The University of the State of New York

The State Education Department
State Review Officer
www.sro.nysed.gov

No. 21-124

Application of a STUDENT WITH A DISABILITY, by his parents, for review of a determination of a hearing officer relating to the provision of educational services by the New York City Department of Education

Appearances:
Law Offices of Lauren A. Baum, P.C., attorneys for petitioners, by Susan Fingerle, Esq.

Judy Nathan, Interim Acting General Counsel, attorneys for respondent, by Brian Davenport, Esq.

DECISION

I. Introduction

This proceeding arises under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400-1482) and Article 89 of the New York State Education Law. Petitioners (the parents) appeal from the decision of an impartial hearing officer (IHO) which dismissed, with prejudice, their due process complaint notice that sought reimbursement for their son's tuition costs at the IVDU Upper School (IVDU) for the 2018-19 school year. The appeal must be dismissed.

II. Overview—Administrative Procedures

When a student in New York is eligible for special education services, the IDEA calls for the creation of an individualized education program (IEP), which is delegated to a local Committee on Special Education (CSE) that includes, but is not limited to, parents, teachers, a school psychologist, and a district representative (Educ. Law § 4402; see 20 U.S.C. § 1414[d][1][A]-[B]; 34 CFR 300.320, 300.321; 8 NYCRR 200.3, 200.4[d][2]). If disputes occur between parents and school districts, incorporated among the procedural protections is the opportunity to engage in mediation, present State complaints, and initiate an impartial due process hearing (20 U.S.C. §§ 1221e-3, 1415[e]-[f]; Educ. Law § 4404[1]; 34 CFR 300.151-300.152, 300.506, 300.511; 8 NYCRR 200.5[h]-[*l*]).

New York State has implemented a two-tiered system of administrative review to address disputed matters between parents and school districts regarding "any matter relating to the identification, evaluation or educational placement of a student with a disability, or a student suspected of having a disability, or the provision of a free appropriate public education to such student" (8 NYCRR 200.5[i][1]; see 20 U.S.C. § 1415[b][6]-[7]; 34 CFR 300.503[a][1]-[2], 300.507[a][1]). First, after an opportunity to engage in a resolution process, the parties appear at an impartial hearing conducted at the local level before an IHO (Educ. Law § 4404[1][a]; 8 NYCRR 200.5[j]). An IHO typically conducts a trial-type hearing regarding the matters in dispute in which the parties have the right to be accompanied and advised by counsel and certain other individuals with special knowledge or training; present evidence and confront, cross-examine, and compel the attendance of witnesses; prohibit the introduction of any evidence at the hearing that has not been disclosed five business days before the hearing; and obtain a verbatim record of the proceeding (20 U.S.C. § 1415[f][2][A], [h][1]-[3]; 34 CFR 300.512[a][1]-[4]; 8 NYCRR 200.5[j][3][v], [vii], [xii]). The IHO must render and transmit a final written decision in the matter to the parties not later than 45 days after the expiration period or adjusted period for the resolution process (34 CFR 300.510[b][2], [c], 300.515[a]; 8 NYCRR 200.5[j][5]). A party may seek a specific extension of time of the 45-day timeline, which the IHO may grant in accordance with State and federal regulations (34 CFR 300.515[c]; 8 NYCRR 200.5[j][5]). The decision of the IHO is binding upon both parties unless appealed (Educ. Law § 4404[1]).

A party aggrieved by the decision of an IHO may subsequently appeal to a State Review Officer (SRO) (Educ. Law § 4404[2]; see 20 U.S.C. § 1415[g][1]; 34 CFR 300.514[b][1]; 8 NYCRR 200.5[k]). The appealing party or parties must identify the findings, conclusions, and orders of the IHO with which they disagree and indicate the relief that they would like the SRO to grant (8 NYCRR 279.4). The opposing party is entitled to respond to an appeal or cross-appeal in an answer (8 NYCRR 279.5). The SRO conducts an impartial review of the IHO's findings, conclusions, and decision and is required to examine the entire hearing record; ensure that the procedures at the hearing were consistent with the requirements of due process; seek additional evidence if necessary; and render an independent decision based upon the hearing record (34 CFR 300.514[b][2]; 8 NYCRR 279.12[a]). The SRO must ensure that a final decision is reached in the review and that a copy of the decision is mailed to each of the parties not later than 30 days after the receipt of a request for a review, except that a party may seek a specific extension of time of the 30-day timeline, which the SRO may grant in accordance with State and federal regulations (34 CFR 300.515[b], [c]; 8 NYCRR 200.5[k][2]).

