**COMMONWEALTH OF MASSACHUSETTS**

**DIVISION OF ADMINISTRATIVE LAW APPEALS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

**In Re**: **Student & Weston Public Schools BSEA #2602235**

**RULING ON THE DISTRICT’S MOTION TO DISMISS**

This matter comes before the Hearing Officer on the Weston Public School District’s (District) *Motion to Dismiss* (*Motion*) filed with the BSEA on September 5, 2025. On September 8, 2025, Parents filed their *Opposition to Weston Public Schools’ Motion to Dismiss* (*Opposition*) as well as a *Supplement to Parent’s (sic) Opposition to Weston Public Schools’ Motion to Dismiss* (*Supplemental Opposition*). Neither party has requested a hearing on the *Motion*. Because neither testimony nor oral argument would advance the Hearing Officer's understanding of the issues involved, this Ruling is issued without hearing, pursuant to Bureau of Special Education Appeals Hearing Rule VII(D).  For the reasons articulated, the *Motion* is **ALLOWED** and Parents’ *Hearing Request* is **dismissed with prejudice**.

**RELEVANT PROCEDURAL HISTORY AND FACTUAL BACKGROUND[[1]](#footnote-1)**

On August 20, 2025, Parents filed a *Hearing Request*[[2]](#footnote-2) on behalf of Student, who is 18 years old and whom they advised has already graduated from the District[[3]](#footnote-3). The *Hearing Request* consisted of a cover letter and an attached document entitled “Hearing Request” separated into sections entitled “Student & Contact Information”, “District Information”, “I. Statement of Facts”, “II. Legal Claims”, and “III. Requested Remedies”. Additionally, at the end Parents included a paragraph pertaining to a “statute of limitations note”.

According to the “Statement of Facts” section of the *Hearing Request* (consisting of 7 numbered paragraphs),Student was a student in the District for the majority of his K-12 education. Prior to March 2023, Parents claim the District overidentified Student’s needs and “placed him in special education classes that were unnecessary and disproportionate to his actual needs”. Parents allege that the District also misclassified Student “culminat[ing] in forcing an out-of-district placement that was unjustified”. According to Parents, Student “could and should have been served within the general education setting with appropriate accommodations and supports”. In March of 2023, when Student was a sophomore, Parents “withdrew [Student] from his IEP”. Student continued to attend school in the District after this time “and ultimately graduated successfully with limited special education services”. Parents contend that the District’s “long-standing classifications, placements, and the outplacement decision were inappropriate, harmful and in violation of [Student’s] rights to a Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE)”.

According to the “Legal Claims” section of the *Hearing Request* Parents are bringing claims for a denial of FAPE and a violation of LRE requirements under the IDEA, as well as a procedural violation claim involving “improper placement decisions without valid reevaluation appropriate parental participation, or prior written notice” and “Section 504/ADA violations” for “wrongful classification and exclusion based on disability.

Parents seek four “Requested Remedies”, to wit: 1) a finding of a violation of Student’s rights under the IDEA “by overidentifying his needs, placing him in unnecessarily restrictive settings, and forcing an unjustified out-of-district placement”; 2) a finding of violations of the “LRE mandate and procedural safeguards”; 3) an order for “appropriate corrective action, including policy and practice changes to prevent wrongful overidentification and outplacement”; and 4) any other appropriate relief.

As for the “statute of limitations note”, Parents assert that that despite their,

“IEP withdrawal [ ] in March 2023, the violations were continuing through graduation. Additionally, the family did not discover until graduation that [Student] required no special education services, rendering this complaint timely under IDEA’s two-year statute of limitations”.

On September 5, 2025, the District filed its *Motion* contending that *Hearing Request’s* allegations of “systemic policy and practice claims and seeking relief in the form of ‘corrective action’ aimed, not at her adult son who has accepted his diploma, but to address the ‘alleged policy and practice’ concerns” are beyond the BSEA’s jurisdiction and must be dismissed. The BSEA also lacks authority to order the District to revise its policies or practices, and the *Hearing Request’s* requested relief is not for Student, directly, but rather improperly seeks findings and orders directing the District to make prospective operational changes. Dismissal is further warranted as all claims and allegations in the *Hearing Request* fall outside the IDEA’s two-year statute of limitations and none of the exceptions to this statute of limitations applies, despite Parents’ contentions. Specifically, Parents’ claim that they did not “discover” Student did not require special education services until his graduation is undermined by Parents’ acknowledgement that they “withdrew [Student] from his IEP” in March 2023.

