

## **School Accommodations Decision Index Update 2012-2024**

### **Student v. Shelton Board of Education, Case No. 12-02, January 22, 2013**

**(Residency).** The appellant did not appear for the hearing. After discussing the circumstances, and subject to a possible request to reschedule for good cause shown, the Impartial Hearing Board dismissed the matter as abandoned.

### **Student v. Milford Board of Education, Case No. 12-3, February 13, 2013**

#### **(II. Transportation A. Public School a. Bus stop; C. Vocational Schools a.**

**Vocational Agriculture).** This case involved the parent's request for an additional bus stop for the student in the afternoon. The student attended the vocational agricultural science and technology program in Trumbull. The parent's appeal was dismissed. This case addresses the legal standard to be applied by the Impartial Hearing Board and its application. The local board of education has utilized the Sample Transportation Policy promulgated by the State Board of Education. The decision notes that the fact that a board of education is required to spend no more than \$6,000 for transportation does not mean that the board has to spend this amount.

### **Student/Parent v. Milford Board of Education, Case No. 12-5, February 6, 2013**

#### **(II. Transportation A. Public School a. Bus Stop; C. Vocational Schools a.**

**Vocational Agriculture).** Changes were made to bus routes for transportation to a vocational agricultural science program due to budget reductions. The Impartial Hearing Board (IHB) reviewed the record including the local board decision and a recording of the hearing, additional exhibits and testimony at the appellate hearing, briefs, and inspected the route. The decision of the local board of education was upheld

as no evidence of arbitrary, capricious, or unreasonable actions by the Board was proven. The IHB detailed the efforts of the local board to develop new routes and parent concerns. Note that the IHB commented that the walking route in question has shortcomings, especially in morning darkness.

**In the Matter of Parent v. Hamden Board of Education and Bridgeport Board of Education, Case No. 12-8, July 8, 2013 (III. Residence D. Homelessness)**

**(Jurisdiction to determine contributions to transportation costs).** The Impartial Hearing Board (IHB) first determined that it had the authority to determine all of the issues presented including the issue of which board of education should be responsible for the transportation of the child and how, if at all, the cost should be divided. The IHB determined that Student was no longer homeless within the meaning of the McKinney-Vento Act. There is no guidance in the McKinney-Vento Act that holds if you stay in a fixed place for a certain amount of time you are no longer homeless. This must be determined by examining all of the facts in a particular situation. The IHB said it was the Parent's responsibility to prove homelessness. Here the IHB found that it was not proven that the Parent or Student were homeless. The IHB also found that Bridgeport should not be responsible for transportation costs before it knew Student was living in Bridgeport and attending school in Hamden. Bridgeport is responsible for sharing transportation costs after it gained this knowledge. Note that C.G.S. Section 10-186 was amended effective July 1, 2019 and the amended version should be consulted in cases on the proof of homelessness after July 1, 2019.

**Student v. Kent Board of Education and Patricia Chamberlain, Case No. 12-09, August 22, 2013 (I. Jurisdiction A. Filing of Appeal in a Timely Manner, B. Out of**

**State) (family maintained homes in two different towns).** In this case, the Family maintained a home in New York and a modular home in Kent, Connecticut. The decision notes that the Mother had previously falsely represented residence in Kent before the modular home was built and she and the Student were living there. At the time of the hearing, the student and his mother were spending Monday through Thursday nights in Kent. Both the student and his mother were active in community and school activities in Kent. The Impartial Hearing Board (IHB) concluded that Student and his mother were physically present in Kent for substantial amounts of time for important purposes consistent with residence, including attending school, sleeping, engaging in sports and community activities, sustaining friendships, and maintaining clothing and personal belongings. The IHB found that Student was an actual resident of Kent and entitled to free public school accommodations in Kent.

The IHB evaluated conflicting testimony in deciding this case and cited and discussed a number of cases. The IHB found there was no “bright line” rule establishing precisely how many hours or days must be spent in a district to warrant a finding of actual residency and noted that the State Board of Education and courts have held that students who shuttle between the homes of separated parents in different towns are entitled to attend school in a town where they spend substantial time sleeping and maintaining social connections and that the law did not impose a different rule for students whose parents live in different towns but who are not separated.

