COMMONWEALTH OF MASSACHUSETTS

**DIVISION OF ADMINISTRATIVE LAW APPEALS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

**In Re**: **Student & Braintree Public Schools BSEA # 2511326**

**RULING ON PARENT’S MOTION TO RECUSE HEARING OFFICER**

**AND REMOVE DISTRICT ATTORNEY**

This matter comes before the Hearing Officer on the Parent’s *Motion to Recuse Hearing Officer and Remove District Attorney* (*Motion*) filed with the BSEA on September 15, 2025 and Parent’s *Motion for Recusal, Investigation and Relief* (*Supplemental Motion*) filed with the BSEA on September 17, 2025[[1]](#footnote-1). As grounds for its *Motion and Supplemental Motion*, Parent asserts that the underlying Hearing Officer “forced Parent into off-the-record conferences where Parent was harassed and discriminated against by the District…”; “failed to provide a proper interpreter…”; “dismissed unresolved issues without hearing Parent’s testimony or witnesses…”; “denied translation of rulings …”; allowed, on a “repeated and continue[d]” basis, the District one full day to respond to filings, while disregarding Parent’s right to receive translations and adequate time to act on the District’s responses”; “consistently denied Parent’s motions while granting the District flexibility”; and “refused to compel production of requested documents …”[[2]](#footnote-2).

On September 16, 2025, the District filed an *Opposition to Parent’s Motion to Recuse Hearing Officer and Remove District Attorney* (*Opposition*) opposing recusal of the Hearing Officer and strongly object[ing]” to the request to remove the District’s legal counsel[[3]](#footnote-3). With regard to the recusal request, the District contends the Hearing Officer has “at all times acted professionally and in a manner consistent with the [*Hearing Rules*] and applicable law” and that recusal is “wholly unnecessary” and would be prejudicial due to the Hearing Officer’s active involvement since the *Hearing Request* was filed on April 14, 2025. With regard to the counsel removal request, the District asserts that it is entitled to counsel of its choosing; its counsel has been “actively involved in this incredibly complex matter since February 2023”; removal of its legal counsel would be “prejudicial, contrary to law and beyond the jurisdiction and authority of the BSEA”; and that this request was previously made by Parent and denied by the Hearing Officer in an April 16, 2025 Order that “remains applicable”. The District also denied Parent’s allegations that its legal counsel engaged in “’misconduct, including harassment and direct threats made to Parent’ in violation of the law”.

Neither Party requested a hearing, and as neither testimony nor oral argument would advance my understanding of the issues involved, this *Ruling* is issued without a hearing pursuant to *Hearing Rule VII(D)*. For the reasons articulated below, the *Motion* and *Supplemental Motion* are **DENIED**.

**LEGAL STANDARDS AND ANALYSIS**

1. Request to Remove District Attorney

Given that this is not the first time Parent has sought to exclude the District’s Attorney from representing the District in this matter, I address that request first. On April 16, 2025 I issued a *Ruling* entitled *Ruling on Parent’s Motion to Exclude Attorney for the District and Order to Comply with BSEA Standing Order 23-1R Section A2* (that was sent to Parent in XXX on April 17, 2025) (*April 16, 2025 Ruling*) denying Parent’s request to exclude the District’s Attorney in this matter and accepting her *Notice of Appearance*. Parent’s current request to exclude the District’s Attorney does not contain any new allegations, claims or arguments from that originally submitted in April 2025 and is thus **DENIED as moot**. The *April 16, 2025* *Ruling* stands as issued.

2. Request for Recusal of the Hearing Officer

Whenever recusal is sought, a Hearing Officer must apply a multi-part analysis to the request, via a self-examination, as such requests are treated “seriously in order to protect the trust and confidence of the participants in this quasi-judicial proceeding”[[4]](#footnote-4).  “… [I]t is the duty of the hearing officer when evaluating such a request to fairly examine the facts alleged and h[er] own conscience, as well as to attempt to view h[er] actions from the perspective of the litigants and the public[[5]](#footnote-5).” As a matter of policy, it is of utmost importance to the due process proceedings that all participants have trust and confidence in the impartiality and professional ability of the presiding hearing officer[[6]](#footnote-6). At the same time, a countervailing policy concern exists such “that a [hearing officer] once having drawn a case should not recuse h[er]self on an unsupported, irrational, or highly tenuous speculation; were [s]he to do so, the price of maintaining the purity of appearance would be the power of litigants or third parties to exercise a negative veto over the assignment of [hearing officers].[[7]](#footnote-7)”