On September 8, 2025, Parents filed an *Opposition* claiming they are in fact seeking “student-specific relief” consisting of “correction and annotation of [Student’s] educational records to remove inaccurate disability classifications, misplacements, and unjustified outplacement decisions”. Parents claim 20 USC §1415 and 34 CFR §300.507 grant the BSEA jurisdiction to address disputes relating to the “identification evaluation and educational records of a child with a disability” and “record correction is an established remedy within the BSEA’s scope”. Regardless of Student having graduated, the BSEA continues to have jurisdiction over Student’s educational records, under both the IDEA and 603 CMR 23.00 (the Massachusetts Student Records Regulations). Parents also argue that their claims fall within one of the exceptions to the statute of limitations based on the District having allegedly withheld “critical information, including emails, evaluations and the internal investigation report[[4]](#footnote-4)”. Further, Parents request that the District’s strategy, evidenced by the *Motion*,of avoiding addressing the merits of issues and seeking dismissal on technicalities should not be “rewarded”. Parents conclude that they are “entitled to pursue record correction and related relief to remedy the harm caused by Weston’s misclassification and unjustified outplacement of [Student]”.

Also on September 8, 2025, Parents filed a *Supplemental Opposition* arguing that their delay in filing the *Hearing Request* was also due to “fear[ of] retaliation by [the District] because of the way they treated me [(Mother)] and my son throughout this process”. Parents claim this fear is “genuine and reasonable given the district’s prior actions” and ask that the “statute of limitations should not be applied rigidly in this case”.

**LEGAL STANDARDS**

*1. Legal Standard for a Motion to Dismiss.*

Rule XVI(B)(1) and (4) of the *Hearing Rules for Special Education Appeals*and 801 CMR 1.01(7)(g)(3), allows for dismissal of a hearing request if the BSEA lacks jurisdiction over a claim or if a party requesting the hearing fails to state a claim upon which relief can be granted[[5]](#footnote-5). To survive a motion to dismiss, there must exist “factual ‘allegations plausibly suggesting (not merely consistent with)’ an entitlement to relief…”[[6]](#footnote-6).  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”[[7]](#footnote-7).  “Factual allegations must be enough to raise a right to relief above the speculative level... [based] on the assumption that all the allegations in the [hearing request] (even if doubtful in fact)”[[8]](#footnote-8).

Motions to dismiss should be approached with caution, particularly when, as in the instant matter, the party filing the matter is *pro se[[9]](#footnote-9)*. This principle aligns with “[o]ur judicial system [, which] zealously guards the attempts of *pro se* litigants on their own behalf” while not ignoring the need for compliance with procedural and substantive law[[10]](#footnote-10). However, even in such cases, “[w]hile ‘a trial judge is to employ less stringent standards in assessing *pro se* pleadings ... than would be used to judge the final product of lawyers,’ this leniency does not permit the district court to act as counsel for a party or to rewrite deficient pleadings”[[11]](#footnote-11).

*2. Jurisdiction of BSEA and the Notice Pleading Standard*

The BSEA is not an agency of general jurisdiction, it is limited to considering “only those claims for which enabling statutes and regulations expressly grant authority”[[12]](#footnote-12). 20 USC §1415(b)(6) grants parties the right to file timely complaints (with the state educational agency designated to hear same) “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”[[13]](#footnote-13). Similarly, M.G.L. c. 71B §2A, establishing the BSEA, authorizes it to resolve special education disputes concerning,

“…(i) any matter relating to the identification, evaluation, education program or educational placement of a child with a disability or the provision of a [FAPE] to the child arising under this chapter and regulations promulgated hereunder or under the [IDEA], 20 U.S.C. [§]1400 et seq., and its regulations; or (ii) a student's rights under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. [§]794, and its regulations”[[14]](#footnote-14).

