

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS
BUREAU OF SPECIAL EDUCATION APPEALS**

In Re: Student v. Springfield Public Schools

BSEA # 2208440

**RULING ON PARENT’S MOTION TO COMPEL DISCOVERY AND PARENT’S
REQUEST FOR CLARIFICATION AND ORDER FOR EVIDENCE**

This matter comes before the Hearing Officer on Parent’s *Motion to Compel Discovery* (the *Motion*), filed with the BSEA on October 12, 2022.¹ In it, Parent asserts that she had made her discovery requests on September 17, 2022 and that the Springfield Public Schools (Springfield or the District) has failed to comply. Parent argues that she opposes any extension and requests sanctions for late delivery of discovery. In addition, on October 21, Parent filed *Parent’s Request for Clarification and Order for Evidence (Request)*² asserting that the District’s response to the parent’s discovery requests was late and that the District “knowingly violated discovery rules.” Parent further asserted that the District should not be allowed to request an extension to the discovery timeline via email and that “[t]hese ... violations of rules [are] extremely prejudicing the parent.” Parent requested “an Order directing the District to produce evidence by end of day Monday o[r] be sanctioned and admonished.”

On October 24, 2022, Springfield filed *Springfield Public Schools’ Motion for Brief Extension of Time to Fully Respond to Discovery Requests*. In it, the District requested until Friday, October 28, 2022 to provide all requested documents still outstanding.

Neither party has requested a hearing on the *Motion* or the *Request*. Because neither testimony nor oral argument would advance the Hearing Officer’s understanding of the issues involved, this Ruling is issued without a hearing, pursuant to *Bureau of Special Education Appeals Hearing Rule VII(D)*.

For the reasons articulated below, Parent’s *Motion* is **ALLOWED** and the District is ordered to produce the requested documents by the close of business day on October 25, 2022. Parent’s *Request* is hereby **DENIED**.

RELEVANT FACTS AND PROCEDURAL HISTORY³:

¹ The *Motion* was filed via email to the Hearing Officer and opposing party. No subsequent fax or mailing has been received by the BSEA.

² The *Request* was filed via email to the Hearing Officer and opposing party. No subsequent fax or mailing has been received by the BSEA.

³ The facts delineated in prior rulings in this matter are hereby incorporated by reference. The facts herein are for the purposes of this Ruling only and are subject to change after a Hearing.

On April 26, 2022, Parent filed a Request for Hearing in this matter. On September 15, 2022, Parent sent the District her discovery requests, seeking the following:

- “1. Emails regarding [Student], [Student’s Parent], [Advocate] in his case dating back two years from today.
2. Text messages regarding [Student], [Student’s Parent], [Advocate] dating back two years
3. Redacted IEP's[sic] for all students in the Springfield Kiley SEBBS[sic] program
4. Ms. Harris's Title IX certification
5. Title IX trainings in the district dating back two years
6. [R]edacted title IX complaints for 2021-2022 school year
7. [C]opy of student access log for his special education file[.]”

On September 19, 2022, the District filed a motion seeking a protective order relative to Requests No. 5 and 6. The motion for protective order was subsequently granted via *Ruling on Multiple Motions*, on October 21, 2022. Said October 21, 2022 *Ruling* also instructed the parties to file all subsequent pleadings in accordance with BSEA Hearing Rules.

On October 13, 2022, the District provided parent with the redacted IEPs in accordance with Request No. 3. On October 18, 2022, the District provided Parent with the student's access logs in accordance with Request No. 7.

Via email on October 20, 2022, the District indicated that the emails are the only outstanding item. The District has accumulated the emails, but they require a high level of redaction as to attorney/client privilege and names of other students. Via email on October 21, 2022, the District indicated that the District does not issue work cell phones, and that only Directors and Principals receive stipends for the use of their phones for work related matters. In any event, it was not anticipated that there were any texts responsive to the request.

LEGAL STANDARDS:

Rule V of the *BSEA Hearing Rules* governs the discovery process before the BSEA. Rule V(A) advises that “the parties are encouraged to exchange information cooperatively and by agreement prior to the hearing.” Additionally, parties can request of other parties that they produce documents or answer up to 25 interrogatories within thirty (30) calendar days of being served such requests, unless a Hearing Officer orders otherwise.⁴ Objections to any discovery requests can be made within ten (10) calendar days of service of the request, or parties can move for a protective order within that timeframe as well.⁵

Furthermore, 801 CMR 1.01(8)(i)⁶ authorizes parties who do not receive some or all the requested discovery responses or answers to file a Motion for an Order Compelling Discovery.

⁴ See BSEA Hearing Rule V(B)(1) and (2).

⁵ See BSEA Hearing Rule V(C).

⁶Pursuant to the Scope of the Rules section introductory to the Hearing Rules, “Unless modified explicitly by these Rules, hearings are conducted under the Formal Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 et seq.”

It further authorizes a Hearing Officer, in situations for which good cause does not exist to justify failure to comply with an Order granted pursuant to a Motion to Compel, to issue further orders regarding such failure,

“... as are just, including one or more of the following:

1. An order that designated facts shall be established adversely to the Party failing to comply with the order; or
2. An order refusing to allow the disobedient Party to support or oppose designated claims or defenses, or prohibiting him or her from introducing evidence on designated matters.”

APPLICATION OF LEGAL STANDARDS:

Pursuant to BSEA Hearing Rule V(C), the District was required to respond to Parent’s discovery requests by October 15, 2022. The District failed to do so. In addition, when it became clear to the District that it could not comply with Parent’s discovery requests within the appropriate timeline, the District failed to request an extension. Hence, the District has failed to comply with discovery timelines.⁷ Thus, Parent’s *Motion* is hereby **ALLOWED**, and the District is Ordered to fully respond to all of Parent’s Discovery Requests on or before the close of business on October 25, 2022.⁸

With regard to Parent’s assertion that the District not be allowed to file its motions or requests via email, I note that Parent has done same. In fact, both parties were admonished in the October 21, 2022 *Ruling on Multiple Motions* to file their pleadings in accordance with BSEA Hearing Rules, which require written motions to be served on all parties and the Hearing Officer simultaneously and to “submit a signed statement that he/she has sent a copy of the motion to the opposing party(ies). The statement must indicate the method (e.g., fax, mail, hand-delivery) by which the copy was sent.”⁹ However, as the Hearing Officer has not issued any rulings based on motions or requests made via email communications, I cannot find that Parent has been prejudiced by the District’s actions.

Parent’s *Request* is **DENIED**. However, I will entertain Parent’s request for sanctions should the District fail to comply with this Order.

ORDER:

Parent’s *Motion* is **ALLOWED** and the District is ordered to produce the requested documents by the close of business day on October 25, 2022.

Parent’s *Request* is hereby **DENIED**.

Both parties are instructed to submit all future filings in accordance with the BSEA Hearing Rules.

⁷ See BSEA Hearing Rule V (C).

⁸ In light of the fact that this ruling is being issued less than two hours before close of business day, the Hearing Officer will allow the District with an additional day to provide Parent with the discovery requests.

⁹ BSEA Hearing Rule VI (C) (emphasis added).

So ordered,

By the Hearing Officer,

s/ Alina Kantor Nir

Alina Kantor Nir

Date: October 24, 2022