**COMMONWEALTH OF MASSACHUSETTS**

**DIVISION OF ADMINISTRATIVE LAW APPEALS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

**In Re: Greater Commonwealth Virtual School v. Student BSEA # 2505857**

**RULING ON GREATER COMMONWEALTH VIRTUAL SCHOOL’S**

**MOTION FOR SUMMARY JUDGMENT**

This matter comes before the Hearing Officer on Greater Commonwealth Virtual School’s Motion for Summary Judgment (*Motion*) filed by Greater Commonwealth Virtual School (Greater Commonwealth or the District) on February 14, 2025. In this *Motion*, Greater Commonwealth seeks Summary Judgment from the Bureau of Special Education Appeals (BSEA) that no genuine issue of material fact exists that warrants any other conclusion of law than that the Parent is not entitled to the Independent Educational Evaluations (IEEs) he requested on December 3, 2024. The District submitted a memorandum and accompanying Exhibits A through E (herein labelled S-A through S-E) to support its *Motion*.

Via email dated February 14, 2025, the Hearing Officer offered the parties an opportunity for a hearing on the *Motion*. The District’s Counsel responded via email that such hearing was not necessary. Parent responded neither to the *Motion* nor to the Hearing Officer’s email communications.

As neither party requested a hearing on the *Motion*, and, because neither testimony nor oral argument would advance the Hearing Officer's understanding of the issues involved, this Ruling is issued without a hearing, pursuant to Bureau of Special Education Appeals Hearing Rule VII(D).

For the reasons set forth below, the District’s Motion is ALLOWED as to Parent’s request for independent educational evaluations in the areas of psychology and occupational therapy but is DENIED as to Parent’s request for an independent educational evaluation in the area of academic achievement.

**I. ISSUE**

At issue here is whether, as a matter of law, Parent is entitled to psycho-educational and occupational therapy IEEs at public expense.

**II. FACTUAL BACKGROUND AND RELEVANT PROCEDURAL HISTORY:**

The following facts are not in dispute and are derived from the District’s Hearing Request, the Parent’s Response thereto, the District’s *Motion*, and all exhibits attached to said pleadings.

1. Student is currently a ninth-grade student enrolled in the District.
2. Greater Commonwealth is an all-remote school district.
3. On June 20, 2024, the undersigned Hearing Officer issued a Decision ("The Decision") (*In Re: Greater Commonwealth Virtual School*, BSEA # 2411692) inwhich I made factual and legal findings that Student had not been evaluated since he was in the second grade and concluded "that Student's [Individualized Education Program (IEP)] goals and objectives, which expired over 5 years ago, are now irrelevant and that informal observations and classroom work are insufficient to assess individual skills." In addition, I found that the Parent had repeatedly failed to consent to the testing and that:

“updated testing is necessary to determine whether Student continues to have a disability, whether Student continues to need special education and related services, and whether any additions or modifications to his special education and related services are needed to enable him to meet the measurable annual goals set out in his IEP and to participate, as appropriate, in the general education curriculum.”

As a result, the BSEA overrode the Parent’s lack of consent for a re-evaluation in the areas of Psycho-Educational and Occupational Therapy and provided the District with Substituted Consent.

