



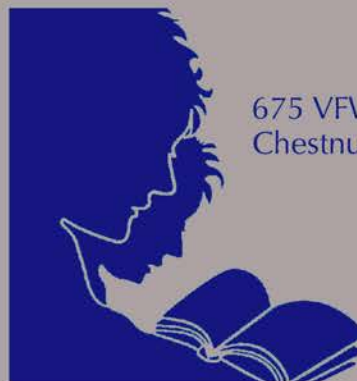
Massachusetts Special Education Reporter

AN ANNOTATED INDEX
VOLUME 1 - VOLUME 30
1995-2024

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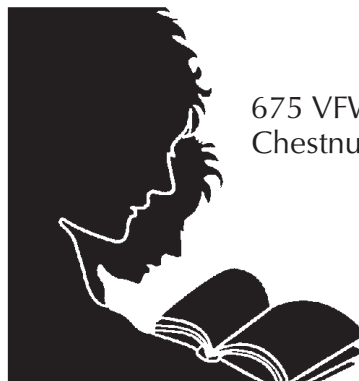
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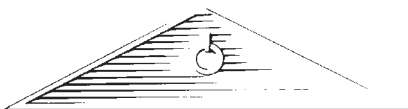


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COMMENTARY BY

Kotin, Crabtree & Strong

Murphy, Lamere & Murphy, P.C.



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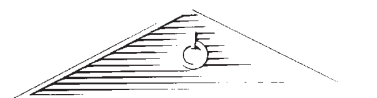
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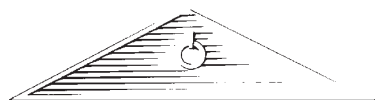
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Note: In an effort to preserve the privacy of appellants, the BSEA revised its reporting procedure in mid-1997 to eliminate all references to appellant's proper names. Decisions before that time can be found under appellants' names (e.g. Mary B), while decisions subsequent to that time are found under the school or school district (e.g. Boston Public Schools).

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Concord Public Schools (Decision)	10-2961	January 8, 2010	16 MSER 1 (2010)
Concord Public Schools (Ruling on Motion for Stay Put)	11-0594	September 9, 2010	16 MSER 337 (2010)
Concord Public Schools (Ruling on Motion for Recusal of Hearing Officer)	11-8996	July 7, 2011	17 MSER 183 (2011)
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Concord Public Schools (Corrected Ruling on Mother's Request for "Stay Put" Order)	18-00182	August 28, 2017	23 MSER 210 (2017)
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Concord Public Schools (Ruling on Concord Public Schools' Motion to Dismiss)	21-12178	October 18, 2021	27 MSER 434 (2021)

