**COMMONWEALTH OF MASSACHUSETTS**

***DIVISION OF ADMINISTRATIVE LAW APPEALS***

**BUREAU OF SPECIAL EDUCATION APPEALS**

**In re**: Student v. **BSEA #**2505721

 Boston Public Schools

**RULING ON PARENT’S EMERGENCY MOTION FOR CONTINUED PLACEMENT AND STAY-PUT AND BOSTON PUBLIC SCHOOLS’ OPPOSITION TO PARENT’S MOTION FOR STAY-PUT AND MOTION TO JOIN FALL RIVER**

On December 6, 2024, Parent requested a Hearing in the above-referenced matter. This matter is scheduled to proceed to Hearing on April 29 and 30, 2025 consistent with an Order issued on February 27, 2025, granting the Parties’ second joint request for postponement for good cause.

On March 28, 2025, Parent filed an Emergency Motion For Continued Placement and Stay-Put (Parent’s Motion) consistent with Rule VI(A) of the *Hearing Rules for Special Education Appeals*,[[1]](#footnote-2) seeking a determination that Brighton High School is Student’s stay-put placement.

Boston Public Schools (Boston) filed an Opposition to Parent’s Motion for Stay Put and a Motion to Join Fall River [Public Schools] (Fall River) arguing that Student did not have a legal right to attend school in Boston because Parent had established residence in Fall River. Boston further argued that as such, Fall River was a necessary party to the instant appeal and therefore, should be joined to the proceedings.

On April 10, 2025, Parent filed an Opposition to Boston’s Motion to Join Fall River.

The Parties did not request a Hearing on this Motion and therefore, this Ruling is issued in consideration of the Parties’ written submissions, including arguments, Parent’s documents and applicable law.

**Facts**:

The facts delineated herein are considered to be true for purposes of this Ruling only.

1. Student is a thirteen-year-old eligible student who attended a substantially separate seventh grade program for students with emotional and/ or behavioral deficits at Brighton High School in Boston. Brighton High School (Brighton) serves students in grades seven to twelve.[[2]](#footnote-3)

1. Student’s program and placement are dictated by two IEPs. While Parent accepted the IEP covering the period June 17, 2024 through November 8, 2024, she rejected the proposed placement in said IEP, a substantially separate classroom in Brighton, as in her view it lacked the therapeutic supports Student requires. Parent had previously accepted placement of Student in a substantially separate classroom for students with externalizing emotional impairments at the Ellis Elementary School in Boston (which runs from Kindergarten to sixth grade), consistent with the IEP covering the period October 6, 2022 to October 5, 2023.