III. Facts and Procedural History

The parties' familiarity with the detailed facts and procedural history of the case and the IHO's decision is presumed and will not be recited here. The CSE convened on May 14, 2018, to formulate the student's IEP for the 2018-19 school year (see generally Dist. Mot. to Dismiss and Exs. 1-4; Answer SRO Exs. 1-3).[1] In a due process complaint notice, dated August 19, 2020, the

[1] The district attaches three documents to its answer in an effort to "correct the exhibits attached to its [m]otion to [d]ismiss" to avoid possible confusion with respect to the date of the May 2018 CSE meeting (see Answer SRO Exs. 1-3). Generally, documentary evidence not presented at an impartial hearing is considered in an appeal from an IHO's decision only if such additional evidence could not have been offered at the time of the impartial hearing and the evidence is necessary in order to render a decision (see, e.g., Application of a Student with a Disability,

parents alleged that the district failed to offer the student a free appropriate public education (FAPE) for the 2018-19 school year, contending, in part, that there had been no CSE meeting held, no IEP developed, no prior written notice issued or received, and no public school placement recommended or offered for that school year (see August 19, 2020 Due Proc. Compl. Not.).[2]

An impartial hearing convened on March 4, 2021 and concluded on April 27, 2021 after three days of proceedings (Tr. pp. 1-31). At the April 15, 2021 hearing date, parents' counsel (having received documents concerning the May 14, 2018 CSE and IEP) noted that she had submitted an amended due process complaint notice, dated April 7, 2021, which raised procedural and substantive claims concerning the May 14, 2018 CSE meeting and the resulting IEP (Tr. pp. 13-17; see April 7, 2021 Amended Due Proc. Compl. Not.). Additionally, the parties discussed a motion to dismiss the due process proceeding, on statute of limitations grounds, submitted to the IHO by the district on April 12, 2021 and attached to which was evidence of a CSE meeting conducted with the parent via telephone and a resulting IEP from May 2018 that included 12 months services starting in July of the 2018-19 school year (Tr. pp. 10-17; see Dist. Mot. to Dismiss).[3] Thereafter, the parents submitted a written response in opposition to the district's motion to dismiss dated April 23, 2021 (see April 23, 2021 Parent Response to Dist. Mot. to Dismiss).

In a decision dated April 30, 2021, the IHO granted the district's motion to dismiss the matter, finding that the parents' due process complaint notice was filed on August 19, 2020, that the district had provided evidence that the district had developed and mailed a prior written notice (of the May 14, 2018 IEP) and a school location letter "on or about June 14, 2018," therefore the parents "knew or should have known" of the recommended IEP and placement in a public school on or about June 17, 2018 (IHO Decision at pp. 3-4). Accordingly, the IHO found that under the relevant two-year limitations period, the latest date the parents could challenge the IEP or the placement at the public school was June 17, 2020, rendering the August 19, 2020 due process complaint notice more than two months late (id.). The IHO granted the district's motion to dismiss and ordered that the parents' due process complaint notice regarding the 2018-19 school year be dismissed with prejudice (id. at p. 4).

Appeal No. 08-030; Application of a Student with a Disability, Appeal No. 08-003; see also 8 NYCRR 279.10 [b]; L.K. v. Ne. Sch. Dist., 932 F. Supp. 2d 467, 488-89 [S.D.N.Y. 2013] [holding that additional evidence is necessary only if, without such evidence, the SRO is unable to render a decision]). The district's motion to dismiss correctly states that the CSE meeting occurred on May 14, 2018, however one of the documents attached thereto identifies a CSE meeting occurring on April 27, 2017 (see Dist. Mot. to Dismiss at p. 2; Dist. Mot. to Dismiss Ex. 2 at p. 19). Although the parent correctly contends that these documents were presumably available at the time of the impartial hearing, I will accept them for the purposes of identifying the correct date of the CSE meeting in question in order to render a decision containing the most accurate facts.