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Daniel H. (Decision)	94-1359	April 11, 1995	1 MSER 42 (1995)
Danielle P. (Decision)	95-1461	January 31, 1995	1 MSER 10 (1995)
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Dennis-Yarmouth Regional School District (Decision)	03-4733	December 19, 2003	9 MSER 389 (2003)
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Hampden-Wilbraham Regional School District (Ruling on Hampden Wilbraham Regional School District's Motion to Dismiss)	17-10699	October 13, 2017	23 MSER 172 (2017)
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Jared H. (Ruling on Holliston's Motion for Joinder of Lexington Psychological and Educational Resources and the Motion in Opposition to the Joinder).	95-1762	January 12, 1996	2 MSER 99 (1996)
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Maple School District (Ruling on Maple School District's Motion to Dismiss)	12-7653	January 23, 2013	19 MSER 64 (2013)
Mapletown Public Schools (Decision)	14-06097	May 2, 2014	20 MSER 84 (2014)
Marblehead Public Schools (Decision)	98-3260	September 2, 1998	4 MSER 127 (1998)
Marblehead Public Schools (Decision on Motion to Dismiss Parents' Appeal)	00-1620	July 31, 2001	7 MSER 176 (2001)
Marblehead Public Schools (Ruling on Motion for Disqualification or Recusal)	02-2828	March 19, 2002	8 MSER 84 (2002)
Marblehead Public Schools (Decision)	07-4615	February 11, 2008	14 MSER 39 (2008)
Marblehead Public Schools (Decision)	12-3975	August 31, 2012	18 MSER 311 (2012)
Marblehead Public Schools (Ruling on Marblehead's Motion for Partial Summary Judgment)	14-06301	April 25, 2014	20 MSER 79 (2014)
Marissa B. (Decision)	96-3546	September 6, 1996	2 MSER 101 (1996)
Mark D. (Decision)	96-1430	April 26, 1996	2 MSER 40 (1996)
Marlborough Public Schools (Ruling on Motion to Enforce "Stay Put")	09-2610	March 23, 2009	15 MSER 110 (2009)
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Marlborough Public Schools (Decision)	10-1450	December 11, 2009	15 MSER 381 (2009)
Marlborough Public Schools (Ruling on Marlborough Public Schools' Partial Motion to Dismiss)	11-3650	January 21, 2011	17 MSER 199 (2011)
Marlborough Public Schools (Decision)	11-3650	July 29, 2011	17 MSER 201 (2011)
Marlborough Public Schools (Ruling on School's Motion for Summary Judgment)	16-01297	May 17, 2016	22 MSER 75 (2016)
Marshfield Public Schools (Decision)	06-4949	August 9, 2006	12 MSER 218 (2006)
Marshfield Public Schools (Decision)	07-1052	May 15, 2007	13 MSER 238 (2007)
Marshfield Public Schools (Ruling on Marshfield Public Schools' Motion for Summary Judgment)	18-03420	September 4, 2018	24 MSER 201 (2018)
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Marshfield Public Schools (Ruling on Marshfield Public Schools' Motion to Dismiss/Motion for Summary Judgment)	22-09242	May 13, 2022	28 MSER 93 (2022)
Marshfield Public Schools (Ruling on Parent's Notice/Motion)	22-09242	June 3, 2022	28 MSER 141 (2022)
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Marshfield Public Schools (Ruling on Marshfield Public Schools' Motion to Dismiss)	23-05747	March 14, 2023	29 MSER 56 (2023)
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Martha's Vineyard Public Schools (Ruling on Motion for Summary Judgment)	12-7661	July 12, 2012	18 MSER 229 (2012)
Martha's Vineyard Public Schools (Decision)	13-04032	July 16, 2013	19 MSER 204 (2013)
Masconomet Regional School District (Ruling on the Motion of Middleton Public Schools to Dismiss)	07-7324	November 27, 2007	13 MSER 363 (2007)
Masconomet Regional School District (Ruling on School's Motion to Dismiss Parents' Appeal)	11-2194	November 15, 2010	16 MSER 408 (2010)
Masconomet Regional School District (Ruling on Motions for Summary Judgment)	13-02754	January 22, 2013	19 MSER 9 (2013)
Masconomet Regional School District (Ruling on School's Motion to Dismiss)	14-08394	October 10, 2014	20 MSER 215 (2014)
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Mashpee Public Schools (Decision)	09-6375	September 24, 2009	15 MSER 305 (2009)
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Massachusetts Department of Elementary and Secondary Education (Ruling on the Department of Elementary and Secondary Education's Motion to Dismiss)	23-09949	May 11, 2023	29 MSER 210 (2023)
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Maynard Public Schools (Decision)	10-6645	June 15, 2010	16 MSER 206 (2010)
Maynard Public Schools (Ruling on School's Motion to Dismiss Appeal)	16-09990	August 8, 2016	22 MSER 152 (2016)
Maynard Public Schools (Decision)	19-00813	February 27, 2019	25 MSER 22 (2019)
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Medfield Public Schools (Decision)	04-0706	October 12, 2004	10 MSER 453 (2004)
Medfield Public Schools (Decision)	07-7260	December 5, 2007	13 MSER 365 (2007)
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Medford Public Schools (Decision)	98-1166	March 16, 1998	4 MSER 29 (1998)
Medford Public Schools (Decision)	99-3777	August 10, 2000	6 MSER 62 (2000)
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Medford Public Schools (Decision)	02-1855	November 15, 2002	8 MSER 367 (2002)
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Medford Public Schools (Decision)	10-6258	May 26, 2010	16 MSER 191 (2010)
Medford Public Schools (Decision)	10-6403	August 23, 2010	16 MSER 289 (2010)
Medford Public Schools (Decision)	13-0006	December 6, 2012	19 MSER 35 (2013)
Medford Public Schools (Ruling on Parents' Motion for Interim Placement)	16-10177	September 16, 2016	22 MSER 179 (2016)
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Melrose Public Schools (Ruling)	07-4987	March 13, 2007	13 MSER 70 (2007)
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Melrose Public Schools (Ruling on Melrose Public Schools' Motion to Dismiss)	22-05685	September 16, 2022	28 MSER 245 (2022)
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Middleborough Public Schools (Decision)	03-2915	August 7, 2003	9 MSER 244 (2003)
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Middleton Public Schools (Ruling on Middleton Public Schools' Motion for Summary Judgment)	19-09931	May 24, 2019	25 MSER 86 (2019)
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Nashoba Regional School District (Ruling on Request for Partial Summary Judgment)	03-0860	October 9, 2003	9 MSER 343 (2003)
Nashoba Regional School District (Rulings Regarding Motion for Protective Order Regarding Privileged Documents, Motion to Compel Production of Discovery and Sanctions, Hearing Schedule)	03-0860	November 12, 2003	10 MSER 98 (2004)
Nashoba Valley Technical School District (Ruling on Nashoba's Motion to Dismiss)	08-3193	July 30, 2008	14 MSER 235 (2008)
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Needham Public Schools (Decision)	07-2282	March 6, 2007	13 MSER 54 (2007)
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Newton Public Schools (Ruling on Motion for Summary Judgment)	18-10148	August 23, 2018	24 MSER 161 (2018)
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Newton Public Schools (Ruling on Newton Public Schools' Motion to Limit the Scope of Discovery)	20-10632	September 2, 2020	26 MSER 152 (2020)
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Norfolk Public Schools (Decision)	97-3733	July 29, 1997	3 MSER 124 (1997)
Norfolk County Agricultural High School (Ruling on Motion to Dismiss of Norfolk County Agricultural High School and Parents' Motion for Summary Judgment)	06-0390	December 28, 2005	11 MSER 233 (2005)
Norfolk Public Schools (Decision)	07-1421	October 27, 2006	12 MSER 296 (2006)
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North Middlesex Regional School District (Decision)	99-2985	May 24, 1999	5 MSER 51 (1999)
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North Andover Public Schools (Decision Based on Written Submissions Pursuant to Rule XI of the Hearing Rules for Special Education Appeals)	24-00238	October 6, 2023.	29 MSER 348 (2023)
North Andover Public Schools (Ruling on Motion to Dismiss of Virginia Beach City Public Schools)	24-00238	August 18, 2023	29 MSER 270 (2023)
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North Attleboro Public Schools (Ruling on Multiple Motions and Requests for Pre-Hearing Order)	23-08812	June 27, 2023	29 MSER 198 (2023)
North Attleboro Public Schools (Ruling on Parent's Request for an Open Hearing)	23-08812	June 29, 2023	29 MSER 196 (2023)
North Attleboro Public Schools (Decision)	24-00326	September 8, 2023	29 MSER 306 (2023)
North Attleboro Public Schools (Ruling on North Attleboro's Motion to Order Compliance with Decision)	24-00326-C	October 19, 2023.	29 MSER 360 (2023)
North Attleboro Public Schools (Ruling on Parent's Multiple Motions and Other Orders)	24-00326	July 28, 2023	29 MSER 218 (2023)
North Middlesex Regional School District (Decision)	98-1924	June 26, 1998	4 MSER 117 (1998)
North Middlesex Regional School District (Ruling on the Department of Children and Families' Motion to be Dismissed as a Party)	16-12096	August 15, 2016	22 MSER 156 (2016)
North Middlesex Regional School District (Ruling on North Middlesex Regional School District's Partial Motion to Dismiss)	20-01219	August 8, 2019	25 MSER 169 (2019)
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North Middlesex Regional School District (Ruling on Parents' Motion to Enforce Stay-Put and Parents' Motion to Waive Oral Arguments)	24-00589	July 31, 2023	29 MSER 221 (2023)
North Reading Public Schools (Decision on Motion to Join the Massachusetts Department of Mental Health)	04-3615	May 27, 2004.	10 MSER 396 (2004)
North Reading Public Schools (Decision)	05-2109	May 6, 2005.	11 MSER 73 (2005)
North Reading Public Schools (Decision)	07-1386	July 6, 2007	13 MSER 260 (2007)
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Northampton Public Schools (Ruling on Motions)	04-0359	December 19, 2003	9 MSER 397 (2003)
Northampton Public Schools (Ruling on Northampton Public Schools' Motion for Stay-Put Order)	09-3451	February 9, 2009.	15 MSER 59 (2009)
Northampton Public Schools (Decision)	10-1393	October 22, 2009.	18 MSER 220 (2012)
Northampton Public Schools (Ruling on Parents' Motion for Interim Placement)	07-2902	September 1, 2010	16 MSER 331 (2010)
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Northampton Public Schools (Decision Based on Written Submissions)	11-7992	July 18, 2011	18 MSER 105 (2012)
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Northborough-Southborough Regional School District (Decision)	19-07008	August 21, 2019	25 MSER 191 (2019)
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Norton Public Schools (Ruling on Parents' Motion for Recusal)	13-06761	May 7, 2013.	19 MSER 229 (2013)
Norton Public Schools (Order)	12-06761	November 12, 2013	19 MSER 304 (2013)
Norton Public Schools (Ruling on Parents' Motions for Stay Put)	15-04277	April 8, 2015	21 MSER 69 (2015)
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Norwood Public Schools (Decision)	03-0391	April 12, 2004	10 MSER 375 (2004)
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Old Rochester Regional School District (Ruling on Old Rochester Regional School District's Motion to Join the Massachusetts Department of Mental Health)	25-02367	September 16, 2024	30 MSER 298 (2024)
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Scott M. (Decision)	94-0952	January 25, 1995	1 MSER 3 (1995)
Scott W. (Decision)	95-2756	October 18, 1995	1 MSER 160 (1995)
Sean D. (Decision)	96-3375	September 20, 1996	2 MSER 186 (1996)
Sebastian K. (Ruling on Parent's Motion to Reopen Hearing)	94-2921	January 24, 1995	1 MSER 2 (1995)
Sebastian K. (Decision)	94-2921	June 12, 1995	1 MSER 96 (1995)
Sebastian K. v. Massachusetts Department of Education (Memorandum and Order)	95-30185 (C.A.)	November 22, 1996	2 MSER 248 (1996)
Seekonk Public Schools (Decision)	00-1318	December 3, 1999	5 MSER 146 (1999)
Seekonk Public Schools (Decision)	04-5076	December 16, 2004	10 MSER 552 (2004)
Sharon Public Schools (Ruling on Parents' Motion to Dismiss)	98-4579	May 27, 1998	4 MSER 91 (1998)
Sharon Public Schools (Decision)	98-4580	August 12, 1998	4 MSER 126 (1998)
Sharon Public Schools (Decision)	98-4579	September 2, 1998	4 MSER 133 (1998)
Sharon Public Schools (Decision)	00-2573	January 21, 2000	6 MSER 9 (2000)
Sharon Public Schools (Decision)	02-1490	February 5, 2002	8 MSER 51 (2002)
Sharon Public Schools (Decision)	03-4311	January 12, 2004	10 MSER 1 (2004)
Sharon Public Schools (Decision)	03-4311	April 20, 2004	10 MSER 164 (2004)
Sharon Public Schools (Decision)	06-1557	September 7, 2006	12 MSER 252 (2006)
Sharon Public Schools (Ruling)	08-4524	March 19, 2008	14 MSER 179 (2008)
Sharon Public Schools (Decision)	08-4524	May 14, 2008	14 MSER 259 (2008)
Sharon Public Schools (Decision)	09-2797	December 17, 2008	14 MSER 411 (2008)
Sharon Public Schools (Decision)	09-3175	December 18, 2008	14 MSER 430 (2008)
Sharon Public Schools (Decision)	16-00749	December 8, 2015	21 MSER 267 (2015)
Sharon Public Schools (Decision)	18-07731	July 23, 2018	24 MSER 123 (2018)
Sharon Public Schools (Ruling on Parents' Mid-Hearing Request for Subpoena Duces Tecum and Sharon Public Schools' Mid-Hearing Request to Amend Witness List)	19-12408	June 23, 2020	26 MSER 119 (2020)
Sharon Public Schools (Decision)	19-12408	September 7, 2020	26 MSER 162 (2020)
Shaun D. (Decision)	96-0377	March 31, 1997	3 MSER 55 (1997)
Shawshen Regional Vocational Technical School (Decision)	01-0805	February 5, 2002	8 MSER 69 (2002)
Shayna W. (Interim Decision)	96-1272	March 4, 1996	2 MSER 19 (1996)
Shrewsbury Public Schools (Decision)	02-2613	June 11, 2003	9 MSER 112 (2003)
Shrewsbury Public Schools (Decision)	07-2709	September 11, 2007	13 MSER 325 (2007)
Shrewsbury Public Schools (Decision)	08-2466	March 12, 2008	14 MSER 68 (2008)
Shrewsbury Public Schools (Decision)	09-4456	July 21, 2009	15 MSER 196 (2009)
Shrewsbury Public Schools (Ruling on Request for Clarification of Legal Standard)	10-1237	February 18, 2010	16 MSER 60 (2010)
Shrewsbury Public Schools (Ruling on "Stay Put" Placement)	13-06803	December 9, 2013	19 MSER 327 (2013)
Shrewsbury Public Schools (Decision)	14-00468	December 26, 2013	19 MSER 312 (2013)
Shrewsbury Public Schools (Decision)	15-08106	November 24, 2015	21 MSER 247 (2015)
Shrewsbury Public Schools (Ruling on Parents' Motion For Compliance)	15-08106C	May 9, 2016	22 MSER 73 (2016)
Shrewsbury Public Schools (Ruling on Motion to Dismiss)	16-10565	August 25, 2016	22 MSER 166 (2016)
Shrewsbury Public Schools (Decision)	16-10565	March 8, 2017	23 MSER 21 (2017)
Shrewsbury Public Schools (Decision)	19-10123	December 9, 2019	25 MSER 255 (2019)
Shrewsbury Public Schools (Decision)	20-00185	January 8, 2021	27 MSER 1 (2021)
Shutesbury Public Schools (Decision)	00-3803	April 24, 2000	6 MSER 131 (2000)
Silver Lake Regional School District (Decision)	01-1370	May 31, 2001	7 MSER 91 (2001)
Silver Lake Regional School District (Ruling on School's Motion to Join Department of Developmental Services)	12-5819	May 14, 2012	18 MSER 186 (2012)
Silver Lake Regional School District (Decision)	18-01959	August 2, 2018	24 MSER 147 (2018)
Smith v. Fitchburg Public Schools (Memorandum and Order)	02-40151 (C.A.)	March 29, 2004	10 MSER 203 (2004)
Somerset Public Schools (Decision Based on Written Submissions)	10-5775	May 10, 2010	16 MSER 199 (2010)
Somerset Public Schools (Decision)	19-02332	November 26, 2018	24 MSER 266 (2018)
South Hadley Public Schools (Ruling on Motions)	00-0041	March 9, 2000	6 MSER 67 (2000)
South Hadley Public Schools (Ruling on Parent's Motion for a Protective Order)	03-1385	January 24, 2003	9 MSER 10 (2003)
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South Hadley Public Schools (Ruling on South Hadley Public Schools' Motion to Dismiss for Lack of Jurisdiction)	23-11287	June 8, 2023	29 MSER 140 (2023)
South Shore Regional Vocational Technical School District (Ruling on Parents' Request for Motion to Join).	21-08266	April 28, 2021	27 MSER 197 (2021)
Southampton Public Schools (Decision)	98-4470	July 7, 1998	4 MSER 119 (1998)
Southampton Public Schools (Decision)	03-0542	September 8, 2003	9 MSER 305 (2003)
Southbridge Public Schools (Corrected Ruling on Department of Mental Health's Motion to Dismiss for Failure to State a Claim upon which Relief Can Be Granted)	25-02501	September 6, 2024	30 MSER 274 (2024)
Southbridge Public Schools (Ruling on Southbridge Public Schools' Motion for Expedited Discover)	25-02501	September 11, 2024	30 MSER 292 (2024)
Southern Berkshire Regional School District (Ruling on Motion to Join).	03-2013	April 15, 2003	9 MSER 62 (2003)
Southern Berkshire Regional School District (Decision)	03-2013	June 17, 2003	9 MSER 143 (2003)
Southwick-Tolland Regional School District (Decision)	06-6583	October 26, 2006	12 MSER 279 (2006)
Southwick-Tolland Regional School District (Ruling on Parents' Motion for an Impartial Hearing Officer)	16-07800	October 11, 2016	22 MSER 220 (2016)
Springfield Public Schools (Decision)	04-4706	January 18, 2005	11 MSER 1 (2005)
Springfield Public Schools (Ruling on Parents' Motion for Default Judgment and Order to Stay Put)	06-1175	January 3, 2006	12 MSER 1 (2006)
Springfield Public Schools (Decision)	06-1175	October 5, 2006	12 MSER 299 (2006)
Springfield Public Schools (Ruling on Parent's Motion for Summary Judgment)	06-4908	October 17, 2006	12 MSER 303 (2006)
Springfield Public Schools (Decision)	07-2498	February 23, 2007	13 MSER 42 (2007)
Springfield Public Schools (Decision)	07-4675	August 9, 2007	13 MSER 298 (2007)
Springfield Public Schools (Ruling on Springfield Public Schools' Motion to Dismiss and Educational Surrogate Parent's Motion for Summary Judgment)	08-3378	April 28, 2008	14 MSER 98 (2008)
Springfield Public Schools (Decision)	08-3309	June 2, 2008	14 MSER 197 (2008)
Springfield Public Schools (Decision)	06-4908	June 18, 2008	14 MSER 149 (2008)
Springfield Public Schools (Decision)	08-3061	June 19, 2008	14 MSER 205 (2008)
Springfield Public Schools (Decision)	08-4873	September 19, 2008	14 MSER 300 (2008)
Springfield Public Schools (Ruling on Parties' Cross Motions for Summary Judgment)	08-4171	October 8, 2008	14 MSER 334 (2008)
Springfield Public Schools (Ruling on Parent's Motion for Protective Order)	09-2701	April 7, 2009	15 MSER 109 (2009)
Springfield Public Schools (Ruling)	09-5976	June 3, 2009	15 MSER 144 (2009)
Springfield Public Schools (Decision)	09-5043	July 6, 2009	15 MSER 173 (2009)
Springfield Public Schools (Decision)	10-7467	November 9, 2010	16 MSER 385 (2010)
Springfield Public Schools (Ruling on Motions to Dismiss)	11-4290	April 12, 2011	17 MSER 81 (2011)
Springfield Public Schools (Decision)	11-0868	July 5, 2011	17 MSER 175 (2011)
Springfield Public Schools (Ruling on School's Motion to Dismiss)	12-0781	November 26, 2012	18 MSER 373 (2012)
Springfield Public Schools (Ruling on Springfield Public Schools' Motion to Dismiss)	13-09716	October 15, 2013	19 MSER 294 (2013)
Springfield Public Schools (Ruling on Partial Motion to Dismiss)	14-04388	February 26, 2014	20 MSER 37 (2014)
Springfield Public Schools (Decision)	13-09716	March 27, 2014	20 MSER 62 (2014)
Springfield Public Schools (Decision)	17-02629	November 9, 2016	22 MSER 233 (2016)
Springfield Public Schools (Ruling on Springfield Public Schools' Partial Motion to Dismiss)	20-04776	February 26, 2020	26 MSER 62 (2020)
Springfield Public Schools (Ruling on Springfield Public Schools' Motion to Postpone)	20-07894	April 10, 2020	26 MSER 76 (2020)
Springfield Public Schools (Decision)	19-07864	April 15, 2020	26 MSER 78 (2020)
Springfield Public Schools (Ruling on Multiple Motions)	20-07894	May 28, 2020	26 MSER 102 (2020)
Springfield Public Schools (Second Ruling on Multiple Motions)	20-07894	June 11, 2020	26 MSER 106 (2020)
Springfield Public Schools (Ruling on Springfield Public Schools' Second Motion to Postpone)	20-07894	June 11, 2020	26 MSER 110 (2020)
Springfield Public Schools (Ruling on Parent's Motion for District to Produce Teachers and Pay Them Per Diem Rate for Hearing and Parent's Urgent Matter of Discovery/Request for Sanctions)	20-07894	July 2, 2020	26 MSER 133 (2020)
Springfield Public Schools (Ruling on Parent's Motion for Sequestration of Witnesses)	20-07894	July 24, 2020	26 MSER 135 (2020)
Springfield Public Schools (Decision)	20-07894	November 10, 2020	26 MSER 275 (2020)
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Springfield Public Schools (Second Ruling on Parent Motion for a Public Hearing)	21-02164	January 29, 2021	27 MSER 56 (2021)
Springfield Public Schools (Ruling on Parent's Motion for Recusal)	21-02164	February 16, 2021	27 MSER 76 (2021)
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Springfield Public Schools (Ruling on Motions for Eight Items of Relief)	22-03555	February 23, 2022	28 MSER 29 (2022)
Springfield Public Schools (Ruling on Parent's Motion for Sanctions for Resolution Meeting Violations)	22-08440	May 13, 2022	28 MSER 91 (2022)
Springfield Public Schools (Ruling on Parent's Motion to Bar District from Submitting Late Response, Motion to Dismiss and Request for Reconsideration in Resolution Meeting Violation)	22-03555	May 25, 2022	28 MSER 109 (2022)