1. Student has been diagnosed with Attention Deficit Hyperactivity Disorder (ADHD), combined type; Disruptive Mood Dysregulation Disorder; Specific Learning Disorder with impairment in writing and mathematics; Depression; and an Adjustment Disorder with Mixed Emotions and Conduct. Student qualifies for special education under a Developmental Delay category.
2. Parent presents with significant medical and stroke related disabilities requiring regular medical interventions, including dialysis three to five times per week. Her sole source of income is Supplemental Security Income (SSI). Parent relies on a Section 8 voucher through the Boston Housing Authority (BHA) to lease an apartment.
3. After reporting shootings and murders in the neighborhood, and physical and verbal threats to members of the family, Parent worked diligently with BHA providers to move to a safer area outside of Boston.
4. In December 2024, Parent identified an apartment in Fall River, but she had no means to cover the rent without the Section 8 voucher. A BHA Housing Specialist worked with Parent to move the Section 8 voucher to the new apartment, including completion of multiple packets for relocation and a new lease. Despite everyone’s efforts, the voucher did not transfer to the new apartment by January 1, 2025, due to an outstanding inspection and the need to complete additional paperwork for relocation.
5. Fearing the possibility of losing the new apartment, Parent signed the lease for the Fall River apartment beginning on February 1, 2025, hoping that BHA would be able to move the voucher from Boston to Fall River by that date. As of February 1, 2025, Parent had not left her Boston apartment despite having signed a lease for Fall River.
6. Student’s Team convened on January 28, 2025, to review an independent neuropsychological evaluation by Dr. Kay Seligsohn, Ph.D., Boston Neuropsychological Services, which had been provided to Boston in November of 2024.
7. Dr. Seligsohn diagnosed Student with ADHD combined type; a Specific Learning Disorder with impairments in writing and mathematics; and Disruptive Mood/ Dysregulation Disorder. She recommended that Student receive special education services with eligibility under a Health Impairment, Emotional Impairment and Specific Learning Disability. The Team discussed Student’s attendance issues, dysregulation, attentional and low frustration challenges and social/ emotional concerns, concluding that despite having received more therapeutic support than what was reflected in her IEP, she was not making progress. The Team agreed to a follow-up Team meeting on February 13, 2025, to discuss Student’s placement in a more restrictive setting at a private therapeutic day program.[[3]](#footnote-4)
8. In early February of 2025, Section 8 terminated Parent’s rental assistance voucher due to damage to the Boston apartment. Parent appealed said determination noting that the damage resulted from community members and/or from Student and her sibling’s struggles with social-emotional dysregulation. While awaiting information on the hearing date, Parent worked with family members and a handyman to fix the damage identified in the Boston unit.
9. Parent provided an update regarding her housing situation to Student’s Team on February 11, 2025. While she had previously communicated her intention to move to Fall River, she clarified at the Team meeting that the family continued to reside at the Boston address. Parent further informed the Team that when she moved to Fall River, Student would continue to reside in Boston with Grandparent via a Caregiver Affidavit. Lastly, Parent requested that Student’s bus route be changed when she moved into Grandparent’s home.
10. Boston’s Senior Program Director of Dispute Resolution and Mediations, Charles Israel, informed Parent that she had confirmed having signed a lease in Fall River effective February 1, 2025, and in response had been sent a letter from Boston’s Residency Team on February 2, 2025, received by Parent electronically on February 11, 2025, stating that an investigation determined that Student no longer resided in Boston. This document offered an opportunity for Parent to appeal the determination by providing documentation of continued residency in the City of Boston.
11. On February 12, 2025, Parent appealed Boston’s residency determination noting that the family continued to reside at their old address in Boston. The appeal letter clarified that while Parent had signed a lease in Fall River due to significant Section 8 housing issues, Parent had not moved. The Appeal further clarified that Student would remain living in Boston with Grandparent when Parent moved. Boston granted the appeal on the basis of Parent still living in Boston, and further clarified that Grandparent would need to show legal custody or guardianship through a court of pertinent jurisdiction to enroll Student in Boston, as the caregiver affidavit was insufficient for this purpose.
12. On February 13, 2025, Brighton’s Coordinator of Special Education, Sarah Hogan, cancelled Student’s Team meeting scheduled for that day. Since the cancellation Parent has requested convening of the Team on multiple occasions to no avail.
13. On or about February 25, 2025, Parent stayed at the Fall River apartment for the first time to facilitate the Section 8 inspection process hoping for approval of the apartment for a Section 8 voucher, as the family cannot afford the Fall River apartment without such a voucher. Throughout this period Parent’s Section 8 voucher and lease remained attached to Parent’s apartment in Boston, and family members still lived in the apartment. Due to the housing uncertainty, Student continued residing in Boston with Grandparent.
14. On February 26, 2025, Parent provided Boston a signed and notarized copy of a Caregiver Affidavit, transferring rights and responsibilities for Student’s care to Grandparent consistent with M.G.L. Chapter 201F, confirming Student’s residency with Grandparent in Boston. (PE-A). Once again Parent sought guidance on how to change Student’s bus route to Grandparent’s address. (Boston had made such a change to the bus in the past when Parent faced medical issues and hospitalization.)