**In the Matter of Student v. Easton Board of Education, Case No. 13-1, February 10, 2014 (VII. Motions and Orders B. Residence a. Motion to Dismiss) (Dismissal for Mootness).** In this case the Easton Board of Education moved that the appeal be

dismissed as moot. The basis of the motion was that the board of education was not seeking reimbursement for the Student for the period the Student was determined not to be a resident of the Town of Easton. It appears that the board of education provided school accommodations at all times pertinent except possibly for a portion of one school day. The Impartial Hearing Board (IHB) dismissed the appeal. Without a claim of denial of schooling or for tuition reimbursement, the IHB was left with what they described as “meaningless authority” and was essentially without jurisdiction to hear the appeal.

**Student v. Preston Board of Education, Case No. 13-05, May 27, 2014**

**(V. Procedure A. Burden of Proof a. Residency) (Effect of Custody decision, Protective Order, McKinney Vento).** In order to establish the right to educational services in Preston, it is the burden of the appellant, here the parent Father, to prove by a preponderance of the evidence and any reasonable inferences to be drawn from that evidence, that the student requesting educational services is a resident of Preston. In this case the Father did not establish residency in Preston by a preponderance of the evidence and was not entitled to school accommodations there.

This decision discusses the effect of a custody decision, a protective order, and the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11301 *et seq.* The Impartial Hearing Board said this case mirrors the situation in *Mangiafico v. State Board of Education*, 138 Conn. App. 677 (2012) where the appellant asserted that the intent to return to town at some time constituted residency, but actual residency at the time of the hearing was some place other than the town denying accommodations.

**In the Matter of Student v. Redding Board of Education, Case Number 14-2, December 19, 2014 (II. Transportation A. Public School a. Bus stop).** The cul-de-sac road in question and the bus stop location were determined in this decision to be not inherently dangerous. Redding produced a record of diligent town and bus company experts whose job it is to make sure that children are safe as they travel to and from school. Experts found the bus stop location to be safe for middle school and high school students. There was insufficient proof that the Redding Board of Education decision was arbitrary, capricious, or unreasonable.

**In the Matter of Student D v. Plainville Board of Education, Case No. 14-04, March 20, 2015 (III. Residence A. Permanent) (Section 10-253).** The Impartial Hearing Board determined that Student D was not entitled to school accommodations in the form of a free public education from the Plainville Board of Education.

This case notes the definition of “actual residence” in *West Hartford v. State Board of Education*, 2002 WL 1573416 (Conn. Super 2002) (physically present and living at a location as a householder during significant parts of each day and for important purposes consistent with residence). This decision discusses in detail the requirements of Connecticut General Statutes Section 10-253(d) and the effect of guardianship awarded by the Probate Court. The sole purpose of the Student’s residence in Plainville was to obtain school accommodations. The mere fact of guardianship did not establish the Student’s residency with the guardian in Plainville.

**Student v. Shelton Board of Education, Case No. 14-6, April 7, 2015**

**(II. Transportation A. Public School a. Bus stop).** Although the bus stop at issue did not allow for enough sight distance so that drivers, bus drivers, and students waiting at

the stop all can see each other, the Shelton Board of Education identified a different standard for measurement of adequate bus stop visibility, the Connecticut Driver's Manual. The Parents did not meet their burden to prove by a preponderance of evidence that the local board's reliance on the Connecticut Driver's Manual for a sight line standard was illegal, arbitrary, capricious, or unreasonable or that the board's determination that the bus stop allows sufficient visibility between the bus driver and the bus stop under the Connecticut Driver's Manual was illegal, arbitrary, capricious, or unreasonable.

**In the Matter of Students v. Region #15 Board of Education, Case No. 15-01, November 19, 2015 (Ill. Residence A. Permanent) (Impartial Hearing Board cannot consider estoppel or whether the board of education had a different standard).** In this case the Impartial Hearing Board (IHB) determined that Region No. 15, which includes the Town of Middlebury, was not required to provide a free public education to the Students. A small portion of the property on which the Students' dwelling was located was within the Town of Middlebury, but the dwelling was located entirely in the City of Waterbury. The IHB noted that Connecticut General Statutes Section 10-186 provides that when a dwelling is bisected by a town line, students living in the dwelling have the right to attend school in either district and inferred from this that when the dwelling is located entirely within one town, that town is the students' residence for education purposes and that this conclusion was supported by the legislative history and *McGarry v. State Board of Education*, 2001 Conn Super LEXIS 946 (1991). The IHB also determined that it did not have the authority to make any determinations other

than a finding of residency, *i.e.*, it could not consider estoppel or whether the local board had adopted a standard other than that based on residency.