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Springfield Public Schools (Ruling on Motion to Dismiss of Springfield Public Schools)	22-03555	September 19, 2022	28 MSER 247 (2022)
Springfield Public Schools (Ruling on Springfield Public Schools' Motion to Dismiss)	22-08440	September 21, 2022	28 MSER 250 (2022)
Springfield Public Schools (Ruling on Springfield Public Schools' Motion to Postpone Hearing and Parent's Motion for Sanctions)	22-08440	September 22, 2022	28 MSER 254 (2022)
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Springfield Public Schools (Ruling on Parent's Motion to Compel Discovery and Parent's Request for Clarification and Order for Evidence)	22-08440	October 24, 2022	28 MSER 300 (2022)
Springfield Public Schools (Ruling on Parent's Motion to Compel and Motion for Sanctions)	22-08440	October 27, 2022	28 MSER 302 (2022)
Springfield Public Schools (Ruling on Parent's Motion for Sanctions for District's Providing False Statements to Hearing Officer Regarding Dr. Mary Ann Morris's Employment Prejudicing Parent's Hearing)	22-03555	October 28, 2022	28 MSER 306 (2022)
Springfield Public Schools (Ruling on Springfield Public Schools' Motion for Protective Order Filed on June 10, 2022)	22-03555	November 1, 2022	28 MSER 338 (2022)
Springfield Public Schools (Ruling on Parent's Oral Motion for Paraprofessional during Pendency of Dispute)	22-08440	November 4, 2022	28 MSER 317 (2022)
Springfield Public Schools (Ruling on Springfield Public Schools' Motion for Protective Order Filed on July 28, 2022 and Parent's Motion to Compel and for Other Relief Filed on August 3, 2022)	22-03555	November 8, 2022	28 MSER 356 (2022)
Springfield Public Schools (Ruling on Parent's Motion to Produce Unredacted Emails/Texts)	22-08440	November 9, 2022	28 MSER 319 (2022)
Springfield Public Schools (Ruling on Parent's Motion to Postpone and Parent's Motion to Postpone So Discovery Can Be Translated in to (sic) the Parent's Native Language)	22-08440	November 14, 2022	28 MSER 324 (2022)
Springfield Public Schools (Ruling on Parent's Motion to Include District Denying Parent Right to Having Interpreter, and Translated Documents)	22-08440	November 18, 2022	28 MSER 341 (2022)
Springfield Public Schools (Ruling on Parent's Motion to Reopen the Record)	22-08440	January 13, 2023	29 MSER 10 (2023)
Springfield Public Schools (Decision)	22-08440	January 17, 2023	29 MSER 13 (2023)
Springfield Public Schools (Ruling on Challenge to Sufficiency of Hearing Request)	23-09351	April 18, 2023	29 MSER 95 (2023)
Springfield Public Schools (Ruling on Defendants' Motions to Dismiss)	23-09351	June 12, 2023	29 MSER 154 (2023)
Springfield Public Schools (Ruling on Request for Public to Attend Pre-Hearing Conference)	23-09351	June 26, 2023	29 MSER 201 (2023)
Springfield Public Schools (Ruling on Springfield Public Schools' Motion to Recuse Hearing Officer)	23-09351	August 29, 2023	29 MSER 292 (2023)
Springfield Public Schools (Ruling on Multiple Motions)	23-09351	September 5, 2023	29 MSER 297 (2023)
Springfield Public Schools (Ruling on Parent's and Student's Request for a Public Hearing)	23-09351	September 6, 2023	29 MSER 302 (2023)
Springfield Public Schools (Ruling on Motions for Protective Orders)	23-09531	September 28, 2023	29 MSER 326 (2023)
Springfield Public Schools (Ruling on Springfield Public Schools' Motion to Dismiss)	24-05038	January 24, 2024	30 MSER 10 (2024)
Springfield Public Schools (Ruling on Springfield Public Schools' Renewed Motion to Strike Parent's Opening Statement and Renewed Objection to Hearing Officer Muting Counsel)	23-09351	January 25, 2024	30 MSER 15 (2024)
Springfield Public Schools (Decision)	23-09351	January 25, 2024	30 MSER 18 (2024)
Springfield Public Schools (Ruling on Springfield Public Schools' Motion to Dismiss/Motion for Summary Judgment and Ruling on Student's Motion Requesting a Hearing on Perjury Allegations and Motion to Join the Springfield School Committee)	24-05038	May 17, 2024	30 MSER 111 (2024)
Springfield Public Schools (Ruling on Student's Motion for Partial Summary Decision)	24-14829	July 24, 2024	30 MSER 201 (2024)
Springfield Public Schools (Ruling on Parent's Motion to Compel)	24-06592	August 22, 2024	30 MSER 254 (2024)
Springfield Public Schools (Ruling on Parent's Motion for Preliminary Injunction)	24-14829	October 8, 2024	30 MSER 328 (2024)
Springfield Public Schools (Ruling on the Springfield Public Schools' Motion to Dismiss Policy Claims and the Springfield Public Schools' Motion for Protective Order)	24-14829	October 10, 2024	30 MSER 331 (2024)
Steven A. (Decision on Motion to Bar Testimony)	95-1375	April 5, 1995	1 MSER 41 (1995)
Steven A. (Decision)	95-1375	August 11, 1995	1 MSER 124 (1995)
Stoneham Public Schools (Decision)	98-3495	April 8, 1998	4 MSER 44 (1998)
Stoneham Public Schools (Decision)	08-1853	March 10, 2009	15 MSER 74 (2009)
Stoneham Public Schools (Decision)	09-3121	June 4, 2009	15 MSER 139 (2009)
Stoneham Public Schools (Ruling on Parents' Motion to Sequester Witnesses)	13-00160	September 5, 2012	18 MSER 269 (2012)
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Stoneham Public Schools (Decision)	14-00720	October 11, 2013	19 MSER 287 (2013)
Stoughton Public Schools (Decision)	99-0807	January 25, 1999	5 MSER 1 (1999)
Stoughton Public Schools (Ruling on DESE Motion to Dismiss)	09-2276	February 19, 2009	15 MSER 35 (2009)
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Sudbury Public Schools and Lincoln-Sudbury Regional School District (Ruling on Sudbury Public Schools' Motion for Summary Judgment and Lincoln-Sudbury Regional School District's Motion for Summary Decision)	14-03509	June 9, 2014	20 MSER 99 (2014)
Sudbury Public Schools (Ruling on Motion for Summary Judgment)	20-05312	May 28, 2020	26 MSER 99 (2020)
Sutton Public Schools (Decision)	05-3840	March 28, 2007	13 MSER 95 (2007)
Sutton Public Schools (Ruling on Sutton Public School's Motion to Dismiss)	07-7534	November 2, 2007	13 MSER 352 (2007)
Sutton Public Schools (Ruling on School's Motion for Summary Judgment)	07-7534	March 31, 2008	14 MSER 181 (2008)
Sutton Public Schools (Decision)	07-7534	July 1, 2008	14 MSER 182 (2008)
Sutton Public Schools (Decision)	08-5499	July 31, 2008	14 MSER 268 (2008)
Sutton Public Schools (Decision)	09-7983	January 26, 2010	16 MSER 18 (2010)
Sutton Public Schools (Decision on Remand)	07-7534	April 19, 2012	18 MSER 135 (2012)
Sutton Public Schools (Decision)	12-6333	August 17, 2012	18 MSER 288 (2012)
Sutton Public Schools and Worcester Public Schools (Decision Based on Written Submissions)	16-01445	January 21, 2016	22 MSER 4 (2016)
Swampscott Public Schools (Decision)	99-3434	August 3, 1999	5 MSER 104 (1999)
Swampscott Public Schools (Decision)	18-06246	December 10, 2018	24 MSER 271 (2018)
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Swansea Public Schools (Decision)	22-07178	June 14, 2022	28 MSER 150 (2022)
Swansea Public Schools (Decision)	22-05000	July 8, 2022	28 MSER 163 (2022)
Swansea Public Schools (Ruling on Motion to Order Compliance with Decision)	22-07178-C	July 8, 2022	28 MSER 212 (2022)
Swansea Public Schools (Decision)	25-00115	August 5, 2024	30 MSER 230 (2024)
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Tam L. (Decision)	94-0135	June 20, 1995	1 MSER 104 (1995)
Tantasqua Regional School District (Decision)	00-0033	March 1, 2000	6 MSER 61 (2000)
Tantasqua Regional School District (Decision)	11-8641	September 1, 2011	17 MSER 282 (2011)
Tantasqua Regional School District (Ruling on Tantasqua Regional School District's Partial Motion to Dismiss)	15-09595	July 21, 2015	21 MSER 155 (2015)
Taunton Public Schools (Decision)	98-1328	October 27, 1997	3 MSER 177 (1997)
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Taunton Public Schools (Decision)	01-0462	June 5, 2001	7 MSER 105 (2001)
Taunton Public Schools (Decision)	03-4093	October 5, 2004	10 MSER 444 (2004)
Taunton Public Schools (Decision)	09-5294	January 8, 2010	16 MSER 7 (2010)
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Taunton Public Schools (Rulings)	10-8142	March 7, 2011	17 MSER 51 (2011)
Taunton Public Schools (Ruling on Taunton's Motion to Dismiss)	10-8142	July 15, 2011	17 MSER 267 (2011)
Taunton Public Schools (Decision)	10-8142	September 8, 2011	17 MSER 286 (2011)
Taunton Public Schools (Ruling)	12-0399	October 26, 2011	17 MSER 329 (2011)
Taunton Public Schools (Ruling on Request for Clarification of "Stay Put")	12-1212	November 17, 2011	17 MSER 337 (2011)
Taunton Public Schools (Decision)	12-1212	December 14, 2011	17 MSER 362 (2011)
Taunton Public Schools (Ruling on Taunton's Motion to Dismiss)	13-04738	February 28, 2013	19 MSER 30 (2013)
Taunton Public Schools (Ruling on Taunton Public Schools' Motion to Dismiss)	16-00002	July 23, 2015	22 MSER 111 (2016)
Taunton Public Schools (Ruling on Taunton Public Schools' Motion for Summary Judgment)	16-00002	August 3, 2015	22 MSER 113 (2016)
Taunton Public Schools (Ruling on Parent's Motion for Recusal of the Hearing Officer)	16-01127	August 20, 2015	21 MSER 166 (2015)
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Taunton Public Schools (Order)	16-06007	April 12, 2016	22 MSER 62 (2016)
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Taunton Public Schools (Ruling on School District's Motion to Dismiss Parent's Amended Hearing Request or, in the alternative, Dismiss Certain Claims as Beyond the Statute of Limitations)	17-08888	December 5, 2017	23 MSER 194 (2017)

