**COMMONWEALTH OF MASSACHUSETTS**

**DIVISION OF ADMINISTRATIVE LAW APPEALS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

**In Re: Student v. Foxborough Public Schools BSEA # 2513698**

**RULING ON PARENTS’ MOTION FOR ACCELERATED STATUS**

This matter comes before the Hearing Officer on the May 28, 2025, *Parents’ Request for Accelerated Status* (the Motion) in the instant matter. Via letter dated May 28, 2025, Reece Erlichman, Director of the Bureau of Special Education Appeals (BSEA), notified the parties that,

“It is not wholly clear from your request as written whether the standard for an Accelerated Hearing, pursuant to Rule II D. of the Hearing Rules for Special Education Appeals, has been met. A Notice of Hearing reflecting a non-accelerated hearing date is therefore enclosed.

However, for additional consideration of your request for accelerated status, you may notify the assigned Hearing Officer, who may then inquire further and make a determination as to the status of the request. “

Although the initial conference call in this matter was scheduled for June 16, 2025, the parties communicated with the Hearing Officer via email and rescheduled the call to June 13, 2025, as the Hearing Officer and Parents’ Counsel were unavailable on the former date. During that call, Parents’ Counsel informed the undersigned Hearing Officer that Parents disagreed with the determination of the BSEA Director relative to accelerated status. Also during said call, the parties discussed possible dates for Hearing. Subsequently, Parents’ Counsel indicated via email dated June 23, 2025, that she “continu[ed] to oppose a postponement given that this matter should have been and should be on accelerated track per our conference call and per [her] pleading, and particularly where no postponement has been requested in writing….”[[1]](#footnote-1) On June 24, 2025, the District responded, stating “that the hearing request filed by Parents does not meet the requirements under Rule II(D) for accelerated status. The BSEA Director’s decision should not be overturned.”

Parents requested a hearing on their Motion. Subsequently, via email dated June 24, 2025, Parents Counsel indicated that

“if [the Hearing Officer] can grant [accelerated status] based on the pleadings alone, taking my facts as true, have at it, else we would like to present witnesses to substantiate our request. ….  If my facts on their face -- taken as true -- aren't sufficient to establish accelerated status (which they are, so please feel free to decide they are), then I'll gladly have the kid's therapist attest to the hospitalizations and the feeding tube and the extreme anxiety and urgency of the need and I'll have parents attest to the interruption in the programming.  I don't feel it should be necessary, but the kid can't wait until August for a hearing / September for a decision….”

For the reasons set forth below, the Patents’ Request for accelerated status is DENIED.