Thus, the recusal process requires the Hearing Officer to: 1) examine her own professional qualifications to hear the controversies before her; 2) examine her own conscience regarding any subjective biases she may have about the parties or the subject matter; 3) be aware of any objective bars in the case before her, such as potential relationship-based bias, or financial interest in the outcome of the case or residence within the school district; and, 4) anticipate how her conduct may “appear” to the parties and the public in general[[8]](#footnote-8). While legitimate, and in some cases compelling reasons support denial of recusal requests, such as preventing “hearing officer shopping” and, promoting conservation of scarce administrative resources and ensuring efficiency of the administrative management of a proceeding, such requests must be treated carefully and examined closely to confirm if there are any factors that exist in the particular case supporting recusal[[9]](#footnote-9). However, in the absence of any such factors, the Hearing Officer should not recuse herself.

With this guidance I next engage in the process described above:

1. *Professional Qualifications and Objective Biases:*[[10]](#footnote-10)

This Hearing Officer is a member of the Massachusetts Bar in good standing, who practiced as an attorney in the Commonwealth of Massachusetts for over nineteen years (representing at various times over those years, parents and students as well as a public school district) before accepting a position as a Hearing Officer at the BSEA in 2021. Given the Hearing Officer’s professional qualifications, which are not challenged in the *Motion*, recusal on this basis is not warranted[[11]](#footnote-11).

There is also no objective bar to continuing as a Hearing Officer in this matter. Objective factors that may warrant recusal include: 1) any financial interest the hearing officer may have in the outcome of the matter that might reasonably compromise her ability to render a fair decision; or, 2) any personal or professional connection the hearing officer may have with a party. To my knowledge, no current or previous familial, personal, financial or professional relationship exists between this Hearing Officer and any party, or any expected witness in this matter. Although I have interacted professionally with the attorney for the District, in the past, it has always been strictly in my capacity as a Hearing Officer.

1. *Subjective Biases and “Appearances”:*

As to potential subjective bias or prejudice that I may have or may, to a reasonable person in the public, “appear” to have, Parent claims raise both improper conduct and substantive challenges with regard to how this Hearing Officer has conducted the instant matter and the orders and rulings made to date. Parent’s improper conduct claims include allegedly being “forced” to have “off the record conferences” wherein she was allegedly “discriminated and harassed by the District”; not provided with a “proper interpreter”; not provided with “translations of rulings”; and that on a continuing basis, the District was allowed “one full day to respond to filings, while disregarding Parent’s right to receive translations and adequate time to act on the District’s responses”. With respect to substantive challenges, Parent claims the Hearing Officer improperly “dismissed unresolved issues without hearing Parent’s testimony or witnesses…”; “consistently denied Parent’s motions while granting the District flexibility”; and “refused to compel production of requested documents …”.

Turning first to the improper conduct claims, among the many responsibilities of a Hearing Officer are ensuring the orderly presentation of the evidence at hearing and overseeing the scheduling and logistics of a hearing. To meet these responsibilities, a Hearing Officer may engage, prior to the hearing on the merits, with both parties, informally, during conference calls or pre-hearing conferences, or formally, via written orders and rulings. Parties may voluntarily participate in informal pre-hearing proceedings. If they do not agree to so participate, or if substantive discussions occur during the voluntary proceedings, parties will be advised to submit such substantive requests in writing that are then, in turn, addressed in a written ruling or order by a Hearing Officer.

In the instant matter, the Hearing Officer attempted to hold a Conference Call to discuss a pending postponement request on three occasions. Only one Conference Call actually occurred, however, on July 11, 2025 which date was established at Parent’s request which she advised was a time convenient to her. Nevertheless, Parent initially refused to participate at the time of this Call. She was informed in real time by email (simultaneously translated into XXX) that the Parties and (interpreter) would wait for a designated period of time, but if she did not attend, a written ruling would issue on the pending request. Parent ultimately chose to participate and raised numerous objections and arguments during the course of the Call[[12]](#footnote-12). Parent was, therefore, repeatedly advised by the Hearing Officer that any objection or argument she raised could and should be put in writing and would be addressed via a written ruling or order. Parent filed four such requests and motions on the day of the Call, and has continued to file pleadings since that time, all of which have been addressed in writing[[13]](#footnote-13). Parent’s claim that she was “forced” to have “off the record conferences” wherein she was “discriminated and harassed by the District” is without merit.