[2] The documents filed as the administrative record before the IHO were not marked as exhibits or identified with exhibit numbers.

[3] The district's motion to dismiss is incorrectly dated April 12, 2020; the correct date is April 12, 2021.

IV. Appeal for State-Level Review

The parties' familiarity with the particular issues for review on appeal in the parents' request for review and the district's answer thereto is also presumed and will not be recited here in detail. The essence of the parties' dispute on appeal is whether the IHO correctly dismissed the matter as untimely under the statute of limitations and whether the withholding information exception to the statute of limitations should apply to preclude its application.

V. Applicable Standards

Two purposes of the IDEA (20 U.S.C. §§ 1400-1482) are (1) to ensure that students with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and (2) to ensure that the rights of students with disabilities and parents of such students are protected (20 U.S.C. § 1400[d][1][A]-[B]; see generally Forest Grove Sch. Dist. v. T.A., 557 U.S. 230, 239 [2009]; Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley, 458 U.S. 176, 206-07 [1982]).

A FAPE is offered to a student when (a) the board of education complies with the procedural requirements set forth in the IDEA, and (b) the IEP developed by its CSE through the IDEA's procedures is reasonably calculated to enable the student to receive educational benefits (Rowley, 458 U.S. at 206-07; T.M. v. Cornwall Cent. Sch. Dist., 752 F.3d 145, 151, 160 [2d Cir. 2014]; R.E. v. New York City Dep't of Educ., 694 F.3d 167, 189-90 [2d Cir. 2012]; M.H. v. New York City Dep't of Educ., 685 F.3d 217, 245 [2d Cir. 2012]; Cerra v. Pawling Cent. Sch. Dist., 427 F.3d 186, 192 [2d Cir. 2005]). "'[A]dequate compliance with the procedures prescribed would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP'" (Walczak v. Fla. Union Free Sch. Dist., 142 F.3d 119, 129 [2d Cir. 1998], quoting Rowley, 458 U.S. at 206; see T.P. v. Mamaroneck Union Free Sch. Dist., 554 F.3d 247, 253 [2d Cir. 2009]). The Supreme Court has indicated that "[t]he IEP must aim to enable the child to make progress. After all, the essential function of an IEP is to set out a plan for pursuing academic and functional advancement" (Endrew F. v. Douglas Cty. Sch. Dist. RE-1, 580 U.S. __, 137 S. Ct. 988, 999 [2017]). While the Second Circuit has emphasized that school districts must comply with the checklist of procedures for developing a student's IEP and indicated that "[m]ultiple procedural violations may cumulatively result in the denial of a FAPE even if the violations considered individually do not" (R.E., 694 F.3d at 190-91), the Court has also explained that not all procedural errors render an IEP legally inadequate under the IDEA (M.H., 685 F.3d at 245; A.C. v. Bd. of Educ. of the Chappaqua Cent. Sch. Dist., 553 F.3d 165, 172 [2d Cir. 2009]; Grim v. Rhinebeck Cent. Sch. Dist., 346 F.3d 377, 381 [2d Cir. 2003]). Under the IDEA, if procedural violations are alleged, an administrative officer may find that a student did not receive a FAPE only if the procedural inadequacies (a) impeded the student's right to a FAPE, (b) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a FAPE to the student, or (c) caused a deprivation of educational benefits (20 U.S.C. § 1415[f][3][E][ii]; 34 CFR 300.513[a][2]; 8 NYCRR 200.5[j][4][ii]; Winkelman v. Parma City Sch. Dist., 550 U.S. 516, 525-26 [2007]; R.E., 694 F.3d at 190; M.H., 685 F.3d at 245).

The IDEA directs that, in general, an IHO's decision must be made on substantive grounds based on a determination of whether the student received a FAPE (20 U.S.C. § 1415[f][3][E][i]).