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Taunton Public Schools (Corrected Decision)	17-08888	July 26, 2018	24 MSER 125 (2018)
Taunton Public Schools (Ruling on Taunton Public Schools' Motion to Dismiss Itself as a Party)	18-10830	August 16, 2018	24 MSER 157 (2018)
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Tewksbury Public Schools (Decision)	03-0539	December 2, 2002	8 MSER 378 (2002)
Tewksbury Public Schools (Decision)	05-2963	April 26, 2005	11 MSER 69 (2005)
Tewksbury Public Schools (Ruling)	08-3766	March 27, 2008	14 MSER 93 (2008)
Tewksbury Public Schools (Decision)	08-3766	April 15, 2008	14 MSER 94 (2008)
Tewksbury Public Schools (Decision)	14-04036	October 17, 2014	20 MSER 220 (2014)
Tewksbury Public Schools (Ruling on Parents' Motion for Compliance with BSEA Decision)	14-04036c	December 16, 2014	20 MSER 251 (2014)
Tewksbury Public Schools (Decision)	14-02344	February 11, 2015	21 MSER 29 (2015)
Tex N. (Decision)	96-0930	September 18, 1996	2 MSER 184 (1996)
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Timothy W. (Ruling on Motion to Dismiss)	96-3796	August 28, 1996	2 MSER 213 (1996)
Timothy D. (Decision)	96-0243	May 14, 1996	2 MSER 58 (1996)
Todd S. (Decision on Motion for Recusal)	95-3064	July 26, 1995	1 MSER 112 (1995)
Todd S. (Decision)	95-3064	November 10, 1995	1 MSER 167 (1995)
Topsfield Public Schools (Decision)	19-09367	January 24, 2020	26 MSER 18 (2020)
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Triton Regional School District (Corrected Ruling on Triton Public School's Motion to Join Georgetown Public Schools as a Necessary Party and Ruling on Parent's Motion for Stay-Put Placement)	07-0082	October 13, 2006	12 MSER 274 (2006)
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Triton Regional School District (Decision)	13-02663	March 6, 2013	19 MSER 80 (2013)
Triton Regional School District (Decision)	14-00006	December 18, 2013	19 MSER 334 (2013)
Triton Regional School District (Ruling on Triton Regional School District's Motion for Summary Judgment)	21-05891	May 6, 2021	27 MSER 217 (2021)
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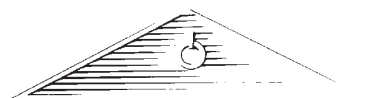
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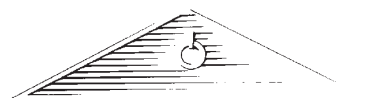
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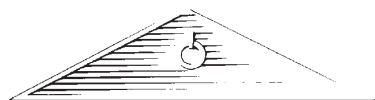
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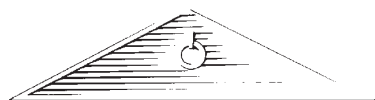
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CUMULATIVE
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Cumulative Subject Matter Digests—1995-2024

