**COMMONWEALTH OF MASSACHUSETTS**

**DIVISION OF ADMINISTRATIVE LAW APPEALS**

**BUREAU OF SPECIAL EDUCATION APPEALS**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**IN RE:**    **STUDENT  V.**

**WOBURN PUBLIC SCHOOLS**  **BSEA # 2203102**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**RULING ON PARENTS’ REQUEST TO DETERMINE STAY PUT PLACEMENT**

This matter comes before the Hearing Officer on Parents’ request to determine Student’s stay put placement (Motion)*,* which was filed with the BSEA on October 14, 2021 as part of Parents’ Request for Hearing. The Woburn Public Schools (the District) filed a *Response* *to Parents’ Request for Hearing* on October 25, 2021, in part, disputing Parents’ stay put argument*.*

The parties did not request a hearing on the Motion, and I found that a hearing was not needed because it was not likely to advance my understanding of the issues.[[1]](#footnote-1)

For the reasons set forth below, the Parents’ Motionis hereby GRANTED.

**RELEVANT PROCEDURAL HISTORY AND FACTUAL FINDINGS:**

These findings are made for the purposes of this *Ruling* only and are subject to change in subsequent rulings and decision:

1. Student is a 14 year old (DOB 9/18/2007) resident of Woburn, Massachusetts. He has been found eligible for special education and related services under the primary disability category of intellectual disability.
2. On May 24, 2018, the District proposed, and Parent fully accepted, an IEP for the period 5/15/2018 to 5/14/2019 with placement at the Language Based Learning Disabilities Program (LEAP), a partial inclusion program, at the Altavesta School in Woburn, Massachusetts.
3. In March 2019, the District proposed an IEP for the period 03/20/2019 to 3/19/2020 with placement in LEAP through June 2019 and then in a substantially separate classroom at the RISE I Program at Daniel L. Joyce Middle School in Woburn, Massachusetts. Via an N1 issued on April 2, 2019, the District explained that the LEAP Program at the middle school was not appropriate because of the type of methodology and individualization that Student required. On May 15, 2019, Parents refused placement at RISE I.
4. In June 2019, the District issued an Amendment to the IEP for the period 03/20/2019 to 3/19/2020, in part, acknowledging Parents’ invocation of stay put rights to Student’s placement in the LEAP Program.
5. On October 18, 2019, the District proposed placement at the RISE II Program at Daniel L. Joyce Middle School in Woburn, Massachusetts. The N1 stated, in part, “The team agreed that RISE I was not an appropriate placement for [Student] and suggested that he be placed in RISE [II] which would continue to allow him to attend general education Social Studies and Science classes with supports and a smaller whole language and math class. It is the belief of the school district that this program will also be a better social fit for [Student] than RISE [I].” Parent rejected RISE II.
6. In January 2020, the District proposed a hybrid program with RISE II and LEAP. Following a subsequent meeting on January 29, 2020, Parents continued to reject RISE II and the hybrid program.
7. In February 2020, the District issued an N1 maintaining that RISE II was the most appropriate placement for Student.[[2]](#footnote-2)
8. On October 19, 2020, the District proposed a neuropsychological assessment which Parents rejected.
9. On December 22, 2020, the District proposed an extended evaluation of Student at RISE I. Parents agreed, and Student completed the extended evaluation on March 15, 2021.
10. The Team convened on March 19, 2021 to review the results of the extended evaluation, and the Team proposed an IEP for the period 12/14/2020 to 12/13/2021 with placement in the substantially separate classroom in RISE I at Daniel L. Joyce Middle School for the remainder of 2019-2020 and for 2020-2021. On May 8, 2021, Parents rejected the placement and filed a Request for Hearing on May 27, 2021 (BSEA #2110850).
11. On August 24, 2021 the parties resolved BSEA #2110850 via a fully executed Settlement Agreement (the Settlement Agreement). Both parties were represented by counsel. As a result, Parents withdrew the Request for Hearing in that matter.
12. The Settlement Agreement stated, in part, that the parties sought to resolve any dispute regarding Student’s educational placement for 2021-2022 and 2022-2023. It also stated as follows:

**Paragraph 1:** Subject to the Student’s acceptance at one of the following schools to which referral packets have previously been sent [i.e., SEEM Collaborative, etc.], the District agrees to annually administratively develop an Individualized Education Program (“IEP”) and Team Determination of Placement providing for the Student’s day placement at one of the schools (hereafter, the agreed upon program is referred to as “The Out-if-District Program”) for the 2021-2022 and 2022-2023 school years. The Parents agree to accept the administratively drafted IEPs and the Team Determination of Placement within ten (10) school days of receipt from the District.