1. In August 2024, the District contracted with Karlyn Goodman, OTR/L, to conduct Student’s Occupational Therapy (OT) Evaluation and with Fernanda Dasilva, MA, Ed.S, to conduct Student’s Psycho-Educational Evaluation. (S-A, S-B)
2. On September 4, 2024, Ms. Dasilva sent an invitation for a virtual meeting to Student (with a copy to Parent) offering three dates to complete the testing. Student "accepted" the invitation. (S-B)
3. Ms. Dasilva completed Student’s achievement testing on September 9, 11, and 13, 2024. Parent remained in the testing room during the duration of testing and offered commentary throughout. Parent also refused to complete the reporting forms for the BASC-3, to permit Student to complete the "self-report" portions of the evaluation, and to allow Student to participate in any cognitive testing. (S-B)
4. On September 19, 2024, Parent wrote to Ms. Dasilva asking her to cancel any meetings scheduled for Student as Parent’s private testing of Student would not be completed in time. Ms. Dasilva assured him there was still sufficient time before the Team meeting in October. On September 20, 2024, Parent asked her to stop communicating with him. (S-B)
5. On September 23, 2024, Ms. Goodman contacted Parent and Student to complete the OT evaluation. She stated that she was available on September 26, 2024 at 8:30 AM and noted that Student had no classes during that time. She provided an overview of the testing and what to expect and set up the appointment for September 26, 2024 at 8:30 AM. Parent responded via email, stating, “This is our pediatrician and the rest of our team is just as comparable[.] Occupational therapy has already been done by my son[.] You are not needed[;] it is not even close to time for him to be reevaluated[.] [If] your school did what they were supposed to from the first grade you wouldn't be bothering me[.] [E]verything you will try has already been done by my team…. Unless you are looking contest the findings of my team[,] I’d suggest your organization stick to academics.” (S-A)
6. On September 26, 2024, the Student entered the virtual room for the OT Evaluation. Parent then entered the Student's room and stated that he wanted his son in class. Ms. Goodman confirmed with the Student that he did not have a class at this time. Student stated that he did not want to do the testing. Parent then refused to allow the testing. Parent then ended the virtual session and followed up with an email stating, in part, "I suggest you leave us be…. I didn't consent to you ppl [sic] doing anything outside of academically teaching because of the gross complacency of the care of your special needs students!" Ms. Goodman was unable to complete the OT Evaluation. (S-A)
7. Also on September 26, 2024, Darlene Thorpe, Director of Special Education for the District, wrote to Parent indicating that the District was scheduling Student’s “meeting [on October 22, 2024] in the timeframe that is required by state regulations” and asking Parent to let the District know in writing if he wanted to postpone the meeting until the outside testing was completed. However, “if the outside testing [was] going to take an undetermined amount of time to complete it would be preferable for [] to meet and review the completed testing now so that [the District] could update the IEP as appropriate.” Parent responded that he did not know when it would be completed but it would not be before November 25, 2024. (S-C)
8. The District rescheduled Student’s Team meeting for November 26, 2024. (S-C)
9. On November 20, 2024, the District sent a reminder for the November 26, 2024 re­evaluation team meeting. (S-C)
10. On November 22, 2024, Parent responded to the District stating that he sent over "documents" via mail to be entered for the team meeting. (S-C) As such, the Team Meeting was rescheduled for December 17, 2024 and then rescheduled again for January 30, 2025 awaiting the results of the private evaluation. (S-C)
11. On December 3, 2024, the District received a "Request for an Individualized Education Evaluation" from Parent requesting an IEE at public expense to assess Student’s cognitive abilities, and intellectual strengths and weaknesses. The request also disputed Student’s "diagnosis of ADHD" and suggested that the WAIS-5 test be used; stated that Parent is in possession of findings from the neurology department at Boston Medical Center; and asserted that Parent has concerns regarding Student’s learning, including letter reversals for which he seeks testing ordinarily used in dyslexia screening. (S-D)
12. On December 10, 2024, the District filed the instant due process complaint with the BSEA contesting Parent’s IEE request.
13. After multiple scheduling attempts, the Team convened on January 30, 2025, to discuss the re-evaluation. The Team reviewed Student’s current progress. According to school staff and academic testing, Student presents as distractable and inconsistent. The Team discussed that these behaviors could be due to historical diagnoses of ADHD as well as executive functioning deficits. Parent stated that he did not agree with the historical diagnosis of ADHD. He presented the Team with the current diagnosis of Autism Spectrum Disorder (ASD), which the Team agreed to document under the category of health. Parent asked the Team whether Student’s “cognitive abilities [were] relative to his age,” but Ms. DaSilva advised that no cognitive testing was completed. (S-E)
14. At the meeting, Parent “rejected the partial findings of the evaluations that were completed by [the District].” (S-E)
15. According to Parent, he had “shared [] all relevant information [in] the document requesting the IEE and declined to give further information” to the Team. (S-E)
16. Based on the information available to the District, on February 12, 2025, Greater Commonwealth proposed an IEP for Student. (S-E)
17. To date, the District has not received any of the evaluations that Parent indicated he had submitted via mail on November 22, 2024.