**Parent v. Westport Board of Education, Case No. 15-3, February 18, 2016**

**(III. Residence A. Permanent) (V. Procedure A. Burden of Proof a. Residency).** In this decision the Impartial Hearing Board (IHB) determined that the Parent did not meet his burden to prove actual residency of the Students in Westport between the beginning of the 2014/2015 school year and April 28, 2015. This case is worth reading for the IHB's detailed evaluation of the evidence. The facts are somewhat complicated. The IHB discusses the preponderance of the evidence standard citing *State v. Aviles*, 277 Conn. 281, 310-312, *n.* 16 (2006), and determines that the evidence was not sufficient to produce a reasonable belief that the students actually resided in Westport during the relevant time. The IHB also addresses the use of affidavits by the parent and the credibility of witnesses.

**In The Matter v. Shelton Board of Education and Bridgeport Board of Education,**

**Case No. 16-3, March 16, 2016 (III. Residence A. Permanent).** The Appellant (Parent) did not establish residence of the Students in Shelton by a preponderance of the evidence. The Parent testified that she lived in Shelton and produced a lease and a receipt from Section 8 for payments made for her rent. However, Shelton produced evidence that the Students lived in Bridgeport and were transported to school in Shelton by their mother at the beginning of the school day. This included evidence from a surveillance and public records as to the Parent's address. Parent testified that she lived in Shelton, but due to work, she and her children stayed some nights at her

mother's house in Bridgeport. Parent left the hearing while being questioned by the Board of Education's attorney.

**In the Matter of Student v. Ellington Board of Education, Case No. 16-4, May 26,**

**2016 (II. Transportation A. Public School a. Bus stop)** In this case the Impartial Hearing Board (IHB) sustained the appeal determining that: the Ellington Board of Education had not properly applied its policy and guidelines to the facts of this case; the petitioners had demonstrated that the decision of the local board was arbitrary, capricious, unreasonable, or illegal; and there had been a denial of school accommodations by the local board with respect to the designation of a bus stop for the student. The IHB determined that the local board decision was arbitrary, capricious, or unreasonable in designating bus stop locations for this student. It failed to consider that vehicular traffic could lawfully operate in the same area where the student had to walk. This portion of the road was the same area deemed to be hazardous for the 4<sup>th</sup> grader. The IHB also disagreed with the local board's reliance on a particular statute to ensure the safety of the student and questioned its definition of a bus stop.

**In the Matter of Students v. Oxford Board of Education, Case No. 17-1, October 5,**

**2016 (V. Procedure B. General Procedural Rights) (Petition to Intervene).** This case was resolved by Stipulation between the Oxford Board of Education and the Department of Children and Families which had intervened in the matter through the Office of the Attorney General that the Oxford Board of Education was responsible for providing the children with a free public education. The OAG Petition to Intervene contains some interesting discussion of the effect of a private agreement between the



mother and a residential facility that children could not live in the facility and on case law concerning the establishment of a nexus town under C.G.S. Section 10-76d(e)(2).

**Parent v. Trumbull Board of Education, Case No. 17-02, November 16, 2016**

**(II. Transportation A. Public School a. Bus stop; V. Procedure A. Burden of Proof**

**b. Transportation).** The Parent appealed the placement of a bus stop. The Impartial Hearing Board (IHB) stated that it was the Parent's burden to prove by a preponderance of the evidence that the school districts decision was illegal, arbitrary, capricious, or unreasonable, and the Parent had not carried this burden. The case includes the IHB's analysis of the evidence regarding the school district's policies, the distance of the student home from the school, traffic conditions, roadway conditions and other matters.

**Students v. Hamden Board of Education, Case No. 17-5, December 9, 2016**

**(III. Residence A. Permanent).** Based on a residency officer's morning observations of the address in Hamden where the parent claimed the students lived and of an address in West Haven where the Student's father lived, the Impartial Hearing Board determined that the students did not live in Hamden. The students did not spend the night in Hamden once over a three-week period.

**Student v. Ansonia Board of Education, Case No. 17-6, April 28, 2017.** During the hearing, the parties reported that they had entered into a settlement. The Appellants withdrew their appeal. At the request of counsel for the local board, the appeal was dismissed with prejudice.