**Paragraph 2**: Once the Student is accepted to one (1) of the four (4) school programs identified in paragraph 2, the Parents and the Student shall have no entitlement to any other out-of-district program or placement through the District, and no entitlement to enrollment in, or contribution to, the other school programs identified in this paragraph or any other out-of-district school during the period covered by this Agreement ….

**Paragraph 3**: Subject to Parents’ acceptance of the IEPs and Team Determinations of Placement set forth above in accordance with Paragraph 1, the District agrees to fund … the … day tuition …[of The-Out-of-District-Program]….

**Paragraph 6**: ….In the event that, prior to June 30, 2023, the Student is involuntarily dismissed from The Out-of-District Program or there is a material and substantial change in the nature and type of the Student’s disability during the period of this Agreement…,the parties agree to reconvene a Team meeting on an expedited schedule to review the Student’s status, develop an IEP and determine placement …. In the event of any dispute between the Parents and the District regarding the services and placement of the Student proposed by the District under such circumstances, the Student’s placement pending resolution of said dispute (“Stay Put Placement”) shall be the placement proposed by the IEP Team at the meeting referenced in this Paragraph.

**Paragraph 11**: This Agreement and the IEPs providing placement at the Out-of-District Program in accordance with Paragraphs 1 and 3 do not constitute an admission by either party that either The Out-of-District Program placement or the previously proposed in-district program constitutes the least restrictive, appropriate placement capable of assuring the provision of a free appropriate public education to Student. Further, the parents stipulate that they relied solely on their own and their consultants’/experts’ evaluation of the placement to determine its appropriateness.

**Paragraph 14**: On or before May 1, 2023, the District shall convene a Team to develop an IEP and identify a placement for the 2023-2024 school year ….

**Paragraph 15**: The Parents agree that they shall respond to said IEP for the 2023-2024 school year within fifteen (15) calendar days of receipt thereof and that their failure to respond within this timeframe shall constitute a rejection of the proposed IEP and placement. In the event that any such dispute is not resolved at the start of the 2023-2024 school year, the Parents and/or Student shall not have a right to “stay put” at The Out-of-District Program or any other out of district placement for the 2023-2024 school year…. [Instead,] the Student’s placement pending resolution of said dispute (“Stay Put Placement”) shall be the placement proposed by the IEP Team at the meeting referenced in Paragraph 14.

1. Although referral packets were sent to multiple programs, only SEEM Collaborative accepted Student.
2. On August 27, 2021, the District proposed, pursuant to the Settlement Agreement, an administrative IEP for the period 9/1/2021 to 8/31/2022 with placement at a public day program at SEEM Collaborative Middle School.
3. Following a tour of SEEM Collaborative on September 2, 2021, Parents informed the District that they would not be enrolling Student at SEEM as it was inappropriate and asked to brainstorm additional programs. The District proposed placement in its RISE programs.
4. Subsequently, Student began attending RISE I as no other placement was identified for him, as the expectation was that he would be attending SEEM pursuant to the Settlement Agreement.[[3]](#footnote-3)
5. At RISE I, Student has been struggling behaviorally, often leaving the classroom without permission.
6. On October 14, 2021, Parents filed the instant appeal arguing that LEAP is Student’s stay put placement as it is the placement identified in Student’s last accepted IEP and it is “the last placement Student was actually in.”
7. On October 25, 2021, the District responded, asserting that the Student’s stay put placement is SEEM Collaborative by virtue of the Settlement Agreement.