**FACTUAL BACKGROUND AND RELEVANT PROCEDURAL HISTORY[[2]](#footnote-2)**

1. Student is a nine (9) year-old 4th grader currently residing in the District and enrolled in Vincent Igo Elementary School (Igo Elementary School). She is eligible for special education and related services pursuant to the Disability Categories of Emotional and Health.
2. In March 2023, the District offered, and Parents accepted, an initial IEP dated March 10, 2023, through March 9, 2024, with goals and services in the areas of Motor, Self-Regulation Skills, and Social and Emotional Skills.
3. In June 2023, Student experienced multiple emergency department visits and a brief hospitalization for acute food refusal, attributed to severe anxiety. She was subsequently re-admitted for 28 days, required nasogastric (NG) tube feeding. While hospitalized, Student made delusional accusations against Parents and medical staff. Upon discharge, she remained on NG feeds and was enrolled in an Avoidant/Restrictive Food Intake Disorder (ARFID) clinic, where she later began limited oral intake.[[3]](#footnote-3)
4. The IEP Team convened on October 17, 2023, and proposed to amend the Student’s initial IEP, adding, in part, more accommodations for her new diagnosis of AFRID. Parents accepted the IEP Amendment on November 1, 2023.
5. The Team then convened for an annual review meeting on February 26, 2024. The District proposed a full inclusion placement and an IEP dated February 26, 2024, through February 25, 2025 (February 2024), with goals and services in the areas of Social and Emotional Skills, Math/Executive Functioning, and ELA/Executive Functioning. Parents rejected the IEP and refused the placement on March 20, 2024.
6. The Team reconvened on April 29, 2024, to review Parents' rejection and agreed to certain changes for the February 2024 IEP. Parents requested an alternative placement at an in-district specialized therapeutic program located at a different elementary school. The District rejected this request because, due to Parents’ rejection of the February 2024 IEP, the District had been unable to implement the increased services it had proposed and to assess Student’s progress under that regimen. The District proposed an IEP dated April 9, 2024, through February 25, 2025, making some changes requested by Parents, but continuing to propose the goals and services of the February 2024 IEP with a full inclusion placement at Igo Elementary School. On May 8, 2024, Parents rejected the revised February 2024 IEP and refused the placement.
7. On May 21, 2024, the Team convened again and proposed a full inclusion placement and an updated IEP for the period of May 14, 2024 to February 25, 2025, that reflected a service delivery grid, including, but not limited to Extended School Year (ESY) services (4 x 180 minutes for the period from July 8, 2024 to August 1, 2024 by Special Educator and/or Educational Assistant). Parents believe that they did not meaningfully participate in the development of the goals and benchmarks of this IEP.
8. On June 18, 2024, the District proposed a full inclusion placement and a revised IEP for the period from June 3, 2024 to February 25, 2025 (June 2024 IEP) that reflected goals and services to address deficits in social-emotional skills, mathematics, ELA, physical therapy, and occupational therapy. Specifically, the District proposed a service delivery grid with the following services: Grid A: Occupational Therapy by an OT or COTA 1 x 30 mins/month and consultation by a Physical Therapist 1 x 10 mins/month; Grid B: Counseling by a School Counselor 6 x 10 mins/cycle and Occupational Therapy by an OT or COTA 1 x 30 mins/cycle; Grid C: Counseling by a School Counselor 2 x 30 mins/cycle; Academic Support - Mathematics by a Special Educator and/or Educational Assistant 6 x 30 mins/cycle; Academic Support - ELA by a Special Educator and/or Educational Assistant 6 x 30 mins/cycle; Physical Therapy by a Physical Therapist 1 x 10 mins/month. The Team also proposed Extended School Year services, which included Academic Support and Counseling. Parents believe that they did not meaningfully participate in the development of the goals and benchmarks of this IEP.
9. On or about June 25, 2024, Parents rejected the June 2024 IEP, including, but not limited to, the "or Educational Assistant" as the type of personnel to provide pull-out service for ESY.[[4]](#footnote-4) Parents also rejected the full-inclusion placement and noted that

“we feel that [Student’s] anxiety which has caused her to be hospitalized and to have a feeding tube placed last summer [2023], and which has caused her significant time away from the curriculum this school year, [and which] is indicative of her need for a far more structured and therapeutic out-of-district educational placement.”

1. In the summer of 2024, Student was again hospitalized for her ARFID condition. Parents believe that this was the “result of the stress created from the Student's disruption to her education.”[[5]](#footnote-5) Student

“experienced a regression with a tendency to perseverate that she would need to be readmitted and need NG feeding again. She began to lose weight again, wanted to sleep with her parents, and [her] anxiety intensified. She stopped being willing to leave the house or drive in the car. She underwent a partial hospitalization at the Italian Home for Children.”[[6]](#footnote-6)