A school district offers a FAPE "by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction" (Rowley, 458 U.S. at 203). However, the "IDEA does not itself articulate any specific level of educational benefits that must be provided through an IEP" (Walczak, 142 F.3d at 130; see Rowley, 458 U.S. at 189). "The adequacy of a given IEP turns on the unique circumstances of the child for whom it was created" (Endrew F., 137 S. Ct. at 1001). The statute ensures an "appropriate" education, "not one that provides everything that might be thought desirable by loving parents" (Walczak, 142 F.3d at 132, quoting Tucker v. Bay Shore Union Free Sch. Dist., 873 F.2d 563, 567 [2d Cir. 1989] [citations omitted]; see Grim, 346 F.3d at 379). Additionally, school districts are not required to "maximize" the potential of students with disabilities (Rowley, 458 U.S. at 189, 199; Grim, 346 F.3d at 379; Walczak, 142 F.3d at 132). Nonetheless, a school district must provide "an IEP that is 'likely to produce progress, not regression,' and . . . affords the student with an opportunity greater than mere 'trivial advancement'" (Cerra, 427 F.3d at 195, quoting Walczak, 142 F.3d at 130 [citations omitted]; see T.P., 554 F.3d at 254; P. v. Newington Bd. of Educ., 546 F.3d 111, 118-19 [2d Cir. 2008]). The IEP must be "reasonably calculated to provide some 'meaningful' benefit" (Mrs. B. v. Milford Bd. of Educ., 103 F.3d 1114, 1120 [2d Cir. 1997]; see Endrew F., 137 S. Ct. at 1001 [holding that the IDEA "requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances"]; Rowley, 458 U.S. at 192). The student's recommended program must also be provided in the least restrictive environment (LRE) (20 U.S.C. § 1412[a][5][A]; 34 CFR 300.114[a][2][i], 300.116[a][2]; 8 NYCRR 200.1[cc], 200.6[a][1]; see Newington, 546 F.3d at 114; Gagliardo v. Arlington Cent. Sch. Dist., 489 F.3d 105, 108 [2d Cir. 2007]; Walczak, 142 F.3d at 132).

An appropriate educational program begins with an IEP that includes a statement of the student's present levels of academic achievement and functional performance (see 34 CFR 300.320[a][1]; 8 NYCRR 200.4[d][2][i]), establishes annual goals designed to meet the student's needs resulting from the student's disability and enable him or her to make progress in the general education curriculum (see 34 CFR 300.320[a][2][i], [2][i][A]; 8 NYCRR 200.4[d][2][iii]), and provides for the use of appropriate special education services (see 34 CFR 300.320[a][4]; 8 NYCRR 200.4[d][2][v]).[4]

A board of education may be required to reimburse parents for their expenditures for private educational services obtained for a student by his or her parents, if the services offered by the board of education were inadequate or inappropriate, the services selected by the parents were appropriate, and equitable considerations support the parents' claim (Florence County Sch. Dist. Four v. Carter, 510 U.S. 7 [1993]; Sch. Comm. of Burlington v. Dep't of Educ., 471 U.S. 359, 369-70 [1985]; R.E., 694 F.3d at 184-85; T.P., 554 F.3d at 252). In Burlington, the Court found that Congress intended retroactive reimbursement to parents by school officials as an available remedy in a proper case under the IDEA (471 U.S. at 370-71; see Gagliardo, 489 F.3d at 111; Cerra, 427 F.3d at 192). "Reimbursement merely requires [a district] to belatedly pay expenses that it should

[4] The Supreme Court has stated that even if it is unreasonable to expect a student to attend a regular education setting and achieve on grade level, the educational program set forth in the student's IEP "must be appropriately ambitious in light of his [or her] circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives" (Endrew F., 137 S. Ct. at 1000).

have paid all along and would have borne in the first instance" had it offered the student a FAPE (Burlington, 471 U.S. at 370-71; see 20 U.S.C. § 1412[a][10][C][ii]; 34 CFR 300.148).

The burden of proof is on the school district during an impartial hearing, except that a parent seeking tuition reimbursement for a unilateral placement has the burden of proof regarding the appropriateness of such placement (Educ. Law § 4404[1][c]; see R.E., 694 F.3d at 184-85).

