

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

**In Re: Student v. Lawrence Public Schools and DESE**

**BSEA # 2107071**

**RULING ON LAWRENCE PUBLIC SCHOOLS' MOTION TO CHALLENGE THE  
SUFFICIENCY OF THE HEARING REQUEST**

This matter comes before the Hearing Officer on the Lawrence Public Schools' (District) *Motion to Remove Hearing Request from Accelerated Status, Partial Motion to Dismiss for Lack of Jurisdiction and/or Failure to State a Claim, and Motion to Challenge the Sufficiency on any Remaining Claim (Motion)* which was filed with the BSEA on March 25, 2020.

This Ruling addresses the challenge to the Hearing Request's sufficiency only. For the reasons set forth below, the District's *Motion* is hereby **DENIED**.

**RELEVANT PROCEDURAL HISTORY:**

On February 26, 2021, Parent filed a Hearing Request in the above-referenced matter. In it she alleged that Student, who is 19 years old, has been residing in Lawrence, MA since June 2020 but has not been receiving special education and related services in accordance with his IEP from Puerto Rico. She also alleged that the District has not evaluated Student and that his program does not offer him a FAPE. Parent asked for relief as follows:

- a) "200,000 dollars for all of the mistreatment, abuse of power, discrimination, emotional damage, and mismanagement of the case";
- b) that "the Department of Education take responsibility for offering [Student] a fair and appropriate education with all services in a timely manner and with all of the benefits that correspond to him";
- c) that "the Department of Education take responsibility if for some reason or another the student is not able to complete the fourth year of high school (12<sup>th</sup> grade) before 21 or 22 years of age, the Department of Education should be required to continue providing him his classes and studies with all of his special education services and assistance until he goes to or finishes 12<sup>th</sup> grade and goes to university";
- d) that "the Department of Education make up for the psychological, occupational therapy times that have not been offered to the student since he entered Lawrence High School, and order all of the types of evaluations that the student needs";
- e) that "the student be given a vocational evaluation and registered in the vocational rehabilitation program"; and

- f) that “the transfer of rights since they never explained what that was to me in Puerto Rico and they always put not applicable in the summary because in Puerto Rico the age of majority is 21 years old.”

Although originally granted accelerated status, following a conference call on March 22, 2021, the matter was removed from the accelerated calendar. It was also noted during that call that Parent failed to serve DESE, an intended party to the appeal. Hence, on March 26, 2021, the BSEA sent the DESE a copy of Parent’s hearing request and further sent all Parties, including DESE, a recalculated Notice of Hearing, reflecting an April 28, 2021 Hearing date.

On March 25, 2021, the District filed a *Motion to Remove Hearing Request from Accelerated Status, Partial Motion to Dismiss for Lack of Jurisdiction and/or Failure to State a Claim, and Motion to Challenge the Sufficiency on any Remaining Claim*. Because the matter was removed from the accelerated track on March 24, 2021, the District’s *Motion to Remove Hearing Request from Accelerated Track* need not be addressed. In addition, I defer consideration of the *Partial Motion to Dismiss for Lack of Jurisdiction and/or Failure to State a Claim* until Parent has filed her response to the *Motion*, due seven days from her receipt of said motion.

I address the *Motion to Challenge the Sufficiency on any Remaining Claim* below.

#### **LEGAL STANDARD:**

Pursuant to Rule IE of the BSEA *Hearing Rules for Special Education Appeals* (hereinafter “Hearing Rules”), “[i]f the hearing request does not contain the elements set out in Rule 1B, [the non-moving] party may file a written challenge to the sufficiency of the hearing request with the Hearing Officer and the other party(ies) within fifteen (15) calendar days of receipt of the hearing request.”. Rule I B of the *Hearing Rules*, which tracks the Individuals with Disabilities Education Act, § 615(b)(7)(A), 20 USCA § 1415(b)(7)A(ii), 34 CFR § 300.508(b), sets forth the required content of a hearing request as follows:

1. Name and address of student;
2. Name, address, and telephone number of:
  - (a) Person requesting hearing;
  - (b) Parent(s);
  - (c) Legal Guardian, if any;
  - (d) Individual given court-appointed educational decision-making authority, if any;
  - (e) Duly appointed educational surrogate parent, if any; and
  - (f) Individual with whom the child lives and who is acting in the place of the parent;
3. Relationship to student of person requesting hearing;
4. Name of programmatically and fiscally responsible school district(s) and/or name of state educational agency or other state agency(ies);
5. Name of the school the child is attending;

6. In the case of a homeless child or youth within the meaning of the McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)), available contact information for the child and the name of the school the child is attending;
7. If applicable, the name, address, phone number, and fax number of the attorney or advocate representing the party who is requesting a hearing;
8. The nature of the disagreement, including facts relating to such disagreement;
9. A proposed resolution of the disagreement to the extent known and available to the party at the time.

As with the Federal Rules of Civil Procedure, the purpose of the pleading rules under the IDEA is to provide fair notice to the opposing party. The United States Supreme Court has explained:

The Federal Rules of Civil Procedure do not require a claimant to set out in detail the facts upon which he bases his claim. To the contrary, all the Rules require is a “short and plain statement of the claim” that will give the defendant fair notice of what the plaintiffs claim is and the grounds upon which it rests.

*Leatherman v. Tarrant County NICU*, 507 U.S. 163, 168 (1993). In addition, where a parent proceeds *pro se*, a Hearing Request should be construed liberally. See *Ahmed v. Rosenblatt*, 118 F.3d 886, 890 (1st Cir. 1997). As the First Circuit explained in the context of summary judgment, “[t]he policy behind affording *pro se* plaintiffs liberal interpretation is that if they present sufficient facts [to state a claim], the court may intuit the correct cause of action, even if it was imperfectly pled.” *Id.* This principle aligns with “[o]ur judicial system [, which] zealously guards the attempts of *pro se* litigants on their own behalf” while not ignoring the need for compliance with procedural and substantive law. *Id.*

#### **APPLICATION OF LEGAL STANDARD:**

Here, the District asserts that Parent’s Hearing Request is insufficient and failed to identify what aspects of Student’s program is alleged to not be providing FAPE. The District also argues that because Student is 19 years old and an adult, it would be inappropriate to proceed with the matter until he executes the Age of Majority paperwork. Last, the District asserts that Parent intended to file against DESE and not against the District.

In light of Parent’s *pro se* status, the Hearing Request must be liberally construed. When viewed through that lens, Parent’s Hearing Request meets the federal statutory requirements and the criteria articulated in the *Hearing Rules*. Parent’s Hearing Request sets out the “nature of the disagreement, including facts relating to such disagreement.” Rule I E (8). Parent disputes both the implementation of the Student’s IEP from Puerto Rico and the appropriateness of Student’s current programming. In addition, she makes allegations as to the District’s failure to evaluate Student and to refer Student to the Massachusetts Rehabilitation Commission. Parent also sets out a “proposed resolution of the disagreement to the extent known and available to the party at the time.” Rule I E (9). She seeks, in part, monetary damages, compensatory services, the development of an appropriate IEP, and an evaluation of Student.

After careful review of the Hearing Request and the District’s allegations of insufficiency, I find

that the Hearing Request is sufficient as it satisfies the requirements of Section 615(b)(7)(a) of the IDEA 2004 and Rule IB.

Furthermore, Student is clearly a complainant in this dispute; his signature on the Hearing Request suggests that his interests are aligned with the assertions therein. Although Parent may be confused about the discrete roles of DESE and the District with regard to Student's right to a FAPE, both are named in the description of the issues. In keeping with this, the BSEA Hearing Notice dated March 26, 2021 names both entities as parties to the dispute.

## **ORDER**

For the reasons discussed, the District's *Motion* challenging the sufficiency of Parent's Hearing Request is hereby **DENIED**. The matter will proceed as provided in the March 26, 2021 *Notice of Hearing* issued by the BSEA. Furthermore, a conference call will be scheduled to give the parties an opportunity to further articulate the issues for Hearing.

By the Hearing Officer:

/s/ Alina Kantor Nir

Alina Kantor Nir

Dated: March 29, 2021