Advocates

Competence

Where the Parents' advocate remained disgruntled by an earlier decision she had reached involving different parties, the Hearing Officer found no merit in the Parents' allegations that 22 motions had gone unaddressed and denied their motion to recuse. Observing that their advocate's antipathy toward her may have undermined the Parents' confidence in the proceeding and that the BSEA is obliged to assist "inadequately represented parties," the Hearing Officer referred the case for administrative reassignment. *In Re: Norton Public Schools (Ruling on Parents' Motion for Recusal)*, 22 MSER 212 (2016).

Given the virtual absence of factual support and the extremely limited legal support for the parents' claim that student was entitled to a publically funded private education, it was clear that parents were grievously misled by advocates and evaluators upon whom they relied for advice. *In Re: Matthew M. (Decision)*, 1 MSER 32 (1995).

Parental Representation

Hearing Officer Marguerite M. Mitchell granted the district's motion to dismiss with respect to claims that Parent failed to plead with specificity in her amended hearing request. Given that Parent was a trained, professional advocate, the Hearing Officer did not afford her with the leniency typically afforded *pro se* litigants, particularly where the need for specificity was outlined in the Hearing Officer's earlier ruling on the sufficiency of the original hearing request. *In Re: Springfield Public Schools (Ruling on Defendants' Motions to Dismiss)*, 29 MSER 154 (2023).

Rejecting a request that the evidentiary hearing be conducted via videoconferencing, the Hearing Officer ordered Parent's Advocate to be present at the hearing. Hearing Officer found that to allow otherwise would unfairly prejudice the Parent and her 19-year-old son and make the forum difficult to manage. *In Re: Pembroke Public Schools (Order & Ruling)*, 25 MSER 110 (2019).

Where advocate was not serving as Parents' representative at the BSEA, and was not employed by their attorney, no work product privilege attached to her records. Hearing Officer denied advocate's motion for a protective order relative to the district's subpoena of her records. *In Re: Duxbury Public Schools (Ruling on the Advocate's Motion for Protective Order and Other Orders)*, 24 MSER 23 (2018).