VI. Discussion - Statute of Limitations

The parents appeal from the IHO's determination that the statute of limitations precludes the parents' claims regarding the 2018-19 school year. The IDEA provides that a claim accrues on the date that a party knew or should have known of the alleged action that forms the basis of the complaint and requires that, unless a state establishes a different limitations period, the party must request a due process hearing within two years of that date (20 U.S.C. § 1415 [f][3][C]; see also 20 U.S.C. § 1415[b][6][B]; Educ. Law § 4404[1][a]; 34 CFR 300.507[a][2], 300.511[e]; 8 NYCRR 200.5[j][1][i]; Somoza v. New York City Dep't of Educ., 538 F.3d 106, 114-15 & n.8 [2d Cir. 2008]; M.D. v. Southington Bd. of Educ., 334 F.3d 217, 221-22 [2d Cir. 2003]).[5] Because an IDEA claim accrues when the parent knew or should have known about the claim, "determining whether a particular claim is time-barred is necessarily a fact-specific inquiry" (K.H. v. New York City Dep't of Educ., 2014 WL 3866430, at *16 [E.D.N.Y. Aug. 6, 2014]; see K.C. v. Chappaqua Cent. Sch. Dist., 2018 WL 4757965, at *14 [S.D.N.Y. Sept. 30, 2018] [collecting cases representing different factual scenarios for when a parent may be found to have known or have had reason to know a student was denied a FAPE]). Further, two exceptions to the statute of limitations may apply to the timelines for requesting impartial hearings. The first exception applies if a parent was prevented from filing a due process complaint notice due to the district withholding information from the parent that the district was required to provide under the IDEA (20 U.S.C. § 1415[f][3][D][ii]; 34 CFR 300.511[f][2]; 8 NYCRR 200.5[j][1][i]). A second exception may apply if a parent was prevented from filing a due process complaint notice due to a "specific misrepresentation" by the district that it had resolved the issues forming the basis for the due process complaint notice (20 U.S.C. § 1415[f][3][D]; 34 CFR 300.511[f]; 8 NYCRR 200.5[j][1][i]).

Initially, the parents responded to the district's motion to dismiss the matter, arguing that their claims did not accrue until September 2018, when the student began attending IVDU for the 2018-19 school year (see April 23, 2021 Parent Response to Dist. Mot. to Dismiss). Additionally, on appeal they contend that the proper "knew or should have known" date is the date of their notice of unilateral placement at IVDU to the district on August 20, 2018, because that is the date the parents knew they would be obligated to pay tuition at IVDU. However, generally claims related to the conduct of a CSE meeting or the contents of an IEP accrue at the time of the CSE meeting or at the latest upon the parent's receipt of the IEP (see F.L. v. Bd. of Educ. of Great Neck Union Free Sch. Dist., 274 F. Supp. 3d 94, 113-14 [E.D.N.Y. 2017], aff'd 2018 WL 4049074 [2d Cir. Aug. 24, 2018]; Bd. of Educ. of North Rockland Cent. Sch. Dist. v. C.M., 2017 WL 2656253, at *7-*9 [S.D.N.Y. June 20, 2017], aff'd 2018 WL 3650185 [2d Cir. Aug. 1, 2018]). The Southington

[5] New York State has not explicitly established a different limitations period (Educ. Law § 4404[1][a]; 8 NYCRR 200.5[j][1][i]).

caselaw relied upon by the parents for their accrual argument predates the specific statute of limitations passed by Congress in 2004, which became effective in 2005 (20 U.S.C. § 1415 [f][3][C]), and the alleged violations of the IDEA stem from that May 2018 CSE and IEP development. The R.B case from 2011 cited by the parent seems to be a minority viewpoint and does not overcome the reasoning of other cases to the contrary. The amended due process complaint notice admits that the May 14, 2018 CSE meeting occurred,[6] and asserts claims concerning the content of the resulting IEP (April 7, 2021 Amended Due Proc. Compl. Not.). The amended due process complaint notice also asserts claims concerning the conduct of the CSE review team during the meeting, including parental participation failures and problems with the participation of the student's then-current teacher from IVDU who participated by telephone due to a lack of access to materials being considered, as well as IEP substantive claims such as insufficient or inappropriate educational services, class ratio, goals and related services in the IEP (id.). However, the amended due process complaint notice does not assert any claims concerning IEP implementation or any other claim that could have accrued after the May 2018 CSE meeting (id.). Accordingly, the parents' claims related to the development and recommendations contained in the May 2018 IEP are outside the statute of limitations period.[7] Finally, while claims related to inadequate evaluations, an improper classification, or an inappropriate placement may "not accrue until [the parent] gained new information that made [her] aware of inadequacies in the student's prior special education program" (K.H., 2014 WL 3866430, at *16-*20 [E.D.N.Y. Aug. 6, 2014]), the parents did not raise such an allegation before the IHO and it would not be a basis for overturning the IHO's determination in this appeal.