1. On September 12, 2024, the Team met to review a private neuropsychological evaluation but chose to defer discussion of ESY 2025 until the Annual Review in February 2025. The District denied Parents’ request to remove “and/or Educational Assistant” from the service delivery grid, asserting its authority to assign appropriate staff. The District also declined to revise proposed goals and benchmarks. Parents believed that they were denied meaningful participation in the process.
2. On September 13, 2024, the District informed Parents that due to their continued rejections, it could only implement the last accepted IEP and was unable to provide proposed new services without corresponding accepted goals and benchmarks. The District requested interim permission to work on the proposed goals to allow service delivery while maintaining Parents’ formal rejection, but Parents did not respond.
3. On or about October 17, 2024, Student was suspended from school, for conduct which Parents believe was a manifestation of her disability.[[7]](#footnote-7)
4. On or about November 20, 2024, the District proposed a 45-day Extended Evaluation in its elementary therapeutic program at Taylor Elementary, citing its belief that the current IEP provided FAPE and concerns raised by Parents and outside providers. Parents consented on or about November 28, 2024. However, despite follow-up communications in December 2024 and January 2025, Parents did not respond regarding a start date.
5. On February 17, 2025, Student met with a Developmental-Behavioral Pediatrician. Parents reported that Student continued to be behind in mathematics and had regular behavioral outbursts at school “particularly triggered by this subject…. Another trigger [was] her wellness class (frustrated when [she could] not keep up with peers).” Student’s outbursts were less frequent at home. The Developmental-Behavioral Pediatrician

“agreed with previously identified diagnoses of Generalized Anxiety Disorder, Social Anxiety Disorder, Unspecified Mood Disorder and ADHD (inattentive) with substantial executive dysfunction. [She noted that she had] not directly assessed [Student’s] current mathematics achievement [herself], but [did] note that previous assessments indicate[d] a Specific Learning Disorder in mathematics and [she] would consider that part of [Student’s] profile. [She noted that Student also] has a social communication disorder (specifically, ASD) that [she] strongly recommend[ed] be [taken] into account in [the] approach to her support so that we [could] better understand and support [Student].”[[8]](#footnote-8)

1. The Developmental-Behavioral Pediatrician diagnosed Student with Autism Spectrum Disorder[[9]](#footnote-9), Generalized Anxiety Disorder, Social Anxiety Disorder, Hypotonia, Specific Learning Disorder, with impairment in mathematics, Mild Sleep disorder, unspecified. She

“encourage[d] [Student’s] school district to consider that her present challenges in self-regulation with poor frustration intolerance and cognitive inflexibility make it highly unlikely for her thrive academically and socially in her current placement. [Student] would benefit from far more intensive behavioral, social and emotional support than she has received in this school setting to date.”[[10]](#footnote-10)