**DISCUSSION:**

1. **Legal Framework:**
2. *Stay Put*

The IDEA’s “stay put” provision requires that unless the State or local educational agency and the parents otherwise agree, during the time that a parent and school district are engaged in an IDEA dispute resolution process, “the child shall remain in the then-current educational placement of the child during the pendency of any administrative or judicial proceeding resulting from a due process complaint unless the parent and the district agree otherwise.”[[4]](#footnote-4)  Preservation of the “status quo” assures that the student “stays put” in the last placement the parents and the local education agency (LEA) agreed was appropriate for him.[[5]](#footnote-5) In addition, the stay put provision reflects “the preference of Congress for maintaining the stability of a disabled child’s placement and minimizing disruption to the child while the parents and school are resolving disputes.”[[6]](#footnote-6)

Generally, the last accepted IEP is the stay put IEP,[[7]](#footnote-7) but, more often, an individualized assessment of the facts is required.[[8]](#footnote-8) To determine a child’s “stay put”, courts often look for the “operative placement,” or the IEP that is “actually functioning at the time the dispute first arises.”[[9]](#footnote-9) In general, where parties agree that a placement is for temporary purposes only, no stay put rights attach.[[10]](#footnote-10) However, many circuits have also placed great emphasis on the impact of the proposed change on the student.[[11]](#footnote-11)Recent BSEA decisions and rulings have similarly examined the impact of the proposed change on the student[[12]](#footnote-12) and the extent of the disruption to the student’s educational life.[[13]](#footnote-13) Hence, in one BSEA matter, a Hearing Officer concluded that even though an IEP had been accepted by the parents, where it was not yet implemented, maintenance of the status quo called for the student to remain at his last attended placement rather than the one identified in the most recently accepted IEP.[[14]](#footnote-14)

1. *Settlement Agreements and Stay Put*

Although a Hearing Officer has no authority to enforce a settlement agreement[[15]](#footnote-15), in general, “the BSEA's practice has been to consider the existence and scope of a settlement agreement when adjudicating cases. Hearing Officers do not ‘undo’ settlement agreements, or proceed to an evidentiary hearing on a matter that has been addressed and resolved via a settlement agreement.”[[16]](#footnote-16) Nevertheless, if an agreement is ambiguous, and that the ambiguity "cannot be resolved by parsing the relevant language,” then there must be “an inquiry into circumstances surrounding the negotiation of the [agreement] to determine whether or not there was a 'meeting of the minds.' Such inquiry is within the purview of a court with jurisdiction over contract disputes, and not the BSEA.”[[17]](#footnote-17)

Whether a settlement agreement can dictate a student’s stay put placement may be fact dependent. One issue is whether the parties intended for a program indicated in a settlement agreement to be a permanent or a temporary placement. For instance, in *Verhoeven v. Brunswick Sch. Comm.,* 207 F.3d 1, 10 (1st Cir. 1999), the First Circuit confirmed that “the preservation of the status quo ensures that the student remains in the last placement that the parents and the educational authority agreed to be appropriate” but found that where a private placement was never intended to be permanent, as understood by the parties in the settlement agreement, the Court could not order the school to fund the student’s private placement during a challenge to the IEP, because this was not the type of status quo maintenance that Section 1415(j) envisioned. The Court reasoned that the policy behind Section 1415(j) supported an interpretation of "current educational placement" that excluded temporary placements, and that the maintenance of the placement delineated in the settlement agreement would actually change the agreed-upon status quo, not preserve it.[[18]](#footnote-18) Similarly, the Ninth Circuit held that where a settlement agreement required a district to “pay” rather than to “place” a student in a private program, the stay put provision did not apply especially since the settlement agreement was for a limited duration.[[19]](#footnote-19) The Sixth Circuit similarly found that where a school district agreed in a settlement agreement to “fund” a placement but did not expressly agree that the educational placement was appropriate, the child’s placement pursuant to the agreement was not the child’s current-educational placement.[[20]](#footnote-20)

The BSEA has considered the issue of whether a settlement agreement can define stay put in *In Re: Billerica Public Schools*, BSEA#00-0265, 8 MSER 137 (2002). Here the Hearing Officer found that although the law requires stay put services until there is another “signed IEP, an agreement to alternate services can over-ride [stay put] rights.”[[21]](#footnote-21)