15. On March 3, 2025, the BHA Housing Specialist informed Parent that the inspection department had rejected the Fall River unit, noting that when the inspection was approved, BHA would establish a contract with the unit owner and Parent could then proceed with the move. Given that the unit had not passed inspection, and unable to meet the landlord’s demand for rental money, that same day Parent sought assistance in identifying a shelter for the family.
16. On March 4, 2025, Parent provided Boston the Fall River address that had not yet been approved for Section 8 voucher. According to Boston, the address was identified as the address where the family was residing.
17. On March 5, 2025, Boston’s Residency Team sent a second letter seeking to dismiss Student from Boston again noting Parent’s self-disclosure of her intent to move to Fall River and the Department of Children and Families’ (DCF) disclosure of a move to Fall River. According to the letter, Student would be discharged from Boston by March 15, 2025. Parent was again notified of her right to appeal Boston’s determination.
18. Boston’s residency letter cited MGL c.76 §5, noting that “every person shall have the right to attend the public schools of the town where he actually resides.”
19. Boston’s residency policy notes that “in order to attend Boston Public Schools a student must reside in the city of Boston. The residence of a minor child is presumed to be the legal, primary residence of the parent(s) or guardian(s) who have physical custody of the child”.
20. On March 6, 2025, Parent was notified that Student was being removed from Boston on an emergency basis and that a suspension hearing was scheduled for March 11, 2025. The morning of the suspension hearing Boston cancelled the hearing and informed Parent that Student was no longer enrolled in Boston. Parent informed Boston that the residency determination was being appealed and that Student should not be discharged until at least March 15, 2025. Boston rescheduled the hearing for March 13, 2025.
21. Parent appealed Boston’s residency determination on March 7, 2025, providing Boston with their Section 8 reauthorization for the family’s apartment in Boston confirmed in July of 2024, and a January 7, 2025, rental agreement for 2025, explaining that the Section 8 voucher continued to be attached to the Boston residence, notwithstanding Parent’s attempts to move to Fall River. Parent further sought clarification regarding Boston’s position on the caregiver affidavit, arguing its legality pursuant to MGL c.201 §6, which authorizes a designated caregiver to exercise concurrent parental rights including “representing the minor in enrollment.”
22. Boston clarified on March 10, 2025, that “caregiver affidavits cannot be used to establish residency so that a student whose parents/ legal guardians live in a city or town outside of Boston can attend a Boston Public Schools… BPS requires custody or guardianship documentation along with a caregiver affidavit to attend a Boston Public School if that caregiver affidavit is being used solely to establish residency”.
23. On March 11, 2025, Parent forwarded a copy of the active Section 8 lease for the Boston residence to Boston, which document reflected a start date of March 15, 2021, and no expiration date. The same date, Housing inspectors again assessed the renovations performed to the Fall River apartment and, having failed the inspection, prohibited the Section 8 voucher transfer to the Fall River address.
24. On March 13, 2025, counsel for both parties communicated as Parent needed assurance that Student would not be discharged from Boston on March 14, 2025, and that Student would be able to remain in Boston until enrolled in Fall River, or a new Local Education Agency (LEA) was assigned. Counsel for Parent further inquired as to convening the outstanding IEP meeting to discuss placement.
25. Via letter dated March 13, 2025, Boston’s Residency Team denied Parent’s appeal and determined that “the information submitted d[id] not satisfy the criteria for prov[ing] residency in order to attend the Boston Public Schools” and as such, Student would be discharged on March 13, 2025. The letter further noted that this was the District’s final response. Boston offered Parent no information regarding McKinney-Vento, McKinney Vento Dispute Resolution Process of enrollment, or contact information for the Homeless Education Liaison.
26. On March 14, 2025, Boston inquired whether Parent would like a residency investigator to conduct a visit to the Boston home and asked for an explanation as to how the family could have two Section 8 addresses.
27. Sometime between March 13 and March 15, 2025, Boston’s Office of the Legal Advisor unenrolled Student and advised Parent to enroll Student in Fall River.
28. Parent filed a Problem Resolution System (PRS) Complaint with the Massachusetts Department of Elementary and Secondary Education (DESE) on March 16, 2025, challenging Boston’s denial of the caregiver affidavit for enrollment purposes and requiring Parent to live in Boston to validate the caregiver affidavit; discharging Student without being enrolled in a new district and without an LEA assignment discharging Boston of its educational responsibilities for Student; failing to hold the suspension hearing; and refusing to convene Student’s Team.
29. Student went to school in Brighton on the morning of March 17, 2025, but was barred from entering the building. Student has not attended school following Boston’s denial of access.
30. Having failed a third inspection, on March 24, 2025, BHA informed Parent that the Section 8 voucher for the Fall River apartment was denied for lack of a lead certificate consistent with 105 CMR 460. Parent would have to locate another apartment.
31. On March 26, 2025, the Fall River landlord terminated the lease and informed Parent that she had 30 days to vacate the premises, that is, by April 24, 2025.
32. Parent is actively looking for a new apartment, a shelter or a possible return to Grandparents’ home in Boston. Moreover, the Section 8 administrator has informed Parent that this benefit may be terminated consistent with the February 2025 voucher termination and appeal. Such termination would prevent Parent from identifying a new apartment. At present, the family is at risk of losing their Section 8 voucher altogether.
33. On March 28, 2025, Parent appealed Boston’s Enrollment Decision to terminate Student, citing McKinney-Vento provisions regarding homeless students.