Hearing Officer denied Parent's motion for reconsideration of her ruling which held that certain communications between the Parent and her advocate were not privileged. In seeking reconsideration, Parent had relied on a holding in *Woods v. New Jersey Dep't of Educ.*, 858 F. Supp. 51 (D.N.J. 1993) which extended the attorney-client privilege to lay advocates in special education proceedings. Noting that in New Jersey, unlike Massachusetts, lay advocates are regulated and subject to the same rules of professional conduct as attorneys, the Hearing Officer found that the Parent's reliance on this case was misplaced. *In Re: Waltham Public Schools (Ruling on Parent's Motion For Reconsideration)*, 23 MSER 171 (2017).

In a dispute where Parent had initially filed a hearing request *pro se* and later as the advocate for her adult daughter, Hearing Officer Rosa I. Figueroa held that an agreement between the Parent and the Pentucket Regional School District was not limited to the claim for reimbursement for an independent evaluation but was intended as a settlement of all of Parent's claims. This ruling was made as part of a bifurcated proceeding on remand from the federal district court at which neither the Student nor the Parent appeared. The Hearing Officer's order limited the upcoming hearing to the Student's challenge to the school district's finding of no eligibil-

ity and her request for funding for post-graduation placement at Landmark College. *In Re: Pentucket Regional School District (Decision)*, 21 MSER 87 (2015).

Where a parent had advised the North Andover school district that her advocate would be representing her at Team meetings and had "complete permission" on all matters of the student's educational placement, the district was justified in believing it had the parent's permission to place the student in a different program when the advocate had orally consented to this placement. *In Re: North Andover Public Schools (Decision)*, 14 MSER 8 (2008).

Assessment

Parental Consent

Where parents shared joint legal custody and educational decision making authority, district erred when it did not conduct an evaluation of a high school student upon the request of the mother, and instead honored the wishes of the father, the custodial parent, who had objected to the evaluation. *In Re: Scituate Public Schools (Decision)*, 28 MSER 269 (2022).

Hearing Officer allowed district's motion for substituted consent to permit the district's expert to observe Student in its partial-inclusion, language-based LINC program and assess the efficacy of the program, provided the district allow a person of Parents' choosing to accompany the district's evaluator at the observation. *In Re: Waltham Public Schools (Ruling on Waltham Public Schools' Motion for Substituted Consent)*, 28 MSER 144 (2022).

Hearing Officer granted district's request for substitute consent to have a 17-year old girl with autism undergo an extended evaluation at the Futures School, provided that a home assessment be one component of the evaluation process. The extended evaluation at Futures was necessary to provide FAPE for the teenager where Newburyport had been able to demonstrate that it could not keep her safe while assessing her within the district. The request came after the teenager, on her third day in the district, had assaulted two staff members and engaged in self-injurious behaviors. Claiming her daughter's behaviors were the result of allergies, the Parent had rejected the proposed extended evaluation placement and had sought home tutoring services. *In Re: Newburyport Public Schools (Decision)*, 22 MSER 32 (2016).

Hearing Officer Catherine M. Putney-Yaceshyn overrode a Falmouth Mother's refusal to allow a functional behavioral assessment for her nine-year-old son, finding that an FBA was necessary in order to provide the Student with sufficient supports to enable him to regulate his behaviors and be available for learning. The Hearing Officer also upheld Falmouth's IEP which called for the placement of this Student in its Structured Learning Center where extensive services would address his social and emotional deficits and provide a specialized reading program. *In Re: Falmouth Public Schools (Decision)*, 18 MSER 252 (2012).

A parent's BSEA appeal for reimbursement for a private-school placement was dismissed on motion by Hearing Officer Raymond Oliver after testimony established the child's parents refused to consent to an evaluation and failed to respond to IEPs over a period of several years. *In Re: Marblehead Public Schools (Decision on Motion to Dismiss Parents' Appeal)*, 7 MSER 176 (2001).

Hearing Officer Lindsay Byrne ruled that the use of administrative due-process procedures under IDEA to gain substitute consent to an initial evaluation of a student whose parents had refused such consent would be inconsistent with Massachusetts state law and that the section of IDEA

CUMULATIVE SUBJECT MATTER DIGESTS

providing for such an administrative bypass could not be enforced in Massachusetts. *In Re: Sharon Public Schools (Ruling on Parents' Motion to Dismiss)*, 4 MSER 91 (1998).

Request to bar expert testimony of consultant who observed proposed program without parental consent denied because consultant was evaluating the program, not the child. *In Re: Steven A. (Decision on Motion to Bar Testimony)*, 1 MSER 41 (1995).

Request for Assessment

Hearing Officer rejected district's request for substitute consent for a home assessment to assist in the improvement of a 16-year old boy's school attendance. Noting that the district's goal was laudable, the Hearing Officer found that the district had not met its significant burden to show that a home assessment was necessary in order to craft an appropriate IEP or that it was likely to result in a substantial benefit to the Student. *In Re: Millbury Public Schools (Decision)*, 24 MSER 152 (2018).

Newton educators demonstrated a lack of foresight and compassion in failing to treat student's discharge from a psychiatric hospital as a request for special services even though complying with the technical requirements of the special-education regulations at 603 CMR 28.309. *In Re: Danielle P. (Decision)*, 1 MSER 10 (1995).

Timeliness

While the Hearing Officer found that the district's delay in performing a functional behavior assessment was more than a de minimis violation, she concluded that it did not result in the denial of a FAPE to the Student. *In Re: District L (Decision)*, 29 MSER 244 (2023).

Hearing Officer Sara Berman ordered West Springfield parents reimbursed for a unilateral placement of their 12-year-old at a private, 766-approved day school after the public school failed to assess and deal with the child's emotional difficulties in a timely fashion and then proposed an IEP combining mainstreaming with pull-out sessions of language instruction that failed to address the student's deficits sufficiently. *In Re: West Springfield Public Schools (Decision)*, 8 MSER 230 (2002).

Attorneys

Competence

Hearing Officer questioned the role of attorney representing parents where advocate presented the case and attorney did not question witnesses, file or make any objections, offer any argument, or participate meaningfully in any settlement, scheduling, or evidentiary conferences. *In Re: Matthew M. (Decision)*, 1 MSER 32 (1995).

Conflict of Interest

Hearing Officer Alina Kantor Nir found no conflict of interest justifying disqualification of the district's counsel and denied Parent's motion requesting that the attorney be removed based upon her concerns regarding the attorney's prior representation of the district in matters regarding the Student as well as the attorney's ability to maintain confidentiality. *In Re: Mendon-Upton Regional School District (Ruling on Parent's Motion for Counsel's Recusal)*, 29 MSER 202 (2023).

Finding no basis for an alleged conflict of interest, Hearing Officer Alina Kantor Nir denied Parent's motion to recuse the district's counsel. Parent had asserted that the attorney should be recused due to his involvement in conducting a review of Parent's bullying allegations and his role in representing the district in Parent's PRS complaints. *In Re: Dracut Public Schools (Ruling on Dracut Public Schools' Motion to Dismiss and Parent's Motion for Counsel's Recusal)*, 29 MSER 177 (2023).

Finding that she had no authority to review the professional conduct of attorneys who appear before her, Hearing Officer declined to grant Parent's motion to disqualify a law firm from representing the Marshfield Public

Schools. Parent had claimed, among other things, that the firm owed a duty of loyalty to their other clients, the Norwell and Hanover school districts, where the district had previously proposed placements for her child, such that representing the district in this matter would constitute a conflict of interest. *In Re: Marshfield Public Schools (Ruling on Parent's Motion to Disqualify Counsel for Marshfield Public Schools)*, 28 MSER 66 (2022).

Parent would be allowed to reopen hearing where counsel had withdrawn due to a conflict of interest and new counsel would be given opportunity to learn the case fully and develop a settlement or trial strategy. *In Re: Sebastian K. (Ruling on Parent's Motion to Reopen Hearing)*, 1 MSER 2 (1995).

Fees

Hearing Officer Alina Kantor Nir granted the district's motion to dismiss with respect to Parents' claims for legal fees. *In Re: Westfield Public Schools (Ruling on Westfield Public Schools' Partial Motion to Dismiss Parents' Amended Hearing Request and Counterclaim)*, 28 MSER 195 (2022).

BSEA lacked jurisdiction to award attorney's fees to an educational surrogate where there is nothing in the IDEA or G.L.c. 71B which grants parents or surrogate parents the right to representation by publicly funded counsel. *In Re: Springfield Public Schools (Ruling on Motions to Dismiss)*, 17 MSER 81 (2011).