1. *Extended Evaluations*

An extended evaluation is not considered to be a placement.[[22]](#footnote-22) The Department of Elementary and Secondary Education (DESE) has clarified that if “the school district is referring the student to a collaborative or approved special education school for the extended evaluation…[the] collaborative or approved special education school is not the student's placement, but rather is the location where the additional assessment(s) is being conducted.”[[23]](#footnote-23) Therefore, “the normal procedural requirements relevant to a student’s educational placement (including stay put) do not apply to an extended evaluation.”[[24]](#footnote-24)

1. **Application of Legal Standard:**

In the instant case, I am asked to identify whether Student’s “stay put” is the LEAP Program, the RISE I program where Student participated in an extended evaluation in December 2020/January 2021 and which he has begun attending in September 2021, or the SEEM Collaborative, by the terms of the Settlement Agreement. After considering the documents presented in this matter and the thoughtful arguments of counsel, I find that Student’s stay put placement is the LEAP Program.

The District asserts that SEEM Collaborative is Student’s stay put placement as Parents agreed to it by the terms of the Settlement Agreement. For several reasons, I disagree. The District is correct that the Parties executed the Settlement Agreement voluntarily and with the advice of counsel. However, the Settlement Agreement does not contemplate SEEM Collaborative as Student’s stay put placement except under very specific circumstances (see Paragraph 6) which are not present in the instant matter. In fact, the Settlement Agreement does not entertain that Student would continue to attend SEEM Collaborative beyond the term of the Agreement;[[25]](#footnote-25) to the contrary, it quite emphatically disputes such a proposition in Paragraph 15, stating that the “Parents and/or Student shall not have a right to ‘stay put’ at The Out-of-District Program or any out-of-district program for the 2023-2024 school year.” In other words, SEEM Collaborative was never intended to be anything by a temporary placement for 2021-2022 and 2022-2023.[[26]](#footnote-26)

Moreover, SEEM Collaborative satisfies none of the purposes of IDEA’s stay put provision. Parents have neither accepted the administrative IEP which identified SEEM Collaborative as Student’s placement for 2021-2022[[27]](#footnote-27) nor has Student ever attended SEEM Collaborative.[[28]](#footnote-28) SEEM Collaborative is neither the program “actually functioning” at the time that the present dispute arose nor the “operative placement” under which Student is actually receiving instruction, nor where Student has ever received instruction.[[29]](#footnote-29) At this time, placement at SEEM Collaborative would be antithetical to the status quo, constituting, instead, a drastic change in Student’s educational career.

In addition, Parents and the District never agreed that SEEM Collaborative was an appropriate placement for Student[[30]](#footnote-30); in fact, the parties assert the opposite in Paragraph 11 of the Settlement Agreement, stating, “This Agreement and the IEPs providing placement at the Out-of-District Program in accordance with Paragraphs 1 and 3 do not constitute an admission by either party that either The Out-of-District Program placement or the previously proposed in-district program constitutes the least restrictive, appropriate placement capable of assuring the provision of a free appropriate public education to Student.”

The District relies on *In Re: Randolph Public Schools* in arguing that stay put attaches regardless of the time a student spends in a program and that to find that SEEM Collaborative is not student’s stay put would in effect set aside a fully executed agreement.[[31]](#footnote-31) I find these arguments unpersuasive. In *In Re: Randolph Public Schools*, Hearing Officer Sara Berman found that the Victor School, a placement to which Parents agreed via a settlement agreement and a subsequently accepted IEP, was the student’s stay put placement even though the student had only attended Victor for a single day. In contrast, in the instant matter, Parents have yet to accept the administrative IEP and placement at SEEM Collaborative[[32]](#footnote-32); and Student has yet to set foot in SEEM Collaborative.[[33]](#footnote-33)

Moreover, although Student is currently attending RISE I, this cannot be Student’s stay put placement. 603 CMR 28.05(2)(b)(5) specifically states that an extended evaluation is not to be considered a “placement.” Therefore, the normal procedural requirements relevant to a student’s educational placement (including stay put) do not apply to an extended evaluation.[[34]](#footnote-34) Here, no IEP and placement page have identified RISE I as Student’s agreed upon placement. In fact, Parents have repeatedly rejected it as an appropriate placement for Student, agreeing to RISE I only for the purposes of an extended evaluation. Although Student has been attending RISE I since the start of the 2021-2022 school year, the District acknowledges that this arrangement was viewed as “temporary.” Hence, RISE I cannot be Student’s stay put placement.

