**COMMONWEALTH OF MASSACHUSETTS**

**DIVISION OF ADMINISTRATIVE LAW APPEALS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

In re: Student and Attleboro Public Schools BSEA **#**2508805

 #2508971[[1]](#footnote-1)

**RULING ON PARENTS’ MOTION TO ADVANCE HEARING, MOTION FOR EMERGENCY RELIEF, MOTION FOR RECONSIDERATION, AND MOTION TO ADVANCE HEARING DATE AND/OR FOR FURTHER SANCTIONS**

 This matter comes before the Hearing Officer on several motions[[2]](#footnote-2) filed by Parents seeking to advance the Hearing in the above-referenced matters. On March 17, 2025, Parents filed a motion captioned *Motion to Advance Hearing* and a separate *Motion for Emergency Relief*. On the same day, the Attleboro Public Schools (Attleboro or the District) filed its *Response*. On March 18, 2025, Parents filed a motion captioned *Motion for Reconsideration*, also addressing the hearing date. On March 19, 2025, the District filed an *Opposition to Parents’ Various Motions*. On April 7, 2025, Parents filed a *Motion to Advance Hearing Date and/or for Further Sanctions*.

Neither party requested a hearing on the *Motions*, and as formal oral argument would not advance my understanding of the issues involved, I am ruling on said *Motions* without a hearing.[[3]](#footnote-3) For the reasons set forth below, Parents’ *Motions* seeking expedited or accelerated status, emergency relief, or advancement of the hearing date are DENIED.

I. FACTUAL BACKGROUND AND RELEVANT PROCEDURAL HISTORY

On February 24, 2025, Parents filed a *Hearing Request* and a request for expedited status. Expedited status was denied, and the Hearing was scheduled for March 31, 2025. On February 25, 2025, Attleboro filed an objection to expedited status. Parents filed a second Hearing Request on February 27, 2025, which they later clarified was meant to amend their initial *Hearing Request*. On March 3, 2025 the District filed its *Response* to Parents’ initial *Hearing Request* and requested that both the Hearing and the Conference Call be postponed due to the unavailability of Counsel.[[4]](#footnote-4) From that point to March 24, 2024, when the undersigned Hearing Officer issued an Order limiting future filings to Mondays, Parents have sent approximately 30 separate emails containing objections, requests, motions, and amendments to previous filings.[[5]](#footnote-5) On March 12, 2025, following a Conference Call that took place over Zoom, the parties filed a joint request to postpone the Hearing for 10 weeks to permit them to continue exploring resolution, complete discovery, and accommodate Parents’ recent amendment of the *Hearing Request.* An Order was issued the same day allowing the parties’ joint postponement request and scheduling the Hearing for June 10 and 11, 2025, with a Pre-Hearing on April 14, 2025.[[6]](#footnote-6) The March 12th Order also outlined the issues for Hearing as follows:

1. Whether Attleboro Public Schools denied Student a Free Appropriate Public Education (FAPE) by:
	1. failing to propose sufficient Extended School Year (ESY) services for the summer of 2025;
	2. failing to provide Student with a certified special education teacher from on or about December 24, 2024 to the present;
	3. failing to provide Student with an Augmentative and Alternative Communication (AAC) device for use outside of school hours from September 2023 to March 2025;
	4. failing to conduct a Functional Behavioral Assessment and/or failing to evaluate Student in all areas of suspected disability; and/or
	5. failing to provide a 1:1 paraprofessional for Student
2. Whether Attleboro Public Schools committed procedural errors amounting to the deprivation of a FAPE through the composition of an IEP Team during a meeting on or about February 27, 2025;
3. Whether Attleboro Public Schools committed neglect by failing to provide adequate supervision of Student in the classroom; and/or
4. Whether Attleboro Public Schools violated the public records act

Should I determine that Attleboro Public Schools violated Student’s right to a FAPE in any of the above-enumerated ways, I must determine the appropriate remedy, which will include consideration of Parents’ request for an out-of-district placement.[[7]](#footnote-7)