**III. LEGAL STANDARDS AND APPLICATION OF LEGAL STANDARDS:**

*A. Summary Judgment:*

Pursuant to 801 CMR 1.01(7)(h), summary decision may be granted when there is "no genuine issue of fact relating to all or part of a claim or defense and [the moving party] is entitled to prevail as a matter of law."[[1]](#footnote-1) In determining whether to grant summary judgment, BSEA hearing officers are guided by Rule 56 of the Federal and Massachusetts Rules of Civil Procedure, which provides that summary judgment may be granted only if the "pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there are no genuine issues as to any material fact and that the moving party is entitled to judgment as a matter of law."[[2]](#footnote-2) A genuine dispute as to a material fact exists if a fact that "carries with it the potential to affect the outcome of the suit" is disputed such that "a reasonable [fact-finder] could resolve the point in the favor of the non-moving party."[[3]](#footnote-3) The moving party bears the burden of proof, and all evidence and inferences must be viewed in the light most favorable to the party opposing summary judgment.[[4]](#footnote-4)

In response to a motion for summary judgment, the opposing party "must set forth specific facts showing that there is a genuine issue for trial."[[5]](#footnote-5) To survive this motion and proceed to hearing, the adverse party must show that there is "sufficient evidence" in his favor that the fact finder could decide for him.[[6]](#footnote-6) In other words, the evidence presented by the non-moving party "must have substance in the sense that it [demonstrates] differing versions of the truth which a factfinder must resolve at an ensuing trial."[[7]](#footnote-7) The non-moving party's evidence will not suffice if it is comprised merely of "conclusory allegations, improbable inferences, and unsupported speculation."[[8]](#footnote-8)

 *1. Reevaluations:*

The IDEA requires Districts to re-evaluate eligible students at least once every three years, unless the parent and public agency agree it is unnecessary.[[9]](#footnote-9) A re-evaluation must be individualized, take into account the student's then-current needs, and help determine whether the child continues to meet eligibility for special education and related services.[[10]](#footnote-10) As part of any re-evaluation, the Individualized Education Program (IEP) Team and appropriate professionals, with "input from the child's parents," must "identify what additional data, if any, are needed to determine ... [t]he present levels of academic achievement and related developmental needs of the child ...."[[11]](#footnote-11) To reassess a student, a school district must provide proper notice to the student and his parents.[[12]](#footnote-12)

2. Independent Educational Evaluations

Parents of a child with a disability are entitled to participate in the process used to develop the educational plan for their student.[[13]](#footnote-13) To that end, 20 U.S.C. §1415 provides for an "opportunity for parents of a child with a disability to … obtain an independent educational evaluation of the child…." An independent educational evaluation is an evaluation conducted by a qualified examiner not employed by the school district responsible for the student's education.[[14]](#footnote-14)  In addition, 34 CFR §300.502(b) provides, in pertinent part, that:

"(1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section.

(2) If a parent requests an independent education evaluation at public expense, the public agency must, without unnecessary delay, either -

(i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria."

Similar to the IDEA, Massachusetts law states that "[u]pon receipt of evaluation results, if a parent disagrees with an initial evaluation or reevaluation completed by the school district, then the parent may request an independent education evaluation."[[15]](#footnote-15) If the parent is requesting an independent evaluation in an area that was not assessed by the school, 603 CMR §28.04(5)(d) provides:

"If the parent is requesting an independent education evaluation in an area not assessed by the school district, the student does not meet income eligibility standards, or the family chooses not to provide financial documentation to the district establishing family income level, the school district shall respond in accordance with the requirements of federal law. Within five school days, the district shall either agree to pay for the independent education evaluation or proceed to the Bureau of Special Education Appeals to show that its evaluation was comprehensive and appropriate. If the Bureau of Special Education Appeals finds that the school district's evaluation was comprehensive and appropriate, then the school district shall not be obligated to pay for the independent education evaluation requested by the parent."

In other words, when an evaluation is conducted in accordance with 34 CFR §§300.304 through 300.311 and a parent disagrees with the evaluation because a child was not assessed in a particular area, the parent has the right to request an IEE to assess the child in that area to determine whether the child has a disability, and the nature and extent of the special education and related services that child needs.[[16]](#footnote-16) Nevertheless, a school-based evaluation is a pre-requisite to a publicly-funded IEE since a parent's right to a publicly-funded IEE stems from the parent's disagreement with the results of the school-based evaluation, or from the parent's belief that a different area must be evaluated.[[17]](#footnote-17) A parent is only entitled to one IEE at public expense each time the public agency conducts an evaluation with which the parent disagrees.[[18]](#footnote-18)

*B. Application of Legal Standards:*

In the instant matter, in order for me to grant summary judgment in favor of the District, there must first and foremost exist "no genuine issue of fact relating to all or part of a claim or defense."[[19]](#footnote-19) As the moving party, the District bears the burden of proof, and all evidence and inferences must be viewed in the light most favorable to the Parent.[[20]](#footnote-20) The District has met its burden.