Parents assert that LEAP is Student’s stay put placement, as this was the placement last agreed upon by the parties as appropriate for Student via the IEP for the period 5/15/2018 to 5/14/2019. In addition, Parents have asserted stay put rights to LEAP since May 2019, as acknowledged by the District in its June 2019 Amendment to the IEP for the period beginning from 03/20/2019 to 3/19/2020. The District continued to implement Student’s placement at LEAP save for Student’s tenure at RISE I for the extended evaluation, and Parents have not subsequently accepted any other IEP or placement. Although the District asserts that Parents’ argument that LEAP is Student’s stay put placement is “disingenuous given the history of the Parents’ dissatisfaction with the LEAP Program,” the District’s argument is unpersuasive. For the purposes of determining Student’s stay put placement, the question before me is not whether the stay put program is currently appropriate but rather whether this was the program last agreed upon as appropriate.[[35]](#footnote-35) Because LEAP is the last agreed upon implemented placement, it is also Student’s stay put program.[[36]](#footnote-36)

ORDER

Parents’ *Motion* is GRANTED. LEAP is Student’s stay put placement during the pendency of this appeal.

The parties will participate in a conference call on November 9, 2021 at 9:00AM to discuss the remaining issues for Hearing. The Parties should inform the Hearing Officer of their preferred contact information for the purposes of said conference call.

By the Hearing Officer,

/s/ *Alina Kantor Nir*

Alina Kantor Nir, Hearing Officer

November 3, 2021

1. See BSEA Hearing Rule VI D. [↑](#footnote-ref-1)
2. Although the N1 refers to RISE I, a subsequent letter from the District clarifies that the reference was in error and should have been to RISE II. [↑](#footnote-ref-2)
3. On November 1, 2021, counsel for the District explained via email as follows:

On the first day of school when the student arrived, the principal was not planning for him to be in the building as the expectation was that he was going to SEEM.  The assistant principal and special education director met with the student.  The student was asked if he would be more comfortable with the peers in RISE 1 or RISE 2 and we talked about the schedules. He stated he could go either way.  [The District] tried to make a student-centered decision and also communicated the same with the parent.  [This was viewed] as temporary given that he was to be at SEEM per the agreement and did not do anything formally. [↑](#footnote-ref-3)
4. 34 CFR 300.518(a); 20 U.S.C. §1415(j); 34 CFR §300.514; 603 CMR 28.08(7); *Honig v. Doe*, 484 U.S. 305, 325 (1988); *Verhoven v. Brunswick School Committee*, 207 F.3d 1, 10 (1st Cir. 1999); *M.R. and J.R. v. Ridley School District*, 744 F.3d 112, 117 (3d Cir. 2014); *In Re: Framingham Public Schools and Quin*, BSEA**#**1605247, 22 MSER 12 (Reichbach, 2016); *In Re: Abington Public Schools*, BSEA # 1407763, 20 MSER 198 (Figueroa, 2014). [↑](#footnote-ref-4)
5. See *Doe* v. *Brookline School Committee*, 722 F.2d 910, 918 (1st Cir. 1983) (“We therefore join the Seventh Circuit in its view that (e)(3) establishes a strong preference, but not a statutory duty, for maintenance of the status quo .*…* We do not believe Congress intended to freeze an arguably inappropriate placement and program for the three to five years of review proceedings. To construe (e)(3) in this manner would thwart the express central goal of the Act: provision of a free *appropriate* education to disabled children”) (internal citations omitted  [↑](#footnote-ref-5)
6. *Student & Concord & Natick Public Schools*, BSEA #18-00182, 23 MSER 210 (Berman, 2017). [↑](#footnote-ref-6)
7. See20 U.S.C. §1415(j); 34 CFR §300.514. [↑](#footnote-ref-7)
8. See *Student & Concord & Natick Public Schools*, BSEA # 18-00182, 23 MSER 210 (Berman, 2017). [↑](#footnote-ref-8)
9. *Drinker*, 73 F.3d at 867; *Thomas*, 918 F. 2d at 626.  [↑](#footnote-ref-9)
10. See *Verhoeven,* 207 F.3d at 10 (1st Cir. 1999) (“a reading of ‘current educational placement’ that includes the temporary … placement at issue here would thwart the purpose of section 1415(j), [and] we decline to adopt such a reading”). [↑](#footnote-ref-10)
11. See *AW. v. Fairfax County School* *Board*, 41 IDELR 119 (4th Cir. 2004). [↑](#footnote-ref-11)
12. See *In Re Agawam Public Schools and Melmark-New England,* BSEA #1504488*,* 21 MSER 81 (Berman, 2015). [↑](#footnote-ref-12)
13. See *Student & Concord & Natick Public Schools*, BSEA # 18-00182, 23 MSER 210 (Berman, 2017). [↑](#footnote-ref-13)
14. See *In Re: Brockton Public Schools v. Student*, BSEA # 16-01536 (Figueroa, 2015) (citing *Thomas v. Cincinnati Bd. Of Educ.*, 918 F.2d 618, 626 (6th Cir. 1990)). [↑](#footnote-ref-14)
15. See, e.g., *In Re: Triton Regional School District and Trevor*, BSEA #2105891, 27 MSER 217 (Reichbach, 2021) (finding the need for inquiry into circumstances surrounding the negotiation of the settlement agreement to determine whether or not there was a 'meeting of the minds' and that such inquiry is within the purview of a court with jurisdiction over contract disputes, and not the BSEA); *In Re: Student and Andover Public Schools*, BSEA #2007733, 26 MSER 137 (Berman 2020) (concluding that in situations where ambiguity exists in the language of a settlement agreement and cannot be parsed, inquiry into whether there was a "meeting of the minds" is within the purview of a court of competent jurisdiction, rather than the BSEA); *In Re:* *Student v. Worcester Public Schools*, BSEA #1302473, 19 MSER 68 (Putney-Yaceshyn, 2013) (finding "that the BSEA does not have authority to interpret or enforce the terms of private settlement agreements" and, at the same time, relying on the existence of a settlement agreement and its terms barring the re-opening of the matter to dismiss a case); *In Re: Student and Pentucket Regional High School,* BSEA # 128636 (Figueroa, 2013) (relying on "clear and unequivocal language of a settlement agreement" to dismiss a claim); *In Re Israel and Monson Public Schools*, BSEA #105064 (Byrne, 2010) (declining "to assert subject matter jurisdiction of a dispute that relates solely to the interpretation of a privately negotiated settlement agreement not incorporated into an IEP or BSEA order," because, among other things, hearing officers lack experience and expertise in interpreting contract language and due to the very real possibility that the BSEA's obligation to "enforce the public duties set out in the IDEA" would be inconsistent with enforcing, or otherwise endorsing, the terms of a privately negotiated settlement agreement); *In Re Peabody Public Schools*, BSEA # 96506 (Crane, 2009) (concluding that it is within the BSEA's jurisdiction to review a settlement agreement reached through a settlement conference and consider its implications for Parent's right to proceed to a hearing and determining, on the basis of the settlement agreement's "clear and unambiguous language," that the District had fulfilled its obligation). [↑](#footnote-ref-15)
16. *In Re: Student and Andover Public Schools*, BSEA #2007733, 26 MSER 137 (Berman, 2020). [↑](#footnote-ref-16)
17. *Id.* [↑](#footnote-ref-17)
18. *Verhoeven,* 207 F.3d at 10 (emphasis added); see *Delvan-Darien School District*, LEA-03-048, 40 IDELR 200 (SEA WI 2003) (distinguishing *Zvi D. by Shirley D. v. Ambach*, 694 F.2d 904 (2d Cir. 1982) and *Verhoeven* because in the instant case the parties agreed that the placement and services described in the settlement agreement constituted a FAPE). [↑](#footnote-ref-18)
19. See *K.D. ex rel. C.L. v. Dep't of Educ., Hawaii*, 665 F.3d 1110, 1121 (9th Cir. 2011) (Finding that a settlement agreement does not have the same legal effect as an affirmative agency decision to define a student's “current educational placement”); see also *Bayonne Bd. of Educ. v. R.S. by K.S.,* 954 F. Supp. 933, 942 (D.N.J. 1997); *Zvi D.*, 694 F.2d at 908. [↑](#footnote-ref-19)
20. See *N.W. ex rel. J.W. v. Boone Cty. Bd. of Educ.,* 763 F.3d 611, 618 (6th Cir. 2014). [↑](#footnote-ref-20)
21. *In Re: Billerica Public Schools*, BSEA #00-0265, 8 MSER 137 (Sherwood, 2002). [↑](#footnote-ref-21)
22. 603 CMR 28.05(2)(b)(5). [↑](#footnote-ref-22)
23. *Administrative Advisory SPED 2019-2*: *Extended Evaluation*s which may be found at https://www.doe.mass.edu/sped/advisories/2019-2.html. [↑](#footnote-ref-23)
24. See *In Re: Sharon Public Schools*, BSEA #09-2797, 14 MSER 411 (Crane, 2008); see also *In Re: Melrose Public Schools & C.M.*, BSEA #07-4987, 13 MSER 70 (Byrne, 2007). [↑](#footnote-ref-24)
25. See *Taylor F. ex rel. Jon F. v. Arapahoe Cty. Sch. Dist. 5,* 954 F. Supp. 2d 1197, 1203 (D. Colo. 2013)

