 2016, Adam attended Taunton High School on IEPs that were accepted and expired without being challenged. According to Taunton, this requires dismissal of all allegations pertaining to issues through this date.

Whether Taunton did, in fact, have fully accepted IEPs in place for Adam that expired without being challenged is an issue of fact for resolution at hearing. To the extent the District is able to establish this fact, Parent cannot now challenge the content of those IEPs as inappropriate. She may still seek to prove, however, that they were not implemented as written.¹² According to the First Circuit Court of Appeals, a “claim alleging a failure to implement or noncompliance with an appropriately developed and formulated IEP is distinct from a claim alleging that an IEP was ‘inappropriate,’”¹³ and the former may be maintained as to accepted, expired IEPs.

E. Statute of Limitations Applicable to Additional Section 504 Claims

The District argues that many of Parent’s discrimination claims pursuant to § 504 were raised for the first time in Parent’s *Amended Hearing Request*, filed September 26, 2017. As such, according to Taunton, they should be treated as new claims for statute of limitations purposes. Moreover, the District contends that the statute of limitations applicable to these claims is the three hundred (300) day statute of limitations governing claims filed at the Massachusetts Commission Against Discrimination (MCAD) pursuant to M.G.L. c. 151B (“Chapter 151B”).

1. Most of Parent’s Section 504 discrimination claims are new claims

Pursuant to Rule I(G) of the BSEA *Hearing Rules* regarding amendments to pending hearing requests, “for issues not included in the original hearing request, the date of the amended hearing request shall be controlling for statute of limitations purposes.” For this reason, Parent’s non-FAPE claims that Taunton discriminated against Adam on the basis of his disability in violation of § 504 by, for example, administering punishments disproportionately severe for his offenses and involving other systems such as DCF, are treated as a new request. As the *Amended Hearing Request* was filed September 26, 2017, this is the date from which to measure the statute of limitations for Parent’s § 504 claims, beyond those included in her initial *Hearing Request*.

2. Parent’s additional FAPE-based Section 504 claims are limited to the period from September 26, 2015 to September 26, 2017

As discussed in Section (C), above, some of Parent’s § 504 claims are intertwined with FAPE and as such they are IDEA-based. These include her allegations that Taunton discriminated against Adam through a pattern of suspensions without manifestation determination meetings, which were included in her initial *Hearing Request*, and her allegation

¹² See *Doe ex rel. Doe v. Hampden-Wilbraham Reg. Sch. Dist. and Bureau of Special Educ. Appeals*, Civ. Action No. 08cv12094-NG (May 25, 2010) (unpublished) (“Acceptance of IEPs as written, however, does *not* waive all allegations that the district did not provide a FAPE to [Student] when those IEPs were being implemented”) (emphasis in original).

¹³ *Ross v. Framingham Sch. Comm.*, 44 F. Supp. 2d 104, 116 (D. Mass. 1999).

that the District discriminated against Adam in violation of § 504 by changing his classes without parental consent. Parent's assertions that Taunton removed Adam from Junior ROTC and moved him from a general education computer course to a special education course, both without parental consent, were not delineated in her initial *Hearing Request*. These § 504 claims concern the denial of FAPE (and as such, are intertwined with IDEA claims for statute of limitations purposes) under the analysis set forth by the Supreme Court earlier this year in *Fry v. Napoleon Community Schools*.¹⁴ Because Parent could not have brought essentially the same claims if the alleged conduct had occurred in a public facility other than a school, and an adult at the school could not have pressed essentially the same grievance, Parent's contentions that Taunton discriminated against Adam through a pattern of suspensions without manifestation meetings and changed his classes without parental consent are new IDEA-based claims.¹⁵ They are therefore subject to the IDEA statute of limitations.

3. A three-year statute of limitations applies to non-FAPE Section 504 Claims

Parent's remaining § 504 claims, as outlined in my October 2nd Order, are that Taunton discriminated against Adam through its involvement of other systems (DCF, courts, and/or police); through comments made by staff members; and through the administration of disproportionately severe punishments. Under the *Fry* test, these are not FAPE claims.¹⁶

As the Rehabilitation Act of 1973, including § 504, does not contain a statute of limitations, the federal "borrowing" doctrine¹⁷ applies. This doctrine generally "requires the selection of the most analogous statute of limitations under state law."¹⁸ Many courts have applied state statutes of limitations for personal injury actions to claims of discrimination by schools in violation of § 504.¹⁹ In so doing, the Second Circuit Court of Appeals rejected a case-by-case approach to statute of limitations questions in cases involving § 504.²⁰ The Court explained that discrimination claims may be characterized as fundamental injuries to the individual rights of a person, and thus akin to personal injury actions.²¹ It had previously applied

¹⁴ See 137 S.Ct. at 756.