**Legal** **Standards:**

**I. Placement Pending Appeal**:

Federal and Massachusetts special education laws entitle students to remain in their then-current educational program and placement during the pendency of any dispute unless the parents and the school district agree otherwise. 20 USC §1415(j); 34 CFR 300.518(a); G.L. c.71B §3; 603 CMR 28.08(7).[[4]](#footnote-5)

This right, commonly known as “stay-put”, seeks to maintain a student’s educational situation during the pendency of an IDEA appeal, so that the student’s life is not disrupted unnecessarily while a dispute is being litigated. In this sense, “current educational placement” is equivalent to “the operative placement actually functioning at the time the dispute first arises”. *L.Y. ex rel. J.Y. v. Bayonne Bd. of Educ*., 384 Fed. Appx. 58, 61, 20110 WL 2340176, \*2 (3rd Cir. 2010) (quoting *Thomas v. Cincinnati Bd. of Educ*., 918 F.2d 618, 625-26 (6th Cir.) 1990).

Generally, a student’s placement is predicated upon the accepted IEP, the document which dictates the school district’s responsibility toward a resident student. While one must certainly look at the last agreed upon IEP for guidance in determining the program and placement to which a student is entitled during the pendency of a proceeding, a determination regarding stay-put requires careful examination of the particular facts and circumstances surrounding the program and placement to which the student is entitled during the pendency of a dispute. See *Hale v. Poplar Bluff R-1 School District*, 280 F.3d 831 (8th Cir. 2002) (calling for the fact finder to inquire as to the specific facts of the case to examine the impact that educational changes may have on the student).

When a student moves from one Massachusetts school district to another, 603 CMR 28.03(1)(c), establishes that the new school district must immediately provide the eligible student with a comparable program and type of placement such that the services are consistent with the last accepted IEP, until a new IEP is developed and accepted.

**II.** **McKinney-Vento Homeless Assistance Act**:

The McKinney-Vento Homeless Assistance Act (McKinney-Vento), 42 U.S.C. §11431 *et seq*. affirms the rights of homeless students to attend school and requires that,

…each homeless youth has equal access to the same free, appropriate public education …as provided to other children and youths.

The federal and Massachusetts definition of homeless children and youths include “individuals who lack a fixed, regular, and adequate nighttime residence,” including those “who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason”. 42 USC § 11431(a)(2)(A)(B)(i).

In Massachusetts, 603 CMR 28.10(5)(a)(1) delineates the educational rights of homeless youths, stating that

[h]omeless students shall be entitled to either continue to attend their school of origin, as defined by McKinney-Vento, or attend school in the city or town where they temporarily reside.

Further, programmatic and financial responsibility for a homeless student remains with the school district responsible for that student prior to the student becoming homeless “until the parent or legal guardian or state agency with care or custody of the student chooses to enroll the student in the school district where the shelter or temporary residence is located”. 603 CMR 28.10(5)(a)(2).

Lastly, in situations where two or more districts dispute financial and/ or programmatic responsibility for eligible students, such disputes may be raised with Problem Resolution System (PRS) at the Massachusetts Department of Elementary and Secondary Education (DESE). In Massachusetts, the criteria for school district responsibility determinations are found at 603 CMR 28.10 *et seq*. Notably, 603 CMR 28.10(1)(d) specifically provides that

Any school district deemed responsible for a student under 603 CMR 28.10 shall continue responsibility for such student until another school district is deemed responsible under 603 CMR 28.10.

The regulations discourage districts from relinquishing responsibility for eligible students while educational responsibility based on residency is disputed through DESE, noting that,

[n]othing in 603 CMR 28.10 shall limit the right of the student to timely evaluation, services and placement in accordance with 603 CMR 28.00.

603 CMR 28.10(1)(b).

 **III.** **Caregiver Authorization Affidavit:**

MGL c. 201F §2 limits the authority conferred by a caregiver affidavit as follows:

The authorizing party shall not use a caregiver authorization affidavit to circumvent any state or federal law, solely for the purposes of attendance at a particular school, or to re-confer rights to a caregiver from whom those rights have been removed by a court of law.