1. In March 2025, the District proposed that Student receive her services through the District’s TEAM program, a therapeutic program that supports students with social-emotional needs, located at Taylor Elementary School through fourth grade and Ahern Middle School beginning in the fifth grade. The IEP, dated March 24, 2025, through March 23, 2026 (March 2025 IEP) with goals and services in the areas of Math Calculation Skills, Math Problem Solving Skills, Executive Function Skills, Social and Emotional Skills, and Gross Motor Skills. The Team also proposed Extended School Year services across all goal areas, including Counseling 1 x 30 minutes (from July 7, 2025 to July 31, 2025, by Guidance Counselor) and Academic Support 4 x 180 minutes (from July 7, 2025 to July 31, 2025, by Special Educator and/or Educational Assistant). The District invited Parents to tour both the elementary and middle school levels. On April 13, 2025, Parents rejected the March 2025 IEP and refused the placement.
2. On June 2, 2025, Parents informed the District that they wished to enroll Student in the District’s ESY program for the summer of 2025. The District responded that day indicating that ESY services had been included in the March 2025 IEP, but that Parents had fully rejected that IEP. The District informed Parents that if they were now reconsidering the proposed ESY services, the District would provide them with an updated IEP for review and consideration. Parents did respond to this communication.
3. On May 28, 2025, Parents filed the instant Hearing Request, seeking accelerated status on the grounds that, pursuant to BSEA Hearing Rule II(D), the delay would endanger the health or safety of the student or others; the special education services the student is currently receiving are sufficiently inadequate such that harm to the student is likely; and the student is currently without an available educational program or the student's program will be terminated or interrupted immediately. Parents asserted, in part, that since March 2024 they have been denied the right to meaningfully participate in the Student's educational decision making, that the IEPs proposed since that time have not offered Student a free appropriate public education (FAPE) in the least restrictive environment (LRE), and that “Student is at immediate risk of hospitalization for yet a 3rd summer in a row as a result of an avoidable gap in her education and as a result of inappropriate year round in-school therapeutic supports for the Student.” For relief, Parents requested “an out-of-district special education placement at the Wolf School and/or another comparable out-of-district placement as a compensatory and/or prospective remedy [and] [a]ny and all additional relief that the Hearing Officer deems appropriate.” On May 28, 2025, this matter was not found to meet the accelerated hearing standard, and the Hearing was scheduled for an initial hearing date of July 3, 2025.
4. Student has been accepted to Wolf School. The District has denied Parents’ request for an out-of-district placement for Student.
5. On June 13, 2025, during an initial conference call, Parents’ Counsel objected to the denial of accelerated hearing status. The District’s Counsel indicated unavailability for the scheduled initial hearing date. Despite Parents’ opposition to delay, mid-July dates were tentatively discussed. On June 23, the District formally requested a postponement, citing the unavailability of key witnesses and asserting that proceeding without them would be prejudicial. That same day, Parents opposed the request, emphasizing the urgency due to Student’s prior summer hospitalizations, unsafe school conditions, withheld services, and the risk of losing a placement at Wolf School. On June 24, the District offered September dates for witness availability. Later that day, the Hearing Officer granted a limited continuance through early August, but neither party has since provided their availability.[[11]](#footnote-11)

**LEGAL STANDARDS AND DISCUSSION:**

*1. Legal Standard for Accelerated Hearings.*

BSEA Hearing Rule II(D)(1) states that accelerated status may be granted in the following circumstances:

“Hearings may be assigned accelerated status in the following situations:

a. When the health or safety of the student or others would be endangered by the delay; or

b. When the special education services the student is currently receiving are sufficiently inadequate such that harm to the student is likely; or

c. When the student is currently without an available educational program or the student’s program will be terminated or interrupted immediately.”

*2. Application of Legal Standards.*

Pursuant to BSEA Hearing Rule II(D)(2), requests for accelerated hearing status must be submitted in writing and must comply with the requirements set forth in Rule I. Accelerated status is “assigned” based on the pleadings alone, and the Rules do not require an “evidentiary hearing” to make the designation.[[12]](#footnote-12) Specifically, BSEA Hearing Rule II(D)(2) indicates the “[f]orm of Accelerated Hearing Requests” and states that “[r]equests for accelerated hearings must be *in writing* and must conform to the requirements of Rule I.”[[13]](#footnote-13) Where “it is not wholly clear from [the hearing] request *as written* whether the standard for an Accelerated Hearing, pursuant to Rule II D of the Hearing Rules for Special Education Appeals, has been met,” Parents are instructed that, “for additional consideration of your request for accelerated status, [they] may notify the assigned Hearing Officer, *who may then inquire further and make a determination as to the status of the request*.”[[14]](#footnote-14) Again, this “further inquiry” does not require an “evidentiary hearing.”[[15]](#footnote-15)

Here, the clear language of BSEA Hearing Rule II(D) together with that of the Letter issued by Director Reece Erlichman on May 28, 2025 indicates that accelerated status “may” be reconsidered by the Hearing Officer based on “further” “inquiry.” Parents' written Request for Accelerated Hearing is comprehensive and includes supporting documentation, such as a February 17, 2025 clinical note from Student’s developmental pediatrician at Boston Children’s Hospital. In addition, Counsel for Parents has communicated extensively with both District Counsel and the undersigned Hearing Officer, asserting the urgent nature of the claims, repeatedly emphasizing the Student’s extreme anxiety and the time-sensitive nature of the requested relief.