On March 17, 2025, Parents filed a *Motion to Advance Hearing Date and Reinstate Original Schedule*, in which they contend that there is an immediate need for expedited hearing “due to the immediate and substantial interruption of special education and related services,” and because “delaying the hearing date further exacerbates the educational harm already suffered by the Student.” They requested a two-day hearing and reinstatement of the original March 31, 2025 hearing date. In their *Motion for Emergency Relief*, sent an hour later, Parents requested that the Bureau of Special Education Appeals (BSEA) “issue an emergency order requiring Attleboro Public Schools to immediately provide necessary services to ensure that [Student] is not further denied a . . . FAPE while awaiting the hearing.” After close of business that evening, Parents submitted a further email entitled *Additional Support for Parent’s [sic] Motion for Emergency Relief*, citing several prior BSEA cases and explaining that the motion seeks emergency relief, not expedited status. This *Motion* essentially seeks most, if not all, of the relief sought in Parents’ *Hearing Request*. In an email response to Parents’ *Motions* filed that night, Attleboro strongly objected to accelerated status and refiled its initial objection, wherein it argued that Parents’ *Hearing Request* did not involve discipline and thus did not qualify for expedited status, nor had Parents pled sufficiently that the safety of Student or others would be endangered by delay, that the special education services Student is receiving are sufficiently inadequate such that harm to him is likely, or that Student is without an available educational placement, such that accelerated status would be warranted. Parents immediately filed (also after hours) a *Response to District’s Objection to Emergency Relief*, asserting that emergency relief is appropriate due to the District’s “ongoing, systemic failure to provide a legally complaint special education program.” Despite characterizing their motion as seeking something other than acceleration of the hearing date, Parents argued that their *Hearing Request* did, in fact, meet the standard for an accelerated hearing because Attleboro’s failure to provide Student with a FAPE does create safety risks and harm is occurring. Parents then sent an email arguing that the District’s *Objection* was procedurally deficient and a follow-up email regarding the deficiencies they had outlined.

After close of business on March 18, 2025, Parents sent an email entitled *Motion for Reconsideration*, in which they argued that the District’s “improper service” of its February 25, 2025 objection to accelerated status (which was received by the BSEA after Parents’ request for expedited status was denied) deprived them of due process and meaningful participation. They requested that the BSEA’s denial of expedited status be vacated to allow for full consideration of their arguments. Parents then sent an email entitled *Objection to Attleboro Public Schools’ Opposition to Accelerated Status*, arguing that the District’s *Objection* is “factually inaccurate, legally insufficient, and should be rejected.” They also renewed their request for accelerated status and, still after business hours on March 18, 2025, sent an email entitled *Urgent Follow-Up: Response Required by 2pm Tomorrow,* stating that they would proceed with further action, including a motion for sanctions and/or default judgment, in the absence of a response within their timeline.

On March 19, 2025, Attleboro filed an *Opposition to the Parents’ Various Motions Filed Since March 12, 2025*. In pertinent part, the District asserts that the parties had jointly agreed to postponement of the Hearing during a Conference Call on March 12, 2025, and that although it had inadvertently failed to include Parents on the electronic submission of its February 25, 2025 objection to accelerated status, it had sent the document to Parents by mail.

On April 7, 2025, Parents filed a *Motion to Advance Hearing Date*, asserting that the District had failed to memorialize in writing a settlement offer that had been discussed, and had failed to serve them with the joint postponement request filed on March 12, 2025. Parents requested that the hearing date be advanced to the “earliest possible date prior to the conclusion of the 2024-2025 school year,” or that, in the alternative, the District be ordered to reduce its verbal offer to writing within five business days, be sanctioned for “procedural misconduct,” and be ordered to schedule an immediate discussion regarding an extended evaluation. Although Parents contend that Attleboro acknowledged a failure to serve them with the joint postponement request, I note for the record that Parents were, in fact, copied on the joint postponement request submitted to me by Attleboro on March 12, 2025.

1. DISCUSSION
2. *Legal Standards*
3. Expedited and Accelerated Status

The *Hearing Rules for Special Education Appeals* (BSEA *Hearing* *Rules*) outline the criteria for both expedited and accelerated status. Hearing Rule II(C) provides for expedited status in cases involving discipline. Specifically, expedited status is granted in the following circumstances:

* 1. when a parent disagrees with a school district’s determination that the behavior leading to discipline was not a manifestation of the student’s disability; or
	2. when a parent disagrees with a school district’s decision regarding a student’s placement in the discipline context; or
	3. when a school district asserts that maintaining the current placement of the student during the pendency of due process proceedings is substantially likely to result in injury to the student or others.[[8]](#footnote-8)

According to BSEA Hearing Rule II(D), hearings may be assigned accelerated status in the following situations:

* 1. when the health or safety of the student or others would be endangered by the delay; or
	2. when the special education services the student is currently receiving are sufficiently inadequate such that harm to the student is likely; or
	3. when the student is currently without an available educational program or the student’s program will be terminated or interrupted immediately.

ii. Advancement

 BSEA Hearing Rule III(B) allows for advancement of a hearing date that has been postponed previously at the request of a party for good cause.