 **IV**. **Joinder**:

Rule 1(J) of the *Hearing Rules for Special Education Appeals* (*Hearing Rules*) authorizes joinder of a party upon written request, in instances where, “complete relief cannot be granted among those who are already parties, or the person being joined has an interest relating to the subject matter of the case and is so situated that the case cannot be disposed of in their absence.” In considering joinder, numerous factors must be evaluated including: “the risk of prejudice to the present parties in the absence of the proposed party; the range of alternatives for fashioning relief; the inadequacy of a judgement entered in the proposed party’s absence; and the existence of an alternative forum to resolve the issues.” *Hearing Rules*, Rule 1(J).

When joinder is contemplated, a BSEA hearing officer must consider the jurisdictional limitations of the BSEA pursuant to federal and state special education laws and regulations. In Massachusetts, said jurisdictional authority is limited to that granted under 20 USC §1415(b)(6); Section 504 of the Rehabilitation Act of 1973; M.G.L. c.71B §2A; 34 CFR 300.507(a)(1); and 603 CMR 28.08 (3).

603 CMR 28.08(3) specifically prescribes that the BSEA may hear matters involving

“… the eligibility, evaluation, placement, IEP, provision of special education in accordance with state and federal law, or procedural protections of state and federal law for students with disabilities. A parent of a student with a disability may also request a hearing on any issue involving the denial of the free appropriate public education guaranteed by Section 504 of the Rehabilitation Act of 1973, as set forth in 34 CFR §§104-31-104-39.” 603 CMR 28.08(3).

G.L. c. 71B §2A and 603 CMR 28.08(3), grant BSEA Hearing Officers authority to resolve special education related disputes “among school districts, private schools, parents and state agencies”[[5]](#footnote-6). Moreover, 603 CMR 28.10 *et seq*. establishes the criteria within which school districts’ programmatic and financial responsibility for eligible students is determined or assigned. Said section of the regulations clearly describes situations in which more than one school district may share educational responsibility for an eligible student.

Determinations regarding joinder of multiple school districts that may share programmatic and or financial responsibility for resident students is, therefore, permissible under the regulations.

With this guidance I turn to the circumstances of the instant matter.

**Discussion**:

1. **Stay- put**:

The instant dispute arises from the Parties’ disagreement as to whether, pursuant to state and federal stay-put mandates, Boston is required to allow Student continued IEP services and placement at Brighton High School. Parent asserts that in disenrolling Student from the District and barring her entry from Brighton High School, Boston has in effect left Student without an educational program/ placement during the pendency of this dispute in violation of the IDEA stay-put provision.

Parent asserts that her last permanent residence was her apartment in Boston, to which her Section 8 voucher was attached, and states that Student has remained in Boston at all times, either at Parent’s or Grandparent’s home. Moreover, Parent has signed a Caregiver Affidavit sharing responsibility for Student with Grandparent who resides in Boston.

Parent further asserts that while she attempted to move to Fall River due to safety concerns in Boston, the move was wholly dependent on BHA transferring her Section 8 housing voucher to Fall River. This transfer never came to fruition as the apartment never passed BHA’s inspection and the Fall River landlord terminated the lease less than two months after Parent signed it. Moreover, during the month of February BHA terminated the Section 8 benefits attached to the Boston apartment because of damage, but Parent appealed said termination and worked to fix the damage to the unit. Uncertain about her living situation, Parent has actively engaged in identifying a shelter or possibly moving back into Grandparent’s apartment, as she is, or will soon be, homeless. At this juncture, according to Parent, Student should be deemed homeless pursuant to McKinney-Vento and therefore has the right to receive her educational stay-put services and attend school in her district of origin, namely Boston.

Boston does not dispute Student’s entitlement to stay-put in a substantially separate program for students with externalizing emotional impairments. Notwithstanding this stay-put entitlement, Boston argues that it is not responsible for Student as she has no legal basis to remain enrolled in the District. As grounds for this position, Boston asserts that when Parent signed the lease for the apartment in Fall River, she established her residency there. Pursuant to Boston’s residency policy, a student must reside in the city of Boston to attend its public schools. Since the residence of a minor is presumed to be that of the legal, primary residence of the parent(s) or guardian(s) with physical custody of the Student, Fall River is educationally responsible for Student.

Moreover, according to Boston, Parent may not rely on the caregiver affidavit to establish Student’s legal residency with Grandparent in Boston.[[6]](#footnote-7) MGL c. 201F §2, limits the authority conferred by a caregiver affidavit as follows:

The authorizing party shall not use a caregiver authorization affidavit to circumvent any state or federal law, solely for the purposes of attendance at a particular school, or to re-confer rights to a caregiver from whom those rights have been removed by a court of law.