With regard to Parent’s claims of not being provided with a proper interpreter or translation of Rulings, these allegations are wholly unsupported. As noted above, a certified legal XXX interpreter was provided for the one verbal communication proceeding that has occurred to date in this matter. Further, every written communication sent to Parent from the BSEA, including every email sent by this Hearing Officer has been translated into XXX. This claim by Parent is thus also without merit.

The final improper conduct claim asserted by Parent is somewhat confounding. If I am construing it correctly, it appears to allege timeframe restrictions placed on the District, not Parent, to respond to Parent’s pleadings ( the District was allowed “one full day to respond to filings, while disregarding Parent’s right to receive translations and adequate time to act on the District’s responses”).  While this argument has no bearing on any of Parent’s rights[[14]](#footnote-14), to the extent it is based on not receiving simultaneous translations of BSEA communications, this has already been addressed twice in both a June 3, 2025 *Ruling* (entitled *Ruling on Seven Motions and Requests* and sent to Parent in English and XXX on June 10, 2025) and a July 22, 2025 *Ruling* (entitled *Ruling on Parent’s Requests* and sent to Parent in English and XXX on July 25, 2025). All communications by the BSEA have been issued in accordance with these *Rulings* and they continue to stand as issued. Thus, I do not find this claim to have any merit.

Finally, Parent raises substantive challenges pertaining to her disagreement with orders and rulings that this Hearing Officer has issued in this matter. Generally, objections to prior rulings, orders or instructions in a current matter that may be unsatisfactory to the party seeking recusal, as Parent contends, does not constitute a proper foundation for disqualification[[15]](#footnote-15). In fact, recusal on this basis alone, could unintentionally encourage improper “hearing officer shopping”. To grant recusal, the alleged hearing officer’s bias, prejudice, conduct or ties must ordinarily arise from some extrajudicial source[[16]](#footnote-16), which Parent does not so allege and which does not otherwise exist. In *Liteky v. U.S*., 510 U.S. 540, 555 (1994) the Supreme Court held that,

“judicial rulings alone almost never constitute a valid basis for a bias or partiality motion. In and of themselves … they cannot possibly show reliance upon an extrajudicial source; and can only in the rarest circumstances evidence the degree of favoritism or antagonism required when no extrajudicial source is involved. Almost invariably, they are proper grounds for appeal, not for recusal”[[17]](#footnote-17).

In closing, as explained by the First Circuit in *In Re: U.S.*, there is a “high threshold” when considering disqualification, and such determinations must seek to promote public confidence in judicial proceedings while also preventing parties from disqualifying an impartial judge so as to secure a preferable one[[18]](#footnote-18). A determination regarding recusal falls within the discretion of the hearing officer presiding over the particular matter. If later challenged on appeal, denials of such motions may be reversed only if abuse of discretion is demonstrated[[19]](#footnote-19). As Parent makes no allegations concerning this Hearing Officer’s professional qualifications or objective bias, and Parent’s allegations against this Hearing Officer’s regarding objective bars, or appearance of impartiality are unfounded, I find no reasonable basis for granting the request for recusal. Parent’s request for recusal is thus **DENIED**.

**CONCLUSION**

The *Motion* and *Supplemental Motion* are hereby **DENIED in their entirety**. This matter will proceed to Hearing commencing September 30, 2025 (with exhibits and witness lists due to be filed by the close of the business day on September 23, 2025) before the undersigned Hearing Officer and with the District’s Attorney’s representation.