Hearing Officers have granted summary judgment in cases where it was undisputed, even with evidence viewed in the light most favorable to the parent, that a parent had refused consent to a school-proposed assessment before requesting a publicly funded independent evaluation instead.[[21]](#footnote-21) Here, it is undisputed that the only assessments completed by the District were comprised of academic achievement. The District was not able to complete psychological and occupational therapy testing despite its having been granted substitute consent by the BSEA to do so, and its good faith attempts thereafter to complete such testing.

As such, as a matter of law, Parent may not seek public funding for psychological and occupational therapy assessments.[[22]](#footnote-22) The only IEE that Parent may be eligible for is achievement testing, as Greater Commonwealth has completed this testing, and Parent has expressed disagreement with the results thereof.

**III. ORDER:**

The District’s Motion is ALLOWED as to Parent’s request for independent educational evaluations in the areas of psychological and occupational therapy but is DENIED as to Parent’s request for an independent educational evaluation in the area of academic achievement.

So Ordered,

/s/ Alina Kantor Nir
Alina Kantor Nir

Date: February 24, 2025

**COMMONWEALTH OF MASSACHUSETTS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

**EFFECT OF FINAL BSEA ACTIONS AND RIGHTS OF APPEAL**

Effect of BSEA Decision, Dismissal with Prejudice and Allowance of Motion for Summary Judgment

20 U.S.C. s. 1415(i)(1)(B) requires that a decision of the Bureau of Special Education Appeals be final and subject to no further agency review. Similarly, a Ruling Dismissing a Matter with Prejudice and a Ruling Allowing a Motion for Summary Judgment are final agency actions. If a ruling orders Dismissal with Prejudice of some, but not all claims in the hearing request, or if a ruling orders Summary Judgment with respect to some but not all claims, the ruling of Dismissal with Prejudice or Summary Judgment is final with respect to those claims only.

Accordingly, the Bureau cannot permit motions to reconsider or to re-open either a Bureau decision or the Rulings set forth above once they have issued. They are final subject only to judicial (court) review.

Except as set forth below, the final decision of the Bureau must be implemented immediately. Pursuant to M.G.L. c. 30A, s. 14(3), appeal of the decision does not operate as a stay. This means that the decision must be implemented immediately even if the other party files an appeal in court, and implementation cannot be delayed while the appeal is being decided. Rather, a party seeking to stay—that is, delay implementation of-- the decision of the Bureau must request and obtain such stay from the court having jurisdiction over the party’s appeal.

Under the provisions of 20 U.S.C. s. 1415(j), “unless the State or local education agency and the parents otherwise agree, the child shall remain in the then-current educational placement,” while a judicial appeal of the Bureau decision is pending, unless the child is seeking initial admission to a public school, in which case “with the consent of the parents, the child shall be placed in the public school program.”

Therefore, where the Bureau has ordered the public school to place the child in a new placement, and the parents or guardian agree with that order, the public school shall immediately implement the placement ordered by the Bureau. School Committee of Burlington v. Massachusetts Department of Education, 471 U.S. 359 (1985). Otherwise, a party seeking to change the child’s placement while judicial proceedings are pending must ask the court having jurisdiction over the appeal to grant a preliminary injunction ordering such a change in placement. Honig v. Doe, 484 U.S. 305 (1988); Doe v. Brookline, 722 F.2d 910 (1st Cir. 1983).

Compliance

A party contending that a Bureau of Special Education Appeals decision is not being implemented may file a motion with the Bureau of Special Education Appeals contending that the decision is not being implemented and setting out the areas of non-compliance. The Hearing Officer may convene a hearing at which the scope of the inquiry shall be limited to the facts on the issue of compliance, facts of such a nature as to excuse performance, and facts bearing on a remedy. Upon a finding of non-compliance, the Hearing Officer may fashion appropriate relief, including referral of the matter to the Legal Office of the Department of Elementary and Secondary Education or other office for appropriate enforcement action. 603 CMR 28.08(6)(b).

Rights of Appeal

Any party aggrieved by a final agency action by the Bureau of Special Education Appeals may file a complaint in the state superior court of competent jurisdiction or in the District Court of the United States for Massachusetts, for review. 20 U.S.C. s. 1415(i)(2).