As such, Student may not be legally enrolled through Grandparent because the caregiver affidavit is insufficient to establish Student’s residency in Boston. Boston reasons that in light of the aforementioned, and given Parent’s move to Fall River, the latter is responsible for providing Student educational services, including stay-put.

Boston seeks denial of Parent’s Motion for Stay-put in its entirety.

 In *Hale v. Poplar Bluff R-1 School District*, the Court explained that when entering determinations regarding stay-put the fact finder must engage in careful examination of the facts and the unique circumstances surrounding the program and placement to which a student is entitled during the pendency of an appeal. *Hale v. Poplar Bluff R-1 School District*, 280 F.3d 831 (8th Cir. 2002). Such assessment must consider the educational impact that a change in placement will have on the student, understanding that the intent of “stay put” is not to disturb the student’s educational placement and programming during the pendency of an appeal. Stay-put guarantees a student’s right to continue in the placement and programming where the student was at the time of the appeal, so as to preserve the *status quo*, unless the parties agree otherwise. Moreover, no eligible student may be left without an educational placement during the pendency of any dispute.[[7]](#footnote-8) This, however, is the unfortunate situation in which Student finds herself since March of 2025, when Boston disenrolled her.

Mindful of Congress’ preference for “maintaining the stability of a disabled child’s placement and minimizing disruption of the child while the Parent and District are resolving disputes” [[8]](#footnote-9), I examine the totality of the circumstances impacting Student’s right to stay-put in light of the unique circumstances impacting Parent’s housing situation.

The facts in this case are clear: despite Parent’s desire and intent to move out of Boston, the move was never finalized as Parent, who depended on her Section 8 housing voucher to pay for housing, was unable to transfer the voucher from Boston to Fall River. Notably, the Section 8 voucher remained attached to the Boston apartment until BHA notified Parent that it was terminating housing assistance because of the condition of Parent’s Boston apartment. At present, BHA’s termination of the Section 8 assistance is under appeal. The record is convincing that without Section 8 assistance Parent will not be able to secure any housing due to her complex medical challenges, including a stroke and the need for regular dialysis, which prevent Parent from securing gainful employment at this time.

From the time this matter was filed in December of 2024, through the time Boston suspended Student and ultimately discharged her, Student attended school in Boston. Cognizant of the tenuous situation with the Fall River apartment, despite signing a lease, Parent never withdrew Student from Boston or enrolled her in Fall River. According to Parent, Student has remained in Boston at the family’s apartment or at Grandparent’s Boston home. Parent’s short stay at the Fall River apartment was meant to facilitate BHS’s inspection, in the hopes of transferring the Section 8 voucher to that location.

Boston based its decision to discharge Student on Parent’s and DCF’s[[9]](#footnote-10) reports that the family intended to move to Fall River. This reliance was misplaced, as despite Parent’s intention to move, no final move came to fruition as Parent could not afford to pay the lease without the Section 8 voucher, and her lease was terminated. Boston appears to have based its decision on the fact that during a short period of time, Parent had two addresses in Massachusetts. The question is not whether an individual has multiple addresses but rather, which is the individual’s main residence/ address during the appeals period. Here, Parent’s and Student’s main residence was Boston when the appeal was initiated on December 6, 2024, and it remained so through the present time, as Parent faces homelessness.[[10]](#footnote-11) Parent’s Section 8 voucher was only ever attached to the Boston apartment which Parent never voluntarily gave up, even after BHA informed her that the voucher would be terminated. Instead, Parent appealed the determination as she lacks financial means to pay for rent.

Given these very unique circumstances, and the fact that Student was never withdrawn from Boston, nor enrolled or attended school in Fall River, preservation of the status quo during the pendency of this appeal is in Boston. Transferring Student’ educational services to Fall River, a district that has had no contact with Student and where Parent, now possibly homeless, no longer has an apartment, would be a blatant disregard of the legislative intent of the IDEA. It is especially troubling that at all times Boston knew of Parent’s housing developments and nevertheless chose to disenroll Student.

Student is further entitled to stay-put in Boston as a homeless youth, pursuant to 603 CMR 28.10(5)(a)(1) which states

[h]omeless students shall be entitled to either continue to attend their school of origin, as defined by McKinney-Vento, or attend school in the city or town where they temporarily reside.