In light of the foregoing, given that testimony or oral argument would not materially aid in the analysis or determination as to the request, this Ruling is issued based solely on the written record pursuant to BSEA Hearing Rule VII(D), which authorizes the issuance of a ruling without a hearing where appropriate. For purposes of this Ruling, the allegations set forth in the complaint, along with all reasonable inferences drawn therefrom in Parents’ favor, are presumed to be true.[[16]](#footnote-16) I now turn to the instant issue.

In assessing whether a hearing request meets the accelerated standard, the Hearing Officer is limited to considering the circumstances delineated in BSEA Hearing Rule II(D)(1). In the instant matter, having considered the Hearing Request and the District’s Response thereto, I find that Parents’ Hearing Request has not met the standard.

At the outset, I note that the Hearing Request was filed on May 28, 2025—less than one month prior to the conclusion of the 2024–2025 school year and approximately three months before the commencement of the 2025–2026 school year. Accordingly, the only matter that could conceivably justify accelerated status is the provision of ESY. Allegations concerning whether the District’s IEPs for the 2024–2025 and 2025–2026 school years were reasonably calculated to provide Student with a FAPE, whether the District failed to implement agreed-upon services, or whether Parents were denied meaningful participation in the development of the relevant IEPs, do not meet the threshold for accelerated treatment. These allegations pertain to past procedural and substantive violations or to prospective harms[[17]](#footnote-17), none of which presents an imminent threat or irreparable harm that would justify deviation from standard timelines. Specifically, there has been no credible allegation that Student is presently at risk of harm due to the alleged violations or that there is a current deprivation so severe as to implicate Student’s health or safety. Nor is an assertion that an educational program is currently unavailable credible, as the most recently proposed IEP includes an offer of ESY services, which Parents have rejected in its entirety based solely on the designation of service providers in the service delivery grid—namely, the inclusion of “Special Education and/or Educational Assistant” personnel. Parents categorically oppose instruction by an Educational Assistant, yet they have offered no facts to support an allegation that such instruction, either historically or prospectively, has caused or is likely to cause an increase in Student’s anxiety or result in hospitalization. Nor has Student’s Developmental-Behavioral Pediatrician alleged such a correlation nor reached such a conclusion; rather, she indicated that Student’s current program does not allow Student to “thrive.”

Therefore, even when construed in the light most favorable to Parents, their claims concerning ESY remain speculative and insufficient to establish a present and urgent need for accelerated proceedings. Furthermore, Parents have not asserted a direct causal connection between the Student’s hospitalizations for ARFID and anxiety and the nature of the proposed ESY services. Nor have they sought any particularized or immediate relief specific to ESY, seeking instead placement for the 2025-2026 school year at Wolf School. Accordingly, acceleration is neither appropriate nor warranted under the applicable standards.

**ORDER**

Parents’ *Request for Accelerated Status* is DENIED.