Consistent with the FRCP, hearing requests filed under the IDEA need only consist of “notice pleadings”, i.e., sufficient so as to provide fair notice to the opposing party of the nature of the dispute[[15]](#footnote-15). However, “[w]hile …. detailed factual allegations” are not necessary, “… a [Parent and Student’s] obligation to provide the ‘grounds’ of [their] ‘entitle[ment] to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do”[[16]](#footnote-16).

3. *Statute of Limitations Applicable to BSEA Hearings.*

Due process proceedings brought under the IDEA must be commenced within two years of the date that a party knew or should have known of the actions forming the basis of its hearing request[[17]](#footnote-17). The only exceptions to this two-year limitation period are if a parent or student is prevented from filing a hearing request because of “(i) specific misrepresentations by the [district] that it had resolved the problem forming the basis of the complaint; or (ii) the [district]’s withholding of information from the parent [or student] that was required under [the IDEA] to be provided to the parent”[[18]](#footnote-18).

It is in the context of this legal authority that I address the *Motion*.

**APPLICATION OF LEGAL STANDARDS**

After reviewing the *Hearing Request* in the light most favorable to Parents (and Student), and as I am required to do, I find that it does not contain any claims which can proceed to a hearing on the merits, and thus this *Hearing Request* must be dismissed with prejudice. Parents’ claims in the *Hearing Request*, even viewing them deferentially in light of Parents’ *pro se* status, all appear to pertain to allegations of overidentification, misclassification, and provision of a greater amount of special education services, supports and accommodations than Student required that “culminated” in an out-of-district placement Parents do not believe was appropriate. These allegations all arose prior to Parents’ decision in March 2023 to “withdraw [Student] from his IEP”. The District argues that these claims must, therefore, be dismissed, as being beyond the two-year statutory limitation period. Parents dispute dismissal on this basis, arguing that an exception to the two-year statutory limitation period applies.

Specifically, Parents contend that they did not discover their claims until Student had successfully graduated. They also claim in their *Opposition* (without any more context), that the District did not provide them with “emails, evaluations and an internal investigation report”. Finally, they claim in their *Supplemental Opposition* that they had “genuine and reasonable” fear of retaliation in delaying the filing of their due process claims that justifies not applying the statute of limitations “rigidly”.

Parents’ *pro* se status requires leniency in assessment of their pleadings, and that has been afforded here. However, *pro se* status does not require leniency in application of the law to their pleadings. Statues of limitations are applied strictly and bar the pursuit of legal claims outside their timeframe, unless an identified exception exists[[19]](#footnote-19). The IDEA grants only two exceptions to its established two-year statute of limitations - if a parent or student is *prevented from filing a hearing request* because of “(i) specific misrepresentations by the [district] that it had resolved the problem forming the basis of the complaint; or (ii) the [district]’s withholding of information from the parent [or student] that was required under [the IDEA] to be provided to the parent”[[20]](#footnote-20) (emphasis added). None of Parents’ arguments address the first exception. While Parents claim that they did not receive emails, evaluations or an internal investigation report appears to relate to the second exception, only evaluations, arguably, are required by the IDEA to be provided to a parent. However, none of the claims in the *Hearing Request* relates in any way to Parents not being provided with evaluations that the District was required to provide to them pursuant to the IDEA, nor to how not receiving alleged missing evaluations prevented Parents from filing their *Hearing Request*. Moreover, given that Parents acknowledge that in March 2023 they removed Student from receiving any of the IEP services and supports that they contend he did not need, I agree with the District that this evidences that more than two years before filing the *Hearing Request* they “… knew or should have known of the actions forming the basis” of these claims[[21]](#footnote-21). Thus, all claims in the Hearing Request prior to August 25, 2023[[22]](#footnote-22) are hereby **dismissed with prejudice**.

