**COMMONWEALTH OF MASSACHUSETTS**

Division of Administrative Law Appeals

**Bureau of Special Education Appeals**

**In Re**: Student v. **BSEA #** 2400718

Dracut Public Schools

**RULING ON PARENT’S APPEAL TO RULING RGARDING SUBPOENA OF WITNESS JULIA STAUB AND RESPONSE TO TIME FRAME OF RELEVANCE FOR JESSICA WOJCIK; PARENT’S REQUEST TO AMEND CLAIMS AND ADD ADDITIONAL BULLYING INCIDENT TO THE HEARING; DRACUT’S OBJECTION TO PARENT’S ADDITIONAL DISCOVERY REQUESTS; PARENT’S MOTION FOR CONTEMPT AND REQUEST FOR SANCTIONS**

This ruling addresses all pending motions, objections and requests by the Parties filed between November 3, 2023 and December 6, 2023.

**Parent’s Appeal to Ruling regarding subpoena of witnesses Julia Staub and response to time frame of relevance for Jessica Wojcik:**

On November 3, 2023, Parent filed what is in essence a request for reconsideration of a Ruling regarding issuance of a subpoena and provision of testimony by Julia Staub, and response to time frame of relevance for Jessica Wojcik. Parent sought subpoenas and allowance of testimony of the two, aforementioned individuals.

The previous Ruling regarding quashing of the request for subpoena of Ms. Wojcik was issued without prejudice. Therefore, to the extent that Parent’s submission provides additional support regarding Ms. Wojcik’s involvement in an incident and implementation of Student’s Section 504 Plan, Parent’s request to call Ms. Wojcik as a witness and for quashing of her subpoena to be reversed is **ALLOWED**. Parent may call Ms. Wojcik as a witness, limited to Student’s Section 504 Plan and the incident of March 27, 2023.[[1]](#footnote-1)

Regarding the testimony of Ms. Staub, Parent’s request for reconsideration is **DENIED** for the reasons stated in my Ruling of November 3, 2023.

**Parent’s Request to Amend the Hearing And Add Additional Bullying Incident:**

On November 3, 2023, Parent requested to Amend the Hearing to add an additional bullying incident, which she noted had occurred on October 31, 2023. To the extent that this incident relates to the issues for Hearing, Parent may inquire regarding same of Student’s teacher at Hearing. There is, however, no need to Amend the Hearing Request to include this incident, as it is not the incident that is at issue but rather, its impact on the development and implementation of Student’s Section 504 Plan. Parent’s request to Amend the Hearing Request is **DENIED** without prejudice.

**Parent’s Additional Discovery Requests and Dracut’s Objections**:

On October 30, 2023, the District received Parent’s Additional Discovery Requests.

The District filed certain Objections to Parent’s Additional Discovery Requests on November 8, 2023[[2]](#footnote-2), and on November 28, provided responses to Parent’s requests except to the request involving “…all emails for the 2022-2023 school year sent between any and all Dracut School Committee members and Principal Beth Drohan, Vice Principal Patty Tobin, Vice Principal Jessica Wojcik, Lauren Hayhurst, Alexa Dowling, Barbara Boucher, Julia Staub and each other that involve issues/ claims to be heard at this hearing”. Dracut objected to producing a response to this request on the basis that this request was overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence pertinent to those issues permitted to go forward. In addition, Dracut argued that members of the school committee had no direct involvement in the development of Student’s 504 Plan or delivery of services pursuant to said Plan. Dracut noted that no response to this request would be provided until a ruling to its objection was entered. For the reasons stated by Dracut, the District’s Objection to production of documents in this request is **SUSTAINED**. Dracut need not respond to this request.

**Parent’s Motion for Contempt and Request for Sanctions**:

On December 2, 2023, Parent filed a Motion for Contempt and Request for Sanctions. Parent argued that the District did not respond to her Discovery Request #2 because it had failed to provide her with a copy of a second bullying report involving student C, the District’s finding or an affidavit indicating that no such document exists. Parent also argued that the District did not respond to her Discovery Request #4 regarding bullying reports against N and Z, otherwise respond to her bullying report, including digital recordings of same, so as to accommodate Parent’s ADA related needs. Parent requested that “the district provide an affidavit that they did not respond to any of the digitally filed bullying reports or complaints electronically.” Parent did not state what sanctions she sought. Parent may inquire from one of the witnesses at Hearing as to the two issues she raised, to the extent that the District’s actions may have impacted the development of Student’s Section 504 Plan and delivery of services/ accommodations consistent with said Plan. To the extent that Parent and the District have an understanding that information to Parent must be emailed in addition to providing a hard copy, the District shall comply with its own agreement. Parent’s request for additional unspecified sanctions is DENIED.

**Parent’s request for additional days of Hearing**:

On November 29, 2023, citing the need for ADA accommodations, Parent requested that the Hearing scheduled for December 15, 2023, be no longer than 4 hours and that two additional days of hearing be scheduled thereafter.

On December 5, the District informed the BSEA of its unavailability during the rest of December and suggested a conference call to discuss possible additional days after January 1, 2024. Later that day Parent withdrew her request for additional days. As such, the Hearing will be held on December 15, 2023, only as previously scheduled. I note that Parent requested that the Hearing be open to the public, which request is Granted.

So Ordered by the Hearing Officer,

Rosa I. Figueroa

Rosa I. Figueroa Dated: December 7, 2023

1. Based on Parent’s arguments, at Hearing Parent will have to show that there was a Section 504 Plan in effect at the time of the March 2023 incident and that the accommodations in this plan were not followed. [↑](#footnote-ref-1)
2. Via separate letter dated November 8, 2023, responsive to a BSEA Ruling addressing Discovery issued on November 3, 2023, Dracut affirmed that upon information and belief, no documents responsive to Parent’s discovery requests 8, 9, 10 and 11, other than those that had already been produced, were within the possession of the District. Dracut further noted the Hearing Officer’s Ruling of October 5, 2023, limiting the production of documents sought to the period between March 1, 2023 and June 30, 2023. [↑](#footnote-ref-2)