**COMMONWEALTH OF MASSACHUSETTS**

**DIVISION OF ADMINISTRATIVE LAW APPEALS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

**In Re: Pioneer Valley Chinese Immersion Charter School BSEA # 2601931**

**RULING ON PARENTS’ MOTION TO DISMISS**

This matter comes before the Hearing Officer on the Parents’ *Motion to Dismiss* (*Motion*) filed on September 12, 2025 in which Parents[[1]](#footnote-1) assert that the Hearing Request filed by Pioneer Valley Chinese Immersion Charter School (PVCICS or the District) in the instant matter must be dismissed for the following reason:

“Given that [Student’s] mutually agreed upon 2024 IEP was not fulfilled during the 2024 - 2025 school year (specifically an in person BCBA was not consistently provided and no notes or documentation from a BCBA are available), we conclude that there is no evidence indicating [Student] cannot succeed in a bilingual learning environment when provided with the agreed upon special education services. Additionally, given the timing of the hearing request and the ESY issue raised, this hearing request was an obvious and retaliatory attempt to delay or terminate the PRS complaint filed by [Parents] regarding [Student’s] 2025 extended school year services. Therefore, we respectfully request that this hearing request be dismissed with prejudice.”

On September 19, 2025, PVCICS o filed *Opposition To Parents’ Motion To Dismis*s, asserting that “[o]ther than stating their broad disagreement with PVCICS’s factual allegations and legal conclusions, the Parents have failed to assert any basis for dismissal that would justify the extraordinary remedy they seek. Simply put, their motion hinges on their disagreement with PVCICS’s factual assertions.”

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 Parents’ *Motion* is DENIED.

**I. PROCEDURAL HISTORY AND RELEVANT FACTS:[[2]](#footnote-2)**

The District filed for a BSEA hearing on August 11, 2025 claiming, in part, that Parents' refusal to consent to PVCICS's proposed change in placement to the school district of residence has resulted in the denial of a free and appropriate public education (FAPE) to Student, rendering substitute placement consent appropriate. The District further asserted that the Student was not entitled to extended school year services.

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

1. *Motions to Dismiss*

Pursuant to Rule XVII A and B of the Hearing Rules and 801 CMR 1.01(7)(g)(3)[[3]](#footnote-3), a hearing officer may allow a motion to dismiss if the party requesting the hearing fails to state a claim upon which relief can be granted. These rules are analogous to Rule 12(b)(6) of the Federal Rules of Civil Procedure. As such, hearing officers have generally used the same standards as the courts in deciding motions to dismiss for failure to state a claim. To survive a motion to dismiss, there must exist “factual ‘allegations plausibly suggesting (not merely consistent with)’ an entitlement to relief.”[[4]](#footnote-4) The hearing officer must take as true “the allegations of the complaint, as well as such inferences as may be drawn therefrom in the plaintiff’s favor.”[[5]](#footnote-5) These “[f]actual allegations must be enough to raise a right to relief above the speculative level.”[[6]](#footnote-6)

1. *Jurisdiction of the BSEA*

20 U.S.C. § 1415(b)(6) grants the Bureau of Special Education Appeals (BSEA) jurisdiction over timely complaints filed by a parent/guardian or a school district "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child."[[7]](#footnote-7) In Massachusetts, a parent or a school district, "may request mediation and/or a hearing at any time on any matter[[8]](#footnote-8) concerning the eligibility, evaluation, placement, IEP, provision of special education in accordance with state and federal law, or procedural protections of state and federal law for students with disabilities."[[9]](#footnote-9) Nevertheless, it is well established that matters that come before the BSEA must involve a live or current dispute between the Parties.[[10]](#footnote-10) In addition, the BSEA "can only grant relief that is authorized by these statutes and regulations, which generally encompasses orders for changed or additional services, specific placements, additional evaluations, reimbursement for services obtained privately by parents or compensatory services."[[11]](#footnote-11)

1. *Application of Legal Standards:*

Taking as true the allegations in the complaint, as well as such inferences as may be drawn therefrom in the District’s favor,[[12]](#footnote-12) I find that the District has asserted “[f]actual allegations [that are enough to raise a right to relief above the speculative level.”[[13]](#footnote-13) Specifically, the complaint articulates a viable claim concerning whether the Student is currently being provided with a FAPE in his existing placement, an issue squarely within the jurisdiction of the BSEA. To the extent that Parents dispute the factual assertions raised by the District, such disagreement underscores the existence of material factual issues that cannot be resolved on a motion to dismiss. Rather, these issues must be addressed through an evidentiary hearing on the merits.

**V. ORDER:**

Parents’ *Motion to Dismiss* is DENIED.

So Ordered,

/s/ Alina Kantor Nir
Alina Kantor Nir

Date: September 22, 2025

1. Parents in this matter are appearing *pro se.* [↑](#footnote-ref-1)
2. In this Ruling, I take as true “the allegations of the complaint, as well as such inferences as may be drawn therefrom in [the District’s] favor” as I am required to do. *Golchin v. Liberty Mut. Ins. Co.*, 460 Mass. 222, 223 (2011) (internal quotation marks and citations omitted). These facts are subject to revision in future rulings. [↑](#footnote-ref-2)
3. Hearing Officers are bound by the BSEA Hearing Rules for Special Education Appeals (Hearing Rules) and the Standard Rules of Adjudicatory Practice and Procedure, 801 Code Mass Regs 1.01. [↑](#footnote-ref-3)
4. *Iannocchino v. Ford Motor Co.,* 451 Mass. 623, 636 (2008) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 557 (2007)). [↑](#footnote-ref-4)
5. *Blank*, 420 Mass. at 407. [↑](#footnote-ref-5)
6. *Golchin v. Liberty Mut. Ins. Co.*, 460 Mass. 222, 223 (2011) (internal quotation marks and citations omitted). [↑](#footnote-ref-6)
7. See 34 C.F.R. §300.507(a)(1). [↑](#footnote-ref-7)
8. Limited exceptions exist that are not here applicable. [↑](#footnote-ref-8)
9. 603 CMR 28.08(3)(a). [↑](#footnote-ref-9)
10. See *In Re: Student v. Bay Path Reg'l Vocational Tech. High Sch.*, BSEA # 18-05746 (Figueroa, 2018). [↑](#footnote-ref-10)
11. *In Re: Georgetown Pub. Sch*., BSEA #1405352 (Berman, 2014). [↑](#footnote-ref-11)
12. *Blank*, 420 Mass. at 407. [↑](#footnote-ref-12)
13. *Golchin*, 460 Mass. at 223 (2011). [↑](#footnote-ref-13)