An appeal of a Bureau decision to state superior court or to federal district court must be filed within ninety (90) days from the date of the decision. 20 U.S.C. s. 1415(i)(2)(B).

Confidentiality

In order to preserve the confidentiality of the student involved in these proceedings, when an appeal is taken to superior court or to federal district court, the parties are strongly urged to file the complaint without identifying the true name of the parents or the child, and to move that all exhibits, including the transcript of the hearing before the Bureau of Special Education Appeals, be impounded by the court. See *Webster Grove School District v. Pulitzer Publishing Company*, 898 F.2d 1371 (8th. Cir. 1990). If the appealing party does not seek to impound the documents, the Bureau of Special Education Appeals, through the Attorney General's Office, may move to impound the documents.

Record of the Hearing

The Bureau of Special Education Appeals will provide an electronic verbatim record of the hearing to any party, free of charge, upon receipt of a written request. Pursuant to federal law, upon receipt of a written request from any party, the Bureau of Special Education Appeals will arrange for and provide a certified written transcription of the entire proceedings by a certified court reporter, free of charge.

1. 801 CMR 1.01(7)(h). Judges and hearing officers have held that motions to dismiss and motions for summary judgment are "proper mechanism[s] for the [hearing officer] to decide IDEA disputes."See, e.g., Cheri Miller v. Charlotte-Mecklenburg Sch. Board of Education, No. 320CV00493MOCDCK, 2021 WL 3561226, at \*10, 12 (W.D.N.C. Aug. 11, 2021); Smith v. Parham, 72 F. Supp. 2d 570, 574 (D. Md. 1999) ("There are a whole host of motions that could arise in the course of a hearing, and it would be nonsensical to prevent an ALJ, who is vested with a great amount of authority, from ruling on motions as they arise"); In Re: Molalla River Sch. Dist., 32 IDELR 52 (SEA OR, 2000) (the school's motion to dismiss was granted on claims that could have been litigated in a previous hearing); In re: Student with a Disability, 116 LRP 36824 (IA, 2014) (“[A] parent's opportunity to be heard at an impartial due process hearing conducted under IDEA is predicated on their ability to survive pre-hearing dispositive motions"). [↑](#footnote-ref-1)
2. 801 CMR 1.01(7)(h). [↑](#footnote-ref-2)
3. *French v. Merrill*, 15 F.4th 116, 123 (1st Cir. 2021); see *Maldanado-Denis v. Castillo-Rodriguez,* 23 F.3d 576, 581 (1st Cir. 1994). [↑](#footnote-ref-3)
4. See *Anderson v. Liberty Lobby, Inc*. 477 U.S. 242, 252 (1986). [↑](#footnote-ref-4)
5. *Anderson*, 477 U.S. at 250. [↑](#footnote-ref-5)
6. *Id*. at 249. [↑](#footnote-ref-6)
7. *Mack v. Great Atl. & Pac. Tea Co.,* 871 F.2d 179, 181 (1st Cir. 1989).  [↑](#footnote-ref-7)
8. *Medina-Munoz v. R.J. Reynolds Tobacco Co.,* 896 F.2d 5, 8 (1st Cir. 1990). [↑](#footnote-ref-8)
9. See 34 CFR §300.303(b). [↑](#footnote-ref-9)
10. See 34 CFR §300.305(a)(2). [↑](#footnote-ref-10)
11. 20 USC §1414(c)(1)(B)(ii); 34 CFR §300.305(a)(2). [↑](#footnote-ref-11)
12. See 20 USC §1414(b)(1). [↑](#footnote-ref-12)
13. See 20 USC §1415(b)(1). [↑](#footnote-ref-13)
14. See 34 CFR §300.502(b). [↑](#footnote-ref-14)
15. 603 CMR §28.04(5)(d).  While not applicable in the instant matter, in contrast to federal law, Massachusetts does not require a showing of appropriateness and comprehensiveness if the student is eligible for free or reduced cost lunch; in such cases the school district must "provide, at full public expense, an independent education evaluation that is equivalent to the types of assessments done by the school district. No additional documentation of family financial status is required from the parent." 603 CMR §28.04(5)(c)(1). In cases where "the sliding scale" may apply, a district is not excused from compliance with the five-day rule; a district may either receive income information from parents within the five-day period and determine eligibility during that time, or request a BSEA hearing within the five days, and then withdraw the request if the parent demonstrates eligibility for full or partial funding of the IEE. See In re: Framingham Pub. Sch., BSEA #111276 (Berman, 2011). [↑](#footnote-ref-15)
16. See Letter to Baus, 65 IDELR 81 (OSEP Feb. 23, 2015); see Administrative Advisory SPED 2004-1: Independent Educational Evaluations, https://www.doe.mass.edu/sped/advisories/04\_1.html (DESE 2003). [↑](#footnote-ref-16)
17. See P.P. v. W. Chester Area Sch. Dist., 585 F.3d 727, 740 (3d Cir. 2009)