Turning to the remainder of the *Hearing Request*, I do not find anything contained there, even considering Parents’ *pro se* status, to involve sufficiently pled, timely allegations within my jurisdiction[[23]](#footnote-23). Despite asserting they are bringing claims for a denial of “FAPE” and violations of “LRE” requirements under the IDEA, Parents do not provide any specificity, date (after August 25, 2023) or contextual information pertaining to these claims. Thus, this language in the *Hearing Request* can, at best, only be considered “labels and conclusions” for anything after August 25, 2023, and cannot survive a motion to dismiss[[24]](#footnote-24).

Parents also request (albeit only the *Opposition* and not in the *Hearing Request* per se)“correction and annotation” of Students’ educational records. While student records are protected by both federal and state laws and regulations[[25]](#footnote-25) and FERPA’s confidentiality provisions are specifically incorporated into the IDEA[[26]](#footnote-26), this does not mean that every student record violation claim is within the jurisdiction of the BSEA. Contrary to Parents’ contention, the BSEA does not have any authority to require corrections or changes to educational records as is sought. Rather, Parents must pursue these requests in the appropriate forums[[27]](#footnote-27).

The only arguable claim that the *Hearing Request* appears to make that falls within the BSEA’s jurisdiction and contains sufficient specificity to meet the “notice pleading” standard, is the claim for procedural violations involving “improper placement decisions without valid reevaluation, appropriate parental participation, or prior written notice.” However, no date or timeframe is attached to this claim and considering this claim in the context of the entire *Hearing Request*, particularly Parents’ acknowledgment that they removed student “from his IEP” in March 2023, this claim can only be understood to pertain to the disputes that occurred prior to August 25, 2023[[28]](#footnote-28). Since both the state and federal special education laws prohibit school districts from challenging a parent’s decision to remove a student from special education services[[29]](#footnote-29), claims that pertain to “improper placements” could not conceivably have occurred after March 2023 and are thus untimely.

Having therefore determined that even given a deferential and liberal reading of the *Hearing Request* no timely allegations within my jurisdiction are made, the remainder of the *Hearing Request* is also **dismissed with prejudice**.

**ORDER**

The District’s *Motion* is **ALLOWED** as to all claims in the *Hearing Request* this matter is hereby **DISMISSED with prejudice**and all events, including the Conference Call on September 15, 2025 and the Hearing on September 30, 2025 will not go forward.