¹⁵ See *id.*

¹⁶ See *id.* at 758 (distinguishing between those § 504 claims that concern the denial of FAPE and those that do not); *cf. C.G. ex. re. Keith v. Waller Indep. Sch. Dist.*, 697 Fed. Appx. 816 (5th Cir. 2017) (unpublished) (observing that where parents' § 504 claim incorporates an identical factual background expressed in the same language as their unsuccessful IDEA claim and fails the test for independence established by the Supreme Court in *Fry*, that claim must also be dismissed, and suggesting that where the test is met, an independent § 504 claim need not be dismissed merely because the IDEA claim fails).

¹⁷ "With respect to federal civil rights actions, Congress has expressly codified this common-law borrowing doctrine in 42 U.S.C. § 1988 . . . [,] establishing a three-step process for the selection of the appropriate substantive law in civil rights actions. First, it is to be determined whether federal civil rights law is deficient in that it fails to furnish a particular rule; if it is deficient, the most closely analogous state law may fill the vacuum only if it is consistent with the meaning and purpose of constitutional and federal statutory law. If state law is inconsistent, it must be disregarded in favor of the federal common law." *J.S. ex rel. Duck v. Isle of Wright Cnty. Sch. Bd.*, 402 F.3d 468, 474 (4th Cir. 2005) (internal citation omitted).

¹⁸ *Id.* at 472; see *Wilson v. Garcia*, 471 U.S. 261, 266-67 (1985) (utilizing this methodology to determine that state statutes of limitations for personal torts apply to all section 1983 actions).

¹⁹ See, e.g., *Blunt*, 767 F.3d at 291, 292 and case cited; *Morse v. Univ. of Vermont.*, 973 F.2d 122, 126-27 (2nd Cir. 1992) and cases cited.

²⁰ See *Morse*, 973 F.2d at 126.

²¹ See *id.*

state personal injury statutes of limitations to discrimination actions brought under 42 U.S.C. §§ 1981 and 1983, and in 1992, in *Morse v. University of Vermont*, the Second Circuit extended this reasoning to claims brought under § 504, noted that “[i]n prohibiting discrimination on the basis of a person’s handicap, § 504 has the same type of broad, remedial goals . . . and encompasses also a wide diversity of claims.”²²

Considering this question in 1999, before the IDEA was amended to include a two-year statute of limitations, former Hearing Officer Bill Crane determined that the three-year statute of limitations applicable generally to civil rights actions in Massachusetts was appropriate for cases alleging discrimination under § 504.²³ The provision he cited, M.G.L. c. 260, § 5B, establishes a three year statute of limitations for “[a]ctions arising on account of violations of any law intended for the protection of civil rights, including but not limited to actions alleging employment, housing and other discrimination on the basis of race, color, creed, national origin, sex, age, ancestry or handicap.”

Taunton suggests that Chapter 151B, rather than M.G.L. c. 260 § 5B, is the appropriate state statute from which to draw the statute of limitations to apply to Parent’s § 504 claims that are not IDEA-based.

Chapter 151B requires that a complaint be filed with the MCAD within three hundred (300) days of the alleged act of discrimination, though the statute also provides that a petitioner may file (after a proscribed time period or sooner, with the assent of the MCAD) “a civil action for damages or injunctive relief or both” in court no later than three years after the date of the alleged discriminatory act.²⁴ Chapter 151B prohibits discrimination in employment on the basis of race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, ancestry, or status as a veteran.²⁵ It does not prohibit employment discrimination on the basis of disability. The law also prohibits housing discrimination on these same grounds, as well as on the basis of marital status, status as member of the armed forces, or “because such person is blind, or hearing impaired or has any other handicap.”²⁶ Discrimination on the basis of handicap, for purposes of the relevant subsections, includes design and construction of particular housing units; a refusal to permit or make, at the expense of the handicapped person, reasonable modification of existing premises; a refusal to make reasonable accommodations in rules, policies, practices, or services that may be necessary to afford equal opportunity to use and enjoy a dwelling; and discrimination against or refusal to rent to a person because of his need for reasonable modification or accommodation.²⁷ Close examination of Chapter 151B demonstrates

²² *Id.*

²³ In his *Ruling on Motion to Adopt Three Year Statute of Limitations in In Re Fall River Public Schools*, 5 MSER 183 (Crane 1999) BSEA Hearing Officer Bill Crane considered three potentially applicable statutes of limitations for both IDEA and § 504 claims: a three year statute of limitations applicable generally to contract actions for personal injuries and to tort actions; a six-year statute of limitations applicable generally to contracts, and a three-year statute of limitations applicable generally to civil rights actions. He found the civil rights statute of limitations, as embodied in M.G.L. c. 260, § 5B, most appropriate. Although Congress has since resolved the question of the statute of limitations applicable to IDEA, it has not acted similarly with respect to § 504.