(finding that “had the District intended for the ‘stay-put’ placement to remain Cherokee Trail for the duration of the dispute and that Plaintiffs were waiving application of Section 300.518(d), it could have explicitly said so in the Settlement—but it did not”). [↑](#footnote-ref-25)
26. See *Verhoeven,* 207 F.3d at 9 (finding that the placement sought by parents for stay-put purposes was never intended to be anything more than a temporary placement and that, to the contrary, placement therein would be an extension of a temporary placement to a degree well beyond the parties' intentions at the time of the settlement agreement). [↑](#footnote-ref-26)
27. See *Student & Concord & Natick Public Schools*, BSEA # 18-00182, 23 MSER 210 (Berman, 2017) (*Corrected Ruling on Mother’s Request for “Stay Put” Order*). [↑](#footnote-ref-27)
28. See *In Re: Brockton Public Schools v. Student*, BSEA #16-01536, (Figueroa, 2015). [↑](#footnote-ref-28)
29. See *Student & Concord & Natick Public Schools*, BSEA # 18-00182, 23 MSER 210 (Berman, 2017) (*Corrected Ruling on Mother’s Request for “Stay Put” Order*). [↑](#footnote-ref-29)
30. See *N.W. ex rel. J.W. v. Boone Cty. Bd. of Educ.,* 763 F.3d 611, 617 (6th Cir. 2014) [↑](#footnote-ref-30)
31. See *S. Kingstown Sch. Comm. v. Joanna S*., 773 F.3d 344, 356 (1st Cir. 2014) (“Congress also expressly allowed parties to resolve them through settlements. And when parties do so, the settlements must be given appropriate effect”). [↑](#footnote-ref-31)
32. See *In Re: Harrison & Isabella*, BSEA # 15-04277, 15-04282 (Putney-Yaceshyn, 2015) (“If an IEP has been implemented, then that program’s placement will be the one subject to the [stay-put] provision”). [↑](#footnote-ref-32)
33. See *In Re: Brockton Public Schools v. Student*, BSEA #16-01536, (Figueroa, 2015). [↑](#footnote-ref-33)
34. See *In Re: Sharon Public Schools*, BSEA # 09-2797 (Crane, 2008) (citing additional BSEA matters which state that a diagnostic program cannot, by regulation, be a student’s stay put placement). [↑](#footnote-ref-34)
35. See *In Re Quincy Public Schools*, BSEA #1307468, 19 MSER 173 (Crane, 2013) (“The stay-put ruling did not consider, nor would it have been appropriate to consider, the appropriateness of the Clarke School placement. Stay-put’s essential purpose is ‘to preserve the status quo pending resolution of challenge proceedings under the IDEA’ rather than to resolve the question of whether status quo is reasonably calculated to provide a student with FAPE”). [↑](#footnote-ref-35)
36. See *In Re: Harrison & Isabella*, BSEA # 15-04277, 15-04282 (Putney-Yaceshyn, 2015) (“If an IEP has been implemented, then that program’s placement will be the one subject to the stay put provision”). [↑](#footnote-ref-36)