Hearing Officer Rosa I. Figueroa dismissed retroactive claims with prejudice due to a Parent's failure to prosecute the appeal. The Parent, a neuro-developmental psychiatrist at Harvard Medical School, had demonstrated a pattern of requesting postponements and delays and then refusing to proceed to hearing. Her claim that her dyslexia prevented her from organizing and presenting her case, given her educational achievements, was dismissed as disingenuous. The Hearing Officer declined to award costs to one of the LEAs for legal fees associated with preparing for a hearing that was abruptly cancelled, citing the potential exacerbation of an already difficult situation arising from the Parent's upcoming *pro se* presentation of her case for prospective claims. *In Re: Lexington Public Schools (Ruling on Lexington's Motion to Dismiss with Prejudice)*, 16 MSER 151 (2010).

A settlement agreement imposed by threatened sanctions on the Fitchburg Public Schools by a BSEA Hearing Officer that specifically left the award of attorney's fees to court approval did not accord the plaintiffs a "prevailing party" status and could not support the award of fees. *In Re: Smith v. Fitchburg Public Schools (Memorandum and Order)*, 10 MSER 203 (2004).

A panel for the First Circuit Court of Appeals followed the *Buckhannon* rule in finding that plaintiffs that achieve their desired result via private settlement with the LEA prior to BSEA hearing may not, in the absence of judicial imprimatur, be considered "prevailing parties" and therefore are not entitled to attorney's fees. *In Re: Doe v. Boston Public Schools (Appeal from the United States District Court for the District of Massachusetts)*, 10 MSER 183 (2004).

Hearing Officer William Crane declined to address the issue of "prevailing-party status" for the purposes of awarding attorney's fees in a case involving remedial orders for tutoring expenses and ruled that determination of prevailing-party status is properly considered a part of the federal court's original jurisdiction. *In Re: Nahant Public Schools (Decision)*, 9 MSER 381 (2003).

Following a settlement between Rockport and a student whereby an IEP was amended to provide for an outside placement at the Landmark School, as requested by the student, Hearing Officer William Crane declined the parents' request for a BSEA order affirming the agreement, as well as de-

CUMULATIVE SUBJECT MATTER DIGESTS

terminations that the parties' legal relationship had been altered and that the parents were the prevailing party entitled to legal fees. *In Re: Rockport Public Schools (Ruling)*, 8 MSER 1 (2002).

U.S. Magistrate Judge Charles B. Swartwood III found the Supreme Court's decision in the *Buckhannon* case applied to fee claims under the IDEA and would therefore bar recoveries under the catalyst theory where changes were made to a special-education plan at the TEAM level without the necessity of a BSEA ruling. *In Re: April M. v. West Boylston Public Schools (Memorandum of Decision and Order for Amended Judgment)*, 7 MSER 239 (2001).

U.S. Magistrate Judge Kenneth P. Neiman awarded attorneys' fees to the prevailing student under either the "catalyst" or the "merits" approach finding that the student's attorneys' intervention yielded affirmative relief for the Plaintiff in the form of a residential placement that the school district had resisted paying in full. *In Re: Adam R. v. Chicopee Public Schools (Memorandum and Order with Regard to Plaintiff's Motion for Summary Judgment (Docket No. 10) and Defendant's Cross-Motion for Summary Judgment (Docket No. 12))*, 5 MSER 131 (1999).

Federal District Court Judge Michael A. Ponsor found no concurrent parental right to pursue a Section 1983 civil-rights claim in a routine special-education dispute but the parents' attorneys \$26,250 in legal fees for a split BSEA decision upholding the district's IEP subject to various modifications. *In Re: Andrew S. v. School Committee of Greenfield (Memorandum Regarding Defendant's Motion to Dismiss and Plaintiff's Motion for Attorneys' Fees)*, 5 MSER 125 (1999).

U.S. District Court Judge Reginald C. Lindsay ruled that a Westport student was the "prevailing party" and therefore entitled to an award of attorney fees where the school district had failed to consider an outside placement until the attorney requested an emergency hearing at the BSEA although the Director of Pupil Personnel Services claimed the residential placement would have been ordered without the attorney's intervention. *In Re: Christopher G. v. Westport Community Schools (Memorandum and Order on Cross-Motions for Summary Judgment on the Issue of Prevailing Party Status)*, 4 MSER 213 (1998).

U.S. District Court Judge Michael Ponsor ruled that prevailing plaintiff in special-education case was not required to file a lawsuit for fees within 30 days of the settlement of case but that such a suit would have to be filed within 30 days of the rejection by the school district of a demand for fees. *In Re: Alison H. v. Byard (Order)*, 4 MSER 92 (1998).

U.S. District Court Judge Michael Ponsor ordered a reduction in previously awarded attorney fees to \$19,000. *In Re: Alison H. v. Byard (Order)*, 4 MSER 92 (1998).

Parent's attorney secured an attorney-fee award of \$25,000 under the Handicapped Children's Protection Act by securing a residential placement for a troubled and violent Everett youth in the face of school department recalcitrance but without the need for a BSEA hearing, where a U.S. Magistrate determined that the attorney represented the "prevailing party," that he was instrumental in forcing the district to pay for the placement, and that his rates of \$175 for conferences and \$200 for trial work were reasonable. *In Re: William W. v. Everett Public Schools (Findings and Recommendation on Parties' Cross-Motions for Summary Judgment)*, 3 MSER 205 (1997).

Although BSEA made minor procedural corrections to a Mansfield IEP on appeal, parents were not entitled to an award of attorney fees since they did not prevail on their principal claim—the reimbursement of tuition for a unilateral placement. *In Re: Kathleen H. v. Massachusetts Department of Education et al. (Memorandum and Order on Defendant Mansfield School Committee's Motion to Dismiss and/or Alternative Motion for Summary Judgment)*, 3 MSER 197 (1997).

Federal District Court awarded "prevailing party" attorney fees to parents based on significant alterations in programming secured by the lawsuit, and rejected the LEA's argument that the satisfaction of the parents' original subjective intent in bringing lawsuit was the measure of whether prevailing-party status had been secured. *In Re: Sebastian K. v. Massachusetts Department of Education (Memorandum and Order)*, 2 MSER 248 (1996).

Misconduct

Rejecting Parent's motion for sanctions against the district, Hearing Officer Sara Berman found that even if the alleged misrepresentations by counsel could be proven, they did not constitute a failure to comply with an order of a hearing officer regarding discovery. Parent had asserted that counsel for the district had misled the Hearing Officer when they did not reveal in a May 5, 2022 conference call that the district's Special Education Director would be leaving at the end of the 2021-2022 school year. *In Re: Springfield Public Schools (Ruling on Parent's Motion for Sanctions for District's Providing False Statements to Hearing Officer Regarding Dr. Mary Ann Morris's Employment Prejudicing Parent's Hearing)*, 28 MSER 306 (2022).

On a motion filed by Parent asserting that district's counsel had forced Parent's Advocate to reveal that she is a party to a separate BSEA case, Hearing Officer held that the BSEA could not provide any relief for violations of the Family Educational Rights and Privacy Act. *In Re: Springfield Public Schools (Ruling on Parent's Motion Relative to Breach of Confidentiality by District's Counsel)*, 28 MSER 139 (2022).

Denying Parent's motion for an independent law firm to collect and produce discovery, Hearing Officer found that the Parent had not shown any grounds for disqualification of the district's counsel. Parent had objected to slight delay in producing evidence attributable to the COVID-19 pandemic and had not show the existence of any breach of fiduciary duty or ethical violations by counsel. The Hearing Officer noted that the Parent "appears to be seeking disqualification as a tactical weapon." *In Re: Springfield Public Schools (Ruling on Multiple Motions)*, 26 MSER 102 (2020).

BSEA lacked jurisdiction to order an LEA to supply an attorney or a waiver of the attorney's presence for meetings between the Parents' attorney and school officials in order to protect the Parents' attorney from bar discipline under Rule 4.2 of the Massachusetts Rules of Professional Conduct. *In Re: Springfield Public Schools (Ruling on Parent's Motion for Protective Order)*, 15 MSER 109 (2009).