So ordered,

By the Hearing Officer,

/s/ *Alina Kantor Nir*  
Alina Kantor Nir

Date: June 26, 2025

1. In the same communication, Parents’ Counsel also indicated that “if such postponement is nevertheless granted, I understood from the 6/13 conference call that the rescheduled hearing dates would be 7/17 & 7/18, with issuance of the decision by 8/11 & exhibit binders due by close of business on 7/10.” [↑](#footnote-ref-1)
2. The information in this section is drawn from the parties’ pleadings and is subject to revision in further proceedings. [↑](#footnote-ref-2)
3. This information is derived from Parents’ Hearing Request, and specifically from the verbatim February 17, 2025 Clinical Note of Student’s Developmental-Behavioral Pediatrician. at Boston Children’s Hospital. [↑](#footnote-ref-3)
4. Since March 2024, Parents have rejected the phrases “or General Education teacher” and “or Educational Assistant” in the service delivery grids of the District’s proposed IEPs. They have also asserted that the District has refused to implement any services, goals, objectives, or benchmarks affected by those objections. [↑](#footnote-ref-4)
5. This information is derived from Parents’ Hearing Request, and specifically from the verbatim February 17, 2025 Clinical Note of Student’s Developmental-Behavioral Pediatrician at Boston Children’s Hospital. [↑](#footnote-ref-5)
6. This information is derived from Parents’ Hearing Request, and specifically from the verbatim February 17, 2025 Clinical Note of Student’s Developmental-Behavioral Pediatrician at Boston Children’s Hospital. [↑](#footnote-ref-6)
7. Parents believe that Student is “repeatedly penalized and criticized by her teachers and the staff at school for her conduct, which behavior is a manifestation of her disability and beyond her ability at this time to control. This, in turn, has significantly increased the Student's anxiety and reinforce[d] negative self­perceptions.” [↑](#footnote-ref-7)
8. This information is derived from Parents’ Hearing Request, and specifically from the verbatim February 17, 2025 Clinical Note of Student’s Developmental-Behavioral Pediatrician at Boston Children’s Hospital. [↑](#footnote-ref-8)
9. This was a new diagnosis for Student. [↑](#footnote-ref-9)
10. This information is derived from Parents’ Hearing Request, and specifically from the verbatim February 17, 2025 Clinical Note of Student’s Developmental-Behavioral Pediatrician at Boston Children’s Hospital. [↑](#footnote-ref-10)
11. See Student v. Foxborough Public Schools (*Ruling on* *Foxborough Public Schools’ Request to Postpone Hearing)*, BSEA #2513698(Kantor Nir, June 24, 2025). [↑](#footnote-ref-11)
12. See BSEA Hearing Rule (II)(D)(1) (“Hearings may be assigned accelerated status”). [↑](#footnote-ref-12)
13. Emphasis added. [↑](#footnote-ref-13)
14. See Letter issued by BSEA Director Reece Erlichman on May 28, 2025. Emphasis added. [↑](#footnote-ref-14)
15. Via email dated June 25, 2025, Parents’ Counsel noted “that based upon the initial pleadings, my request for accelerated status is unopposed.” I note that an accelerated request need not be opposed in order to be denied; it must meet the accelerated hearing standard to be assigned said status. [↑](#footnote-ref-15)
16. *Blank v. Chelmsford Ob/Gyn, P.C.*, 420 Mass. 404, 407 (1995). [↑](#footnote-ref-16)
17. On June 25, 2025, Parents submitted a letter from Student’s current therapist (June 25 Letter), in which the therapist reports that Student has expressed significant emotional distress about the possibility of attending middle school with older students. The therapist states that Student feels “overwhelmed” and voiced a serious emotional reaction: “If I have to go to the middle school with all those kids and the noise, I won’t be able to do it and I will want to die.” The therapist further notes that the ongoing uncertainty regarding Student’s school placement for the fall is exacerbating her anxiety and contributing to regression in both self-harming ideation and ARFID symptoms, asserting that such uncertainty is particularly destabilizing for children with autism, who depend on structure, routine, and predictability.

    However, I note that, according to Parents, Student experienced significant anxiety and ARFID symptoms during both the summer of 2023 and the summer of 2024—even when her placement for the upcoming school year had been settled. In light of this, I decline to infer the direct causal relationship between placement uncertainty and Student’s symptomatology as suggested in the June 25 Letter. The symptoms described, while serious, fall squarely within the scope of care being provided by Student’s outside therapist and may also be addressed through the counseling and support services outlined in the March 2025 IEP.

    Moreover, I have requested that the parties provide their availability for a hearing in early August 2025. Accordingly, a Decision may still be issued prior to the start of the 2025–2026 school year, thereby reducing or eliminating the alleged impact of any continued uncertainty. [↑](#footnote-ref-17)