²⁴ See M.G.L.c. 151B, §§ 5, 9.

²⁵ See M.G.L.c. 151B, § 4(1).

²⁶ *Id.* at § 4(6). Discrimination on the basis of age is also prohibited, with exceptions for housing intended for use for persons of certain ages or older. See *id.*

²⁷ *Id.* at §§ 4(6), (7).

that it addresses discrimination only in the contexts of housing and employment, and it provides for an administrative process that complainants in these specific areas must exhaust before they may proceed to court.²⁸ Moreover, other than requiring that they exhaust their claims at the MCAD beforehand, Chapter 151B does not infringe on individuals' ability to proceed to court within three years.²⁹

Although at least one court has found that a state statute prohibiting discrimination that supplied a statute of limitations shorter than three years was analogous to § 504, that case involved a statute specifically addressing the rights of people with disabilities that is "modeled after and is almost identical to the Rehabilitation Act."³⁰ In this case, Taunton has not persuaded me that Chapter 151B, with its three hundred (300)-day statute of limitations for filing a complaint of discrimination in employment or housing at the MCAD is a better analog to § 504 than M.G.L. 260, § 5B, which applies more generally to violations of any law intended for the protection of civil rights, including discrimination on the basis of disability.

As such, I find that the three-year statute of limitations applicable to allegations of civil rights violations in Massachusetts applies to Parent's § 504 claims that are not IDEA-based. These claims, filed within her *Amended Hearing Request*, are limited to the period from September 26, 2014 to September 26, 2017.

CONCLUSION

The issues remaining for hearing are as follows:

- A. Whether Taunton discriminated against [Adam] in violation of § 504 of the Rehabilitation Act of 1973, through
 1. a pattern of suspensions without manifestation determination meetings between April 19, 2015 and April 19, 2017, inclusive of beginning and end dates;
 2. changes in [Adam]'s classes (removal from Junior ROTC, change from general education computer course to special education course), without parental consent between September 26, 2015 and September 26, 2017, inclusive of beginning and end dates;
 3. involvement of other systems (i.e. the Department of Children and Families; the courts/police (filing charges, No Trespass Order)) between September 26, 2014 and September 26, 2017, inclusive of beginning and end dates;
 4. comments made by staff members between September 26, 2014 and September 26, 2017, inclusive of beginning and end dates; and/or
 5. punishments disproportionately severe for offenses between September 26, 2014 and September 26, 2017, inclusive of beginning and end dates

- B. Whether Taunton violated the Individuals with Disabilities Education Act, by

²⁸ M.G.L. c. 151(C), on the other hand, prohibits unfair practices by educational institutions that accept applications for admission from the public generally.

²⁹ See M.G.L. c. 151B, § 9.

³⁰ *Duck*, 402 F.3d at 475; see *id.* at 472 (discussing the Virginia Rights of Persons with Disabilities Act, Va. Code. Add. § 51.5-46(B)).

1. failing to implement accepted, expired Individualized Education Programs through
 - a. failure to conduct manifestation determination meetings when required between April 19, 2015 and April 19, 2017, inclusive of beginning and end dates;
 - b. alteration of IEPs without the consent of his parent/guardian (i.e. Junior ROTC, computer classes) between September 26, 2015 and September 26, 2017, inclusive of beginning and end dates; and/or
 - c. failure to provide required accommodations between April 19, 2015 and April 19, 2017, inclusive of beginning and end dates; and/or
2. changing [Adam]'s placement one or more times without the consent of his parent/guardian by suspending him beyond ten days in a given school year at any time between April 19, 2015 and his suspension on March 10, 2016.

C. If the answer to (A) or (B) is yes, what is the appropriate remedy?

ORDER

The District's *Motion to Dismiss* is hereby ALLOWED as to FAPE allegations presented for the first time in Parent's *Amended Hearing Request* that arose prior to September 26, 2015; ALLOWED as to FAPE allegations presented in the original *Hearing Request* that arose prior to April 19, 2015, and DENIED as to the remainder of Parent's *Amended Hearing Request*.

The Hearing will take place at Taunton High School on December 19, 20, and 22, 2017.

Witness lists and exhibits are due by close of business on December 12, 2017.

By the Hearing Officer:

Amy M. Reichbach
Dated: December 5, 2017