Prevailing Party

United States District Court Judge William G. Young declined to follow Ninth Circuit precedent and ruled that a Boston student was not entitled to recover attorney's fees after the district authorized her private placement five minutes before the BSEA hearing since the favorable outcome was not judicially sanctioned, and he declined to adopt the catalyst theory of fee recovery as applied to statutes providing for fees to "prevailing parties." *In Re: Doe v. Boston Public Schools (Memorandum and Order)*, 9 MSER 277 (2003).

TEAM Meeting

Arlington school officials acted properly in refusing to convene a TEAM until the school's counsel could be present where the student's parent appeared at the meeting with his own attorney. *In Re: Arlington Public Schools (Decision)*, 4 MSER 165 (1998).

School district did not violate special-education regulations in refusing to convene a TEAM meeting until the school's attorney was present where parents appeared at the meeting with their own attorney. *In Re: Holyoke Public Schools (Decision on Documents)*, 3 MSER 167 (1997).

CUMULATIVE SUBJECT MATTER DIGESTS

Withdrawal

After Parents' attorney withdrew after discovery was complete, Parents successfully opposed the regional school district's attempt to have two issues—the alleged denial of FAPE and the Parents' consent to distribution of documents to possible placements for their 13-year old son with a PTSD diagnosis—dismissed. The Parents had contended that their attorney did not have the authority to enter into any agreement with the district. Finding the submissions made by the Parents revealed nothing different from the issues previously raised by their counsel, the Hearing Officer declined to grant the district's motion for partial dismissal. *In Re: Hamilton-Wenham Regional School District (Ruling on Hamilton-Wenham Regional School District's Partial Motion to Dismiss)*, 23 MSER 179 (2017).

The BSEA would not consider "motions" filed by an advocate while the Student concurrently had an attorney of record but would rely on instructions from that advocate once the attorney had withdrawn from the representation. *In Re: Norton Public Schools (Order)*, 19 MSER 304 (2013).

Attorney's motion to withdraw from representation of severely disabled young man was granted based on Canon of Ethics and a finding that neither the student nor the Barnstable schools would be prejudiced thereby. *In Re: Kenneth M. (Decision on Request for Continuance)*, 1 MSER 144 (1995).

BSEA Jurisdiction

ADA Compliance

The Hearing Officer, finding no jurisdiction, granted the district's motion to dismiss Parent's claims alleging the district had violated the ADA and Title VI, but denied it with respect to her claims that her son had been discriminated against and not provided with a reasonable accommodation on the AIC College Steps campus, in violation of Section 504. *In Re: Springfield Public Schools (Ruling on Defendants' Motions to Dismiss)*, 29 MSER 154 (2023).

In a ruling on district's motion to dismiss, or in the alternative, for summary judgment, the Hearing Officer dismissed Parent's claim in her amended hearing request asserting that the district had violated the Americans with Disabilities Act when it did not allow her to use a tape recorder as a memory aid unless it was also able to record the meeting. The Hearing Officer, however, denied the motion as to the IDEA-based claim of whether the denial of the memory aid prevented the Parent from meaningfully participating in the meeting. *In Re: Springfield Public Schools (Ruling on Springfield Public Schools' Motion to Dismiss/Motion for Summary Judgment Relative to Parent's Amended Hearing Request)*, 28 MSER 111 (2022).

BSEA had no jurisdiction over claims alleging violations of the ADA made by an 18-year old student who had been hospitalized shortly after moving from New Jersey. The young man's hearing request had included claims that DESE's systems and procedures with respect to hospitalized students violated the ADA. The Hearing Officer noted that the ADA contains no FAPE requirement. *In Re: Chicopee Public Schools (Ruling on Motions to Dismiss of Mass. Dept. of Elementary and Secondary Education and Chicopee Public Schools)*, 23 MSER 1 (2017).

Hearing Officer William Crane granted the School District's partial motion to dismiss counterclaims made by a Student under the Americans with Disabilities Act (ADA). Finding that the BSEA had no jurisdiction over the ADA claims, the Hearing Officer rejected the Student's contention that it had authority to consider a claim that the placement was too restrictive and violated the integration mandate of the federal law. *In Re: Springfield Public Schools (Ruling on Partial Motion to Dismiss)*, 20 MSER 37 (2014).

BSEA lacked jurisdiction to adjudicate claimed violations of the ADA. *In Re: Kenneth M. (Decision)*, 2 MSER 2 (1996).

Admissions

Hearing Officer Catherine M. Putney-Yaceshyn dismissed a hearing request filed by Parents who sought placement of their 19-year old daughter in a culinary program at Minuteman Regional Vocational Technical School. The Hearing Officer ruled that the BSEA has no jurisdiction over the school's DESE-approved admissions policy which limits enrollment to students in grades nine through twelve and found that the policy was not discriminatory. Where the young woman had earned a certificate of completion from the Nashoba Regional School District and was currently receiving transition services through a district IEP, Minuteman had no duty to provide special education services to her. *In Re: Minuteman Regional Vocational Technical School (Ruling on Minuteman Regional Vocational Technical School's Motion to Dismiss)*, 23 MSER 175 (2017).

While the BSEA lacked jurisdiction under IDEA to hear an appeal from a rejected student with disabilities who had applied to the Norfolk Agricultural School but never enrolled in the school (nor had he applied for admission in the current year), it did have jurisdiction under Section 504 to explore facially neutral admissions standards that might unlawfully impact the disabled. *In Re: Norfolk County Agricultural High School (Ruling on Motion to Dismiss of Norfolk County Agricultural High School and Parents' Motion for Summary Judgment)*, 11 MSER 233 (2005).

Advisory Opinions

BSEA issued an "advisory ruling" finding that the Holliston Public Schools had discharged its special-education obligations to an adult student by offering a therapeutic 502.6 day/residential placement where the parent did not participate in the proceeding and indicated the student would pursue a GED and not return to the school system. *In Re: John W. (Decision)*, 3 MSER 34 (1997).

Attorney's Fees

Finding no jurisdiction, the Hearing Officer dismissed Parents' claims for repayment for attorney's fees and expert fees. She found that it was of no consequence that one of them was acting as their daughter's attorney. *In Re: Arlington Public Schools (Ruling on the District's Motion to Dismiss)*, 30 MSER 363 (2024).

Where district's offer to settle with Parents and fund the transition evaluation they had requested came less than 10 days before the hearing date, the Hearing Officer rejected the district's argument that the case should be dismissed where the only issue remaining was entitlement to attorneys' fees. *In Re: Weston Public Schools (Corrected Ruling on Weston Public Schools' Motion to Dismiss)*, 27 MSER 506 (2021).

Denying a district's counterclaim seeking attorneys' fees along with a motion to dismiss, Hearing Officer held that the BSEA had no jurisdiction where the IDEA limits the authority to award attorneys' fees to the federal district court. *In Re: Mansfield Public Schools (Ruling on Mansfield Public Schools' Motion to Dismiss or, in the Alternative, Statement of Counterclaims)*, 25 MSER 1 (2019).

BSEA lacked jurisdiction to award attorney's fees to an educational surrogate where there is nothing in the IDEA or G.L.c. 71B which grants parents or surrogate parents the right to representation by publicly funded counsel. *In Re: Springfield Public Schools (Ruling on Motions to Dismiss)*, 17 MSER 81 (2011).

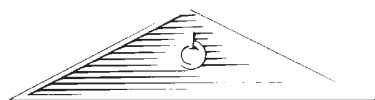
Child Find

Rejecting Parents' child find claim, the Hearing Officer held that any delay in referring a Student for additional testing resulted in no educational harm to her. *In Re: Arlington Public Schools (Decision)*, 30 MSER 453 (2024).

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CITED



ABRIDGED SAMPLE



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- Norfolk Public Schools, BSEA #97-2792, 3 MSER 55 (1997)**
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- Peter G., BSEA #92-1783**
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Sharon Public Schools, BSEA #98-4579, 4 MSER 91 (1998)

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In Re: Ipswich Public Schools, 6 MSER 78 (2000)
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Shrewsbury Public Schools, BSEA #02-2613, 9 MSER 112 (2003)

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Somerville Public Schools, BSEA #96-0319, 2 MSER 10 (1996)

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South Hadley Public Schools, BSEA #00-0041, 6 MSER 67 (2000)

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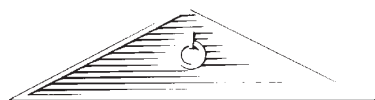
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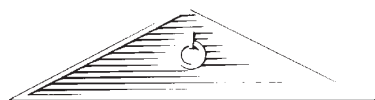
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