1. *Application of Legal Standards*

 In their multiple motions seeking accelerated status or emergency relief, Parents have offered essentially the same allegations contained in their initial *Hearing Request*, as amended by their second *Hearing Request*: Attleboro has failed to provide Student with a FAPE, primarily by: (1) failing to provide him with a certified special education teacher since December 24, 2024, failing to provide related services at the required frequency, and failing to provide necessary accommodations; (2) failing to conduct “essential evaluations;” and (3) restricting his AAC device improperly.[[9]](#footnote-9) Parents also argue that Attleboro’s alleged procedural failures demonstrate that the District is attempting to “delay compliance and avoid transparency,” such that the hearing should be accelerated. To the extent Parents seek “emergency relief,” they appear to be seeking the very relief requested in their *Hearing Request* either without having a hearing or through an accelerated or advanced hearing date.

 Parents do not claim that their *Hearing Request* involves discipline; as such, expedited status is not warranted. Moreover, although Parents have alleged that Student is harmed by the absence of a certified special education teacher, such allegation is conclusory, rather than specific. To be clear, this should not be construed as an invitation for further motions seeking accelerated status – in the absence of an agreement by the parties, such status will not be granted unless there is a significant change in circumstances.

 As for advancement, Parents offer the same reasoning. They also assert that Attleboro is not participating fully or fairly in settlement negotiations – something over which the Hearing Officer does not, and should not, have control. The Hearing was postponed for good cause on March 12, 2025, with Parents’ assent. It is evident from Parents’ filings that the parties continue to discuss possible resolution. Multiple motions have been filed and are pending; rulings on these motions may narrow and clarify the issues that remain for Hearing in the absence of an agreement among the parties. Good cause does not here exist for advancement of the Hearing over the District’s objection.

1. CONCLUSION

Upon consideration of Parents’ *Motions* seeking expedited or accelerated status, emergency relief, and/or advancement, and Attleboro Public Schools’ *Oppositions* thereto, I find that Parents’ requested relief is not warranted.

**ORDER**

Parents’ *Motion to Advance Hearing*, *Motion for Emergency Relief*, *Motion for Reconsideration*, *Motion to Advance Hearing Date and/or for Further Sanctions* (to the extent it addresses the hearing date), and any other motions seeking acceleration or advancement of the hearing date or emergency relief, are hereby DENIED.

By the Hearing Officer:

 /s/ Amy M. Reichbach

Dated: April 7, 2025

1. Although Parents’ filing on February 27, 2025 was given a separate docket number, Parents later clarified that it was meant to amend their previous request. As such, the matters are hereby consolidated. [↑](#footnote-ref-1)
2. Until March 24, 2025, Parents filed all motions and requests in the body of an email; several motions were revised or otherwise amended within moments. As such, it is possible that not all motions seeking expedited or accelerated status, emergency relief, or advancement of the hearing date have been captioned separately. All such motions and requests are, however, addressed in this Ruling. [↑](#footnote-ref-2)
3. Rule VII(D) of the BSEA *Hearing Rules for Special Education Appeals* (BSEA *Hearing Rules*) provides in relevant part: “A Hearing Officer may rule on a motion without holding a hearing if: delay would seriously injure a party; testimony or oral argument would not advance the Hearing Officer's understanding of the issues involved; or a ruling without a hearing would best serve the public interest.” [↑](#footnote-ref-3)
4. On March 7, 2025, in response to the District’s *Response* to Parents’ second *Hearing* *Request*, Parents filed a *Response to Attleboro Public Schools’ Submission* and, subsequently, a *Revised Response to Attleboro Public Schools’ Submission*. [↑](#footnote-ref-4)
5. To the extent they require responses, these objections, requests, motions, and amendments will be addressed in separate rulings. The information provided here is limited to what is required to resolve the issues outlined above. [↑](#footnote-ref-5)
6. The Pre-Hearing Conference has since been cancelled at Parents’ request. [↑](#footnote-ref-6)
7. On March 12, 2025, Parents sent an email entitled *Clarification on Sought Relief*, stating that they seek an out-of-District placement for Student for three years, with a stay-put provision; full coverage of in-school specialist services, ESY services, and transportation needs; and compensatory education services for missed academic services and the failure to provide unrestricted, year-round and customization access to Student’s dedicated AAC device. [↑](#footnote-ref-7)
8. BSEA HearingRule II(C). [↑](#footnote-ref-8)
9. In one of their filings, Parents acknowledge that this issue has been resolved going forward. [↑](#footnote-ref-9)