**COMMONWEALTH OF MASSACHUSETTS**

**DIVISION OF ADMINISTRATIVE LAW APPEALS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

**In Re**: **Newton Public Schools and Student BSEA #2512781**

**RULING ON CHALLENGE TO SUFFICIENCY OF HEARING REQUEST**

This matter comes before the Hearing Officer on Parents’ *Sufficiency Challenge* to a *Hearing Request* filed by the Newton Public Schools (“District”) on May 12, 2025, pursuant to the provisions of 34 CFR 300.502(b)(2)(i) and 603 CMR 28.04(5)(d). The District disagrees with Parents’ request for public funding of independent educational evaluations consisting of Occupational Therapy and Speech and Language evaluations and a Functional Behavioral Assessment (FBA). The District claims the evaluations it has completed in some of the requested areas are comprehensive and appropriate and that it has sought and received consent to first conduct its own evaluations, as is its right, in the remaining requested areas.

Parents challenge the sufficiency of the *Hearing Request* on the following three grounds: (1) it fails to include all required elements, specifically Student’s address and “all individual authorities and contacts acting on behalf of the student, relationships of all parties requesting the hearing in relationship to the student”; (2) it “fails to adequately address the core nature and factual basis of the disagreement”; and (3) “the alleged proposed resolution is not appropriate or feasible as it, in of itself (sic), as the premise, depends on obfuscating and violating FAPE and IDEA regulations”.

For the reasons articulated below, the *Sufficiency Challenge* is **DENIED**.

**LEGAL STANDARD**

Both the IDEA and the *BSEA* *Hearing Rules* specify that hearing requests must include the name and address of the student, the name of the school the child is attending (and information regarding homeless youth, if applicable)[[1]](#footnote-1). Hearing requests must also include a description of the nature of the problem, including facts relating to such dispute, and a proposed resolution of the problem “to the extent known and available to the party at the time”[[2]](#footnote-2). Further, according to *BSEA Hearing Rule I(B)*, while not mandated by the IDEA, additional information to be included as " it will enable the BSEA and opposing party to more effectively and efficiently communicate and respond to the *Hearing Request*”*[[3]](#footnote-3)* Said information comprises the name, address and phone number of the person requesting the hearing, and the parent/legal guardian/court-appointed educational decision-maker/educational surrogate parent/person who the child lives with and is acting in the place of the parent; the relationship to student of the person requesting the hearing; the name of the responsible school district(s) or state educational or other agency; the name, address, phone and fax number of any attorneys or advocates; and the primary language of the home, if not English, and whether interpretation and/or translation will be needed.

Both the IDEA and *BSEA Hearing* *Rule I(E)* provide any party against whom a hearing requestis filedwith an opportunity to make a written challenge to the sufficiency of the hearing request within 15 days of receiving it, if the party believes that the hearing request does not contain all required elements[[4]](#footnote-4). Upon receipt of such a challenge, a Hearing Officer must, in writing, within 5 days “… make a determination *on the face of the notice*” if the hearing requestcontains all the statutory requirements (emphasis added)[[5]](#footnote-5). If a hearing request is found insufficient, it must be amended, thereby resulting in new timelines, but if it is deemed sufficient, the original timelines remain[[6]](#footnote-6).

**DISCUSSION**

Here, after reviewing the *Hearing Request* on its face, as I am required to do, I do not find it insufficient. With one minor exception, all of the required elements that must be provided in a due process complaint filed under the IDEA are included. Parents’ claims pertaining to the description of the nature of the problem and its proposed resolution consist of challenges to the information that the District provided with regard to both of these elements, not to the fact that either required element is missing. As I find both elements to be not only contained within the *Hearing Request*, as required, but also properly pled, the *Hearing Request* is sufficient on these grounds.

The only missing required element is Student’s address[[7]](#footnote-7). However, the *Hearing Request* contains a certificate of service and a cover letter noting that it was sent by email (one of the allowed delivery methods of a hearing request pursuant to *BSEA Hearing Rule I(B)*) to both Parents and their advocate. The *Hearing Request* alsotwice references the hearing request Parents’ advocate filed on behalf of Parents against the District on May 9, 2025 (Parents’ HR), that sought, among other things, an order for public funding for independent occupational therapy, speech and language and FBA evaluations[[8]](#footnote-8). Student’s address was included in Parents’ HR. I therefore find that failure to explicitly set forth Student’s address in this instance, while a technical violation, does not otherwise make the *Hearing Request* as a whole, insufficient, given that all other required elements exist, Parents and their advocate were properly served with a copy of the *Hearing Request*,and Student’s address could be ascertained from review of Parents’ HR, that was explicitly referenced in the *Hearing Request.*

**CONCLUSION AND ORDER**:

Parents’ *Sufficiency Challenge* is **DENIED**. The timeline for the Hearing shall proceed in accordance with the May 13, 2025, *Notice of Hearing* issued in this matter[[9]](#footnote-9).

So Ordered by the Hearing Officer

/s/ Marguerite M. Mitchell

Marguerite M. Mitchell

Dated: May 21, 2025

1. 20 USC 1415 (b)(2)(B)(7)(A)(ii); 34 CFR 300.508(b); *BSEA* *Hearing Rule I(B)*. [↑](#footnote-ref-1)
2. *Id*. [↑](#footnote-ref-2)
3. *BSEA Hearing Rule I(B)* at footnote 3. [↑](#footnote-ref-3)
4. 20 USC 1415 (c)(2)(A) and (C); 34 CFR 300.508(d)(1). A challenge to the sufficiency of a hearing request is separate and distinct from a motion. No hearing on the sufficiency challenge is available, as the analysis is limited to reviewing the face of the hearing request only, and the timeframe for ruling is accordingly expedited. No additional information can or should be considered. [↑](#footnote-ref-4)
5. 20 USC 1415 (c)(2)(D); 34 CFR 300.508(d)(2); *BSEA* *Hearing Rule I(E)*. [↑](#footnote-ref-5)
6. 20 USC 1415 (c)(2)(E); 34 CFR 300.508(d)(4); *BSEA Hearing Rule I(E)* (to the extent that an amendment clarifies issues raised in the initial hearing request, rather than raising new issues, the date of the initial hearing request shall remain controlling for statute of limitations purposes upon the filing of an amendment). [↑](#footnote-ref-6)
7. As noted above, information relating to the person requesting the Hearing and those who act on behalf of the student is not mandatory. *BSEA* *Hearing Rule I(B)*; see 20 USC 1415 (b)(2)(B)(7)(A)(ii); 34 CFR 300.508(b). [↑](#footnote-ref-7)
8. This matter was assigned BSEA No. 2512686. [↑](#footnote-ref-8)
9. This timeline is subject to revision based upon Parents’ pending request for postponement filed on May 19, 2025, to be discussed at the upcoming Conference Call scheduled for May 22, 2025, by separate Order. [↑](#footnote-ref-9)