So Ordered by the Hearing Officer,

/s/ Marguerite M. Mitchell

Marguerite M. Mitchell

Dated: September 19, 2025

**COMMONWEALTH OF MASSACHUSETTS**

**DIVISION OF ADMINISTRATIVE LAW APPEALS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

**In Re**: **SF & Braintree Public Schools BSEA # 2511326**

**SUPPLEMENT TO RULING ON PARENT’S MOTION TO RECUSE HEARING OFFICER AND REMOVE DISTRICT ATTORNEY**

This is written to supplement the September 19, 2025 *Ruling on Parent’s Motion to Recuse Hearing Officer and Remove District Attorney* and shall be incorporated within that *Ruling*. On September 19, 2025, while that *Ruling* was in the process of being translated (but before either the English or XXX versions had been sent to the Parties), Parent filed *Parent’s Response to Braintree’s Opposition* (*Parent’s Response*) raising one new argument that had not already been included in her *Motion* or *Supplemental Motion[[20]](#footnote-20)*, to wit: that despite the District’s right to have legal representation in this matter, its attorney’s alleged harassment and discrimination of Parent was not an “isolated event”, but rather it’s attorney has “repeatedly called Parent derogatory names, told Parent to ‘go back to her country’ and demeaned and intimidated Parent in open proceedings”[[21]](#footnote-21). Given the severity of these allegations, I find it necessary to address them. To that end, I note that in this matter, I have never heard, nor has the District ever submitted in writing, anything resembling what is alleged. As such I do not find Parent’s argument to have any merit and the *Ruling’s* determination that this matter will proceed to hearing commencing September 30, 2025 with the District’s current attorney’s representation stands as issued.

Finally, I note that, despite its title, *Parent’s Response* is essentially a reply to the District’s September 16, 2025 *Opposition* that the District had filed in response to Parent’s initial September 15, 2025 *Motion*. As I indicated in footnote 14 of the *Ruling* there is no inherent or procedural right for a party to file a reply to a non-moving party’s responsive pleading. However, as Parent had not yet received this *Ruling* and reviewed this footnote (as it was still in the translation process), she had yet to be fully appraised of her procedural misconception when she filed *Parent’s Response*. Going forward, the Parties are advised that unless the Hearing Officer deems a reply is warranted, the only documents to be considered with respect to any rulings or orders will be the initial motion and the response of the non-moving party.