By the Hearing Officer,

/s/ Marguerite M. Mitchell
Marguerite M. Mitchell

Date: September 10, 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 for review in the state superior court of competent jurisdiction or in the District Court of the United States for Massachusetts. 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. The factual statements contained herein are taken as true for purposes of this *Ruling* only. [↑](#footnote-ref-1)
2. Parents sent a copy of the *Hearing Request* to the District on August 25, 2025 and a *Recalculated Notice of Hearing* was issued scheduling this matter for a Hearing on September 30, 2025. [↑](#footnote-ref-2)
3. Parents do not provide any information as to educational decision-making authority they may have on behalf of Student, and it is unclear what authority Parents rely on to bring their claims on behalf of Student. See *In Re: Lincoln-Sudbury Public Schools* BSEA No. 11-2546, 16 MSER 424 (Figueroa, 2010) (concluding that under 20 USC §1415(m) and 603 CMR 28.01(15) educational decision making and other related rights transfers to a student when she turns eighteen. “The plain meaning of the statute and the statutory intent is to transfer educational decision-making to students at the age of majority with few exceptions, none of which has been established by Parents in the instant case. As such, Parents lack standing to request a hearing on Student's behalf. Only Student has standing to request a hearing at this time”). Although, in the instant case, this lack of standing provides grounds in and of itself for dismissal without prejudice, it was not raised by the District. I therefore address the District’s arguments for dismissal with prejudice first. [↑](#footnote-ref-3)
4. Although not a part of the *Hearing Request*, Parents rely on a Ruling issued by the Supervisor of Records of the Commonwealth of Massachusetts, Public Records Division regarding a public records request Mother made of the District to support this claim. The records sought involve emails and communications and an internal investigation report. The Ruling redacts any identifiable information so there is no evidence that it relates in any way to Student. Moreover, contrary to Parents’ assertion, the Ruling does not find the District has “improperly attempted to withhold documents confirming this pattern”. Rather, the Ruling concludes the District properly asserted an exemption to the public records law justifying it not producing any of the requested emails or communications, and that the District must provide additional information about its asserted exemption to not producing the internal investigation report. [↑](#footnote-ref-4)
5. As these rules/regulations are analogous to Rule 12(b)(6) of the Federal and Massachusetts Rules of Civil Procedure (FRCP and MRCP, respectively), hearing officers are generally guided by federal court decisions in deciding such motions. [↑](#footnote-ref-5)
6. *Iannocchino v. Ford Motor Co.*, 451 Mass. 623, 636 (2008) quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 557 (2007). [↑](#footnote-ref-6)
7. *Blank v. Chelmsford Ob/Gyn, P.C.*, 420 Mass. 404, 407 (1995). [↑](#footnote-ref-7)
8. *Iannocchino* 451 Mass. at 636 (quoting *Bell Atl. Corp.*, 550 U.S. at 555); see *Ocasio-Hernandez v. Fortuno-Burset*, 640 F.3d 1, 12 (1st Cir. 2011). [↑](#footnote-ref-8)
9. *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (allegations contained in a hearing request are to be held to “less stringent standards than formal pleadings drafted by lawyers”); *Ahmed v. Rosenblatt*, 118 F.3d 886, 890 (1st Cir. 1997) (“The policy behind affording pro se plaintiffs liberal interpretation [of their hearing request] is that if they present sufficient facts [to state a claim], the court may intuit the correct cause of action, even if it was imperfectly pled”); *In Re: Springfield Pub. Schs.*, BSEA No. 2203555, 22 MSER 109, (Berman, 2022); see *In Re: Easthampton Pub. Sch.*, BSEA No. 2203513, 28 MSER 35, (Kantor Nir, 2022). [↑](#footnote-ref-9)
10. *Ahmed*, 118 F.3d at 890. [↑](#footnote-ref-10)
11. *Lampkin-Asam v. Volusia Cnty. Sch. Bd.*, 261 F.App'x 274, 276–77 (11th Cir. 2008) quoting *Hepperle v. Johnston,* 544 F.2d 201, 202 (5th Cir.1976). [↑](#footnote-ref-11)
12. *In Re: Springfield Pub. Schs.*, BSEA No. 2203555, 28 MSER 111 (Berman, 2022) citing *Globe Newspaper Co. v. Beacon Hill Architectural Comm.*, 421 Mass. 570, 586 (1996) (“Any judicial review of agency action embodies the principle that an agency has no inherent authority beyond its enabling act and therefore it may do nothing that contradicts such legislation”); see 20 U.S.C. §1400 *et. seq*; M.G.L. 71B; 29 U.S.C. §794; *In Re: Student & Quincy Pub. Sch. and Dept. of Elementary and Secondary Education,* BSEA No. 2408249, 30 MSER 176 (Mitchell, 2024); *In Re: Holyoke Pub. Sch. and Jay*, BSEA No. 1800619, 24 MSER 20 (Oliver, 2018). [↑](#footnote-ref-12)