The parents have asserted that an exception to the statute of limitations should apply, specifically the exception that applies if a parent was prevented from filing a due process complaint notice due to the district withholding information from the parent that the district was required to provide under the IDEA (20 U.S.C. § 1415[f][3][D][ii]; 34 CFR 300.511[f][2]; 8 NYCRR 200.5[j][1][i]). However, as the district points out, case law interpreting the "withholding of information" exception to the limitations period has found that the exception applies to the requirement that parents be provided with certain procedural safeguards required under the IDEA (see D.K. v. Abington Sch. Dist., 696 F. 3d 233, 246 [3rd Cir. 2012]; Bd. of Educ. of North Rockland Cent. Sch. Dist. v. C.M., 2017 WL 2656253, at *9-*10 [S.D.N.Y. June 20, 2017]; R.B. v. Dept. of Educ., 2011 WL 4375694, at *4, *6 [S.D.N.Y. Sept. 16, 2011]; El Paso Indep. Sch. Dist. v. Richard R., 567 F. Supp. 2d 918, 943-45 [W.D. Tex. 2008]). Such safeguards include the

[6] The amended due process complaint notice states that "[u]pon information and belief, the CSE review team convened on or about March 14, 2018, to develop an IEP for [the student] for the 2018-2019 school year."

[7] In their memorandum of law the parents raise an argument for the first time concerning a lack of evidence submitted by the district that the presumption of mailing should apply to the district's prior written notice, IEP and school location letter (Parents Mem. of Law at pp. 4-5). Notably, the parents did not raise this objection before the IHO at the impartial hearing and, as the district points out, it has long been held that a memorandum of law is not a substitute for a pleading, which is expected to set forth the appealing party's allegations of the IHO's error with appropriate citation to the IHO's decision and the hearing record (8 NYCRR 279.8[c][3]; [d]; see, e.g., Application of a Student with a Disability, Appeal No. 15-070). Accordingly, any issue identified solely in the parent's memorandum of law, without an allegation of IHO error contained in the request for review, is outside of the scope of review. Remanding the matter for additional proof on this point would be a waste of judicial resources, given the weight of the evidence presented with respect to the statute of limitations question at issue herein.

requirement to provide parents with a procedural safeguards notice containing, among other things, information about requesting an impartial hearing (see 20 U.S.C. § 1415[d]; 34 CFR 300.504; 8 NYCRR 200.5[f]). Under the IDEA and federal and State regulations, a district must provide parents with a copy of a procedural safeguards notice annually (20 U.S.C. § 1415[d][1][A]; 34 CFR 300.504[a]; 8 NYCRR 200.5[f][3]). Here the exception does not apply because the parents have not alleged that the district withheld a copy of a procedural safeguards notice, rather they allege that the district failed to provide a copy of the IEP and failed to respond to the parents' 10-day notice or due process complaint notice (Req. for Rev. at p. 5). These events did not prevent the parents from filing the due process complaint notice, and in fact it is the parents who in their initial due process complaint notice asserted that the district failed to convene a CSE meeting, the resulting IEP of which they now complain. The IHO placed the accrual date at no later than June 14, 2018, and I can only add that by the time a 12-month IEP should have gone into effect in July 2018, the parents certainly should have known something was wrong. It was not reasonable for the parents to wait more than two years from that point before filing their initial complaint.

Accordingly, there is no basis for overturning the IHO's determination that the statute of limitations barred the parents' claims related to the 2018-19 school year.

VII. Conclusion

Having determined that the evidence in the hearing record supports the IHO's determinations that the parents' challenge of the student's IEP for the 2018-19 school year was untimely, the necessary inquiry is at an end.

I have considered the remaining contentions and find it is unnecessary to address them in light of my determination above.

THE APPEAL IS DISMISSED.

Dated: Albany, New York
July 26, 2021

JUSTYN P. BATES
STATE REVIEW OFFICER