(finding an IEE was not reimbursable because the parents had already made an appointment for the IEE when they requested the District evaluation and, as such, parents were not challenging the District's evaluation); R.L. v. Plainville Bd. of Educ., 363 F. Supp. 2d 222, 234 (D. Conn. 2005) (although an independent evaluation may have been useful to the parents, the district was not required to fund the evaluation because "there was no disagreement between the parties over any existing evaluation" when the parents requested the IEE); *Thurman G. as next friends of L.G. v. Sweetwater Indep. Sch. Dist.,* No. 1:19-CV-102-H, 2021 WL 3144840, at \*12 (N.D. Tex. July 26, 2021) (“nothing in Section 1415 or 300.502 entitles parents to an IEE at public expense where the district has not done an evaluation. Accordingly, under Section 300.502, a parent is not entitled to an IEE in a certain area unless the school district has previously evaluated that student in the particular area”); *Shane T. v. Carbondale Area Sch. Dist., No. CV 3:16-0964*, 2017 WL 4314555, at \*21 (M.D. Pa. Sept. 28, 2017) (agreeing with hearing officer that “an IEE at public expense is not triggered until the Parent disagrees with the District’s evaluation” and “[i]n this case, there [was] no District evaluation for the [p]arent to disagree with” because “[a]llowing the plaintiffs to obtain a District-funded IEE even though Cathy refused to allow consent for a public evaluation would not be in line with the regulation’s purpose of allowing parents to challenge a public school’s evaluation of the child”); *Los Angeles Unified Sch. Dist. v. D.L.,* 548 F. Supp. 2d 815, 820 (C.D. Cal. 2008)(“Courts have found that parents are entitled to an IEE at public expense if parents can show that they disagreed with the school district's assessment and proved that such an assessment was inappropriate”); In Re: Eleanor and Pembroke Pub. Sch., BSEA # 1503787 (Reichbach, 2015) ("Both Massachusetts and federal special education regulations focus on independent educational evaluations as a tool for parents, subject to certain conditions, to obtain additional information about their children when they disagree with an evaluation obtained by a local educational agency") (emphasis added); In Re: Easthampton Pub. Sch., BSEA # 1911816 (Figueroa, 2019); see also See In Re: Abington Pub. Sch., BSEA # 043493 (Figueroa 2004). [↑](#footnote-ref-17)
18. See 34 CFR §300.502(b)(5). [↑](#footnote-ref-18)
19. 801 CMR 1.01(7)(h). [↑](#footnote-ref-19)
20. Anderson v. Liberty Lobby, Inc. 477 U.S. 242, 252 (1986). [↑](#footnote-ref-20)
21. See, e.g., In Re: Hudson Public Schools and Sam, BSEA # 093499 (Oliver, 2009) ("The whole concept of an IEE is that if parents disagree with the evaluations performed by the school, they then have the right to seek a publicly funded IEE as, essentially, a second opinion"); In Re: Billerica Public Schools and Ozal, BSEA #1911391 (Byrne 2019); In re: Middleton Public School and Cole, BSEA #1909931 (Reichbach, 2019); In Re: Bridgewater Raynham Schools, BSEA # 116444 (Figueroa, 2011); In re: Abington Public School, BSEA # 043493 (2004). [↑](#footnote-ref-21)
22. See 603 CMR §28.04(5) ("upon receipt of evaluation results, if a parent disagrees with [a] ... reevaluation completed by the school district, then the parent may request an independent education evaluation"; see also 34 C.F.R. §300.502(b)(1) (IEE allowed when the parent "disagrees with an evaluation [previously] obtained by the public agency"); *Los Angeles Unified Sch. Dist*., 548 F. Supp. 2d at 821 (“As LAUSD never provided an assessment of D.L., no statutory right to public reimbursement of his assessment arose”). [↑](#footnote-ref-22)