13. See 34 CFR 300.507(a)(1). [↑](#footnote-ref-13)
14. See 603 CMR 28.08(3)(a) (providing for the BSEA to hear “… any matter concerning the eligibility, evaluation, placement, IEP, provision of special education in accordance with state and federal law or the procedural protections of state and federal law for students with disabilities”) [↑](#footnote-ref-14)
15. *Bell Atl. Corp.*, 550 U.S. at 555; see FRCP 8(a), “*Claim for Relief.* A pleading that states a claim for relief must contain: … (2)a short and plain statement of the claim showing that the pleader is entitled to relief….”; see 20 USC 1415(7)(ii) setting forth the requirements for a due process complaint under the IDEA. The only substantive requirements consist of “a description of the nature of the problem of the child relating to such proposed initiation or change, *including facts relating to such problem*” and “a proposed resolution of the problem to the extent known and available to the party at the time” (emphasis added). [↑](#footnote-ref-15)
16. *Id*., citing *Papasan v. Allain,* 478 U.S. 265, 286, (1986). [↑](#footnote-ref-16)
17. 20 USC 1415(f)(3)(C); 34 CFR 300.507(a)(2); 34 CFR 300.511(e). Massachusetts does not have a different limitation period for special education due process proceedings. [↑](#footnote-ref-17)
18. 20 USC 1415(f)(3)(D); 34 CFR 300.511(f). [↑](#footnote-ref-18)
19. See *Vogel v. Linde,* 23 F.3d 78, 80 (4th Cir.1994) (“The black-letter rule ... is that a statute of limitations runs against all persons unless the statute expressly provides otherwise”) (internal quotations omitted); *Saltares v. Hosp. San Pablo Inc.*, 371 F. Supp.2d 28, 33 (D.P.R. 2005) (“Federal statutes of limitations should be strictly construed absent any express tolling exception or any other exception”) quoting *Dickey v. Baptist Mem'l Hosp.-N. Miss.*, 1996 WL 408879, at \*1 (N.D. Miss. June 27, 1996) (unpublished opinion). [↑](#footnote-ref-19)
20. 20 USC 1415(f)(3)(D); 34 CFR 300.511(f). [↑](#footnote-ref-20)
21. 20 USC 1415(f)(3)(C); 34 CFR 300.507(a)(2); 34 CFR 300.511(e). Massachusetts does not have a different limitation period for special education due process proceedings. [↑](#footnote-ref-21)
22. This is the date Parents provided the District with a copy of the *Hearing Request* and is controlling for statute of limitations purposes. [↑](#footnote-ref-22)
23. Although the District argues that Parents also improperly bring systemic claims, or claims not specific to Student, I do not read the *Hearing Request* this way. However, to the extent the *Hearing Request* is attempting to bring claims that are not specific to Student, they too are dismissed as beyond the BSEA’s jurisdiction. *In Re: Holyoke Pub. Schools and Jay*, BSEA #1800619, 24 MSER 20 (Ruling, Oliver, 2018); *In Re: Springfield Pub. Schools*, BSEA #1309716,19 MSER 294 (Ruling, Oliver, 2013); see *In Re: Student & Quincy & DESE,* BSEA No. 2408249. [↑](#footnote-ref-23)
24. *Bell Atl. Corp.,* 550 U.S. at 555 citing [*Papasan,* 478 U.S. at 286](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1986133831&pubNum=0000708&originatingDoc=Ib53eb62e07a011dcb035bac3a32ef289&refType=RP&originationContext=document&transitionType=DocumentItem&ppcid=2fce1817b5564e5d8c182dbd120371cc&contextData=(sc.UserEnteredCitation)). [↑](#footnote-ref-24)
25. In the federal law, these rights are protected by the Family Education Rights and Privacy Act (FERPA) 20 USC 1232(g); 34 CFR Part 99. In Massachusetts, student records are protected by M.G.L. c. 71 §34D; 603 CMR 23.00; see M.G.L. c. 71 §34F. [↑](#footnote-ref-25)
26. 20 USC 1417(c); see 20 USC 1412(a)(8). [↑](#footnote-ref-26)
27. See 34 CFR 99.63; *Frazier v. Fairhaven Sch. Comm*., 276 F.3d 52, 69, holding that there is no private right of action under FERPA, but recognizing that FERPA provides “… parents and students [the option to] file written complaints through [its] administrative machinery”; 603 CMR 23.09 addressing the process for challenging violations of the Massachusetts student record laws. [↑](#footnote-ref-27)
28. Nothing in the *Hearing Request* alleges the District acted improperly in response to Parents’ March 2023 decision, either. [↑](#footnote-ref-28)
29. 34 CFR 300.300(b)(4) (“If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public agency - (i) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with § 300.503 before ceasing the provision of special education and related services; (ii) May not use the procedures in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child; (iii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and (iv) Is not required to convene an IEP Team meeting or develop an IEP under §§ 300.320 and 300.324 for the child for further provision of special education and related services”); 603 CMR 28.07(1)(a)(4). [↑](#footnote-ref-29)