I therefore find that under the unique facts of this case, for stay-put purposes, Student is either a resident of Boston or is homeless; either way, Boston remains responsible to provide her stay-put services.

Parent’s Motion for Stay-put Services through Boston is **ALLOWED**. Boston shall offer Student educational services in a substantially separate program for students with externalizing emotional impairments at Brighton High School, unless the Parties agree otherwise. Similarly, Student and Parent shall be afforded all other substantive and procedural due process rights to which they are entitled under the IDEA, including convening of the Team, and conducting a manifestation determination and a suspension hearing.

Lastly, to the extent that Boston seeks a different residency determination, pursuant to 603 CMR 28.10(8)(a), matters involving disputes over school district responsibility must be brought before the Department of Elementary and Secondary Education so that

[t]he Department may assign or a school district or agency may request the Department’s assistance in assigning a city, town, or school district to be responsible for students… when the residence or residential history of the student’s parent(s) or legal guardian is in dispute…[or] when a student …is not receiving services.

Until such time as Boston requests and DESE enters a determination assigning a district other than Boston educational responsibility for Student, such responsibility remains with Boston.

**Joinder**:

Boston seeks to join Fall River as a party, pursuant to Rule I(J) of the *Hearing Rules*. According to Boston, 603 CMR 28.10(1), the special education regulation dictating programmatic and fiscal responsibility for IDEA eligible students based on residency and enrollment, supports joinder of Fall River. Parent moved to Fall River in February of 2025, and since Fall River is responsible for Student’s special education services and placement, it is a necessary party to this proceeding.

Parent opposes Boston’s Joinder Motion arguing that her housing situation over the past two months has been unstable, and despite her intention to move to Fall River, the move never became permanent due to the Section 8 voucher not transferring to that location. Until termination of the Section 8 voucher by BHS, Parent’s main residence was the apartment in Boston.

As noted in the previous section, while the evidence is persuasive that for a short period of time Parent had two addresses in Massachusetts, Boston failed to demonstrate that Parent’s main residence ultimately transferred to Fall River.

Until such time as Parent secures permanent housing in a different district, disenrolls Student from Boston, or DESE enters a determination that a different school district is responsible, Boston remains responsible for Student, and therefore, joinder of Fall River is not at the current time necessary for full adjudication of this matter.

Boston’s Motion to join Fall River is **DENIED WITHOUT PREJUDICE**.

**ORDER**:

1. Parent’s Motion for Stay-put is **GRANTED**. Boston is responsible to provide Student stay-put services and placement during the pendency of this appeal.
2. Boston’s Motion for Joinder of Fall River is **DENIED** **WITHOUT PREJUDICE.**

So Ordered by the Hearing Officer,

Rosa I. Figueroa

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Rosa I. Figueroa

Dated: April 24, 2025

1. Rule VI.A of the *Hearing Rules for Special Education Appeals* provides that “[a] party may request that a Hearing Officer issue an order or take any action consistent with relevant statutes or regulations. Such a request shall be called a motion.” [↑](#footnote-ref-2)
2. Brighton is a suburb of the Greater Boston area and part of the Boston Public Schools. [↑](#footnote-ref-3)
3. Packets had previously been sent for Student to complete an extended evaluation at a private day school, but no school accepted her. Given significant concerns at Brighton, the school staff reported that it no longer needed additional information through the extended evaluation to support out-of-district placement. [↑](#footnote-ref-4)
4. Exceptions to stay-put relative to violations of the code of conduct are not applicable in the instant case. [↑](#footnote-ref-5)
5. 603 CMR 28.08(3). [↑](#footnote-ref-6)
6. As noted in the Facts section of this Ruling, Parent has appealed Boston’s finding and has filed a complaint with DESE’s PRS. [↑](#footnote-ref-7)
7. See *Student v. Melmark New England & Bourne Public Schools*, BSEA #2508471 (Putney-Yaceshyn, 4/1/2025). [↑](#footnote-ref-8)
8. See *Student & Concord & Natick Public Schools Corrected Ruling on Mother’s Request for “Stay Put” Order*, BSEA #1800182 (Berman, 2017). [↑](#footnote-ref-9)
9. Boston presented no evidence that DCF ever transferred Student’s case to Fall River. [↑](#footnote-ref-10)
10. An active appeal of Boston’s determination regarding Student’s enrollment is pending with Boston’s Office of Legal Advisor pursuant to McKinney-Vento. [↑](#footnote-ref-11)