So Ordered by the Hearing Officer,

/s/ Marguerite M. Mitchell

Marguerite M. Mitchell

Dated: September 22, 2025

1. Although this is dated September 16, 2025, as it was received after the close of the business day it is deemed filed on September 17, 2025. Additionally, the substance of this document appears to repeat and expand upon the arguments presented in the Motion and thus I consider it a supplement to that Motion. [↑](#footnote-ref-1)
2. Parent’s *Motion* also added a ground for recusal that pertained to actions taken by a different hearing officer in a prior matter between Parent and the District, and attached to the *Supplemental Motion* six screenshots of chats from a social media post related to “BSEA Watch” which wholly pertained to this prior matter and that aforementioned hearing officer. As this ground and these attachments have no relevance to the instant matter they will not be addressed or considered. [↑](#footnote-ref-2)
3. On September 16, 2025, the Parties were notified via email (both in English and XXX) that given the proximity to the Hearing (scheduled to commence on September 30, 2025) to the filing of the *Motion*, the timeframe for the District to respond to the *Motion* in accordance with *Hearing Rule VI(C)*, would be reduced and the District’s response was due by the close of the business day on September 17, 2025. As the *Supplemental Motion* merely supplements the claims in the *Motion*, I do not find a further response by the District is warranted at this time and consider the *Opposition* with regard to both the *Motion* and the *Supplemental Motion*. [↑](#footnote-ref-3)
4. *In Re: Brookline Pub. Schs.*, BSEA No. 2303670, 29 MSER 101 (Figueroa, 2023); see *In Re: Amherst-Pelham Reg. Sch. Dist. and Wendy*, BSEA No. 2206283, 28 MSER 31 (Reichbach, 2022). [↑](#footnote-ref-4)
5. *In re: Danvers Pub. Schs.* BSEA No. 1701031, 23 MSER 5 (Oliver, 2017). [↑](#footnote-ref-5)
6. *In re: Danvers* BSEA No. 1701031; *In Re: Ludlow Pub. Schs., Ruling on Motion for Recusal*, BSEA No. 1509319, 21 MSER 135 (Scannell, 2015); see *In re: Northborough-Southborough Reg. Sch. Dist.* BSEA No. 2201162, 27 MSER 411 (Kantor Nir, 2021). [↑](#footnote-ref-6)
7. *In Re: United States*, 666 F.2d 690, 694 (1st Cir. 1981); see *In re: Northborough-Southborough* BSEA No. 2201162. [↑](#footnote-ref-7)
8. *In Re: Ludlow*,BSEA No. 1509319 quoting *In Re: Brockton Pub. Schs. and Xylon*, BSEA No. 110374, 16 MSER 367 (Byrne, 2010); *In Re: Duxbury Pub. Schs. and Ishmael*, BSEA No. 091986, 14 MSER 363 (Byrne, 2008); *In Re: Marblehead Pub. Schs.* BSEA No. 022828, 8 MSER 84 (Crane, 2002); see *In Re: Brookline*,BSEA No. 2303670 29 MSER 101 (Figueroa, 2023); *In Re: Amherst-Pelham and Wendy*, BSEA No. 2206283. [↑](#footnote-ref-8)
9. *In re: Danvers*, BSEA No. 1701031. [↑](#footnote-ref-9)
10. Parent does not challenge the Hearing Officer’s professional qualifications or allege objective biases. [↑](#footnote-ref-10)
11. See *In Re: Ludlow*, BSEA No. 1509319. [↑](#footnote-ref-11)
12. A certified XXX interpreter was provided to Parent through this Call at no cost to her. At Parent’s request the attorney for the District but no other District personnel participated in the Call. At no time was this Attorney disrespectful, discriminatory or harassing to Parent as is alleged. [↑](#footnote-ref-12)
13. Parent has filed over eighteen motions/requests in this matter (not including the *Motion* and *Supplemental Motion*), all of which have been addressed via a written Order or Ruling, and many of which seek reconsideration or re-assert arguments or requests which had already been denied. [↑](#footnote-ref-13)
14. Potentially this argument stems from Parent’s misconception that she has a procedural right to reply to every written response the District files to her motions. However, no right to file a reply to a non-moving party’s responsive pleading exists in the *Hearing Rules*. *Hearing Rule VI(C)* grants a non-moving party the right to “file written objections to the allowance of a motion … within seven (7) calendar days after a written motion is filed …, unless the Hearing Officer determines that a shorter or longer time is warranted”. It does not grant the moving party additional procedural rights thereafter. [↑](#footnote-ref-14)
15. 28 U.S.C. §455; *In Re: United States* 441 F3d 44, 67 (1st Cir. 2006)(noting the principle that a judge’s rulings and statements in the course of proceedings before him or her, even if erroneous, rarely provide a basis for recusal under 28 USC §455(a)); see *Boston’s Children First*, 244 F.3d 164, Ftnt 7 (1st Cir. 2001). [↑](#footnote-ref-15)
16. *Id*.; see *Commonwealth v. Gogan*, 389 Mass. 255, 259 (1983) (citation omitted). [↑](#footnote-ref-16)
17. See *In Re: Bridget Brown Parson*, No. 21-30982, 2021 WL 5094786, at \*6 (Bankr. N.D. Tex. September 15, 2021)(after considering a motion for recusal presented by a pro-se litigant, the bankruptcy judge found no basis for recusal and drawing similarities to *In re Pease*, No. ADV 10-5011-C, 2010 WL 1849919, at \*5 (Bankr. W.D. Tex. May 5, 2010), saw it as a “trial tactic, or as a substitute for obtaining appellate review of adverse decisions”). [↑](#footnote-ref-17)
18. 158 F 3d 26, 34 (1st Cir. 1998) (“A party cannot cast sinister aspersions, fail to provide a factual basis for those aspersions, and then claim that the judge must disqualify [him]self because the aspersions, *ex proprio vigore,* create a cloud on [his] impartiality.”); see *In Re: Bulger*, 710 F.3d. 42, 47 (1st Cir. 2013). [↑](#footnote-ref-18)
19. *U.S. v. Bremers*, 195 F.3d. 221, 226 (5th Cir. 1999); see *In re Wilborn*, 401 B.R. 848 (Bankr. S.D. Tex. 2009) citing *U.S. v. Mizell*, 88 F.3d. 288, 299 (5th Cir. 1996) (noting a judge’s broad discretion when determining disqualification). [↑](#footnote-ref-19)
20. Please refer to the main *Ruling* for the definition of these terms. [↑](#footnote-ref-20)
21. Parent again attaches the same screenshots of BSEA Watch chants attached to the *Supplemental Motion* that relate wholly to a prior matter before a different Hearing Officer, which have no relevance to the instant matter and again will not be addressed or considered. [↑](#footnote-ref-21)