**Student v. Regional School District 6 Board of Education, Case No. 17-7 (I.**

**Jurisdiction A. Filing of Appeal in a Timely Manner; III. Residence A. Permanent).**

In this case the Impartial Hearing Board (IHB) first ruled on a Motion to Dismiss on the issue of timeliness. It appears that the Region 6 board of education decision was prepared on December 8, 2016 and hand delivered to the Student's mother on December 9. Apparently, the local board decision was not mailed. On January 4, Student's father faxed to the Connecticut State Board of Education (CSBE) a letter dated December 14, 2016 which was addressed to the Wamogo School Board that indicated that the Student's father had not received a mailing regarding the Student's hearing and that he was appealing the decision under C.G.S. Section 10-186(b)(2). The local board sought to dismiss the appeal, because it was not filed within 20 days of December 9. Citing principles of statutory construction, *i.e.* C.G.S. Sections 1-1 and 1-2z, the IHB determined that the credible evidence indicated that the local board did not mail the decision to the Student's parents to trigger the appeal period, and the Student's father faxed the December 14, 2016 letter of appeal to the CSBE on or about that date and again on January 4. The Motion to Dismiss was denied.

The IHB on the merits determined that the Student was not a resident of a town in Region 6 and was not entitled to a free public education from the Region 6 Board of Education. The Student's father maintained a residence in Litchfield and also in Morris (Morris is within Region 6). Father maintained he paid taxes in both towns and Student should be able to attend school in either town. The evidence supported a finding that Student spent some vacation time at the Morris residence, but the Morris residence was not suitable for long term habitation in colder months, mail was forwarded to Litchfield, and the Student's transportation was provided from the Litchfield residence.

**In the Matter of Student v. Windham Board of Education, Case No. 17-08, March 1, 2017 (III. Residence A. Permanent).** The Impartial Hearing Board (IHB) decided that the Student was a resident of Manchester, and the Windham Board of Education was not responsible for providing Student with a free public education. The IHB cited *West Hartford Board of Education v. State Board of Education*, 2002 WL 1573416 (Conn. Super., 2002). The proof was primarily the observations of investigators who observed the Student exiting a residence in Manchester and driving to school in Windham. Student also told a school nurse and a teacher that he lived in Manchester.

**Students v. North Branford Board of Education, Case No. 18-01, November 14, 2017 ((II. Transportation A. Public School a. Bus stop).** Appellants (Students) failed to prove by a preponderance of the evidence that the North Branford Board of Education decision was arbitrary, capricious, or unreasonable. The issue is not whether the Impartial Hearing Board (IHB) agrees or disagrees with the local board decision. The IHB may not substitute its judgement for the local board of education even if it believes that the local board's actions were not the best solution to the problem. Here there was no evidence that the local board violated its own regulations.

**Student v. Wethersfield Board of Education, Cased No. 18-02, December 13, 2017 (III. Residence D. Homelessness).** The appeal was sustained. Student proved that Student had no fixed place of residence subsequent to an eviction from a Wethersfield address and Student was properly enrolled in the Wethersfield School System prior to the eviction. The impartial Hearing Board found the Student to be "homeless" under 42. U.S.C. Sec. 11431, *et. seq.*, and Wethersfield High School was determined to be the school of origin for Student.

**Students v. Wolcott Board of Education, Case No. 18-03, November 21, 2017 (Ill.**

**Residence A. Permanent) (Property ownership and payment of taxes not sufficient for school accommodations).** Entitlement to a free public education in a school district is based on residency, not ownership of property or payment of taxes to a town in a school district. Students who are residents of Waterbury are not entitled to school accommodations in Wolcott.

**Student v. East Windsor Board of Education, Case No. 18-08, May 24, 2018**

**(Residency).** During the hearing, counsel reported a settlement which they intended to reduce to writing. The resolution of the outstanding issues as described to the Impartial Hearing Board was deemed to be fair and reasonable, and the withdrawal of the appeal was accepted, and the matter was dismissed.

**Students v. South Windsor Board of Education, Case No. 19-04 (Ill. Residence A.**

**Permanent).** In the case of a residency determination, the finding of the local or regional board of education, subcommittee of the board, or local impartial hearing board shall be upheld unless it is determined to be arbitrary, capricious, or unreasonable. In the case of a denial of schooling based on residency, the party denied schooling shall have the burden of proving residency by a preponderance of the evidence. C.G.S. Section 10-186(b)(1).

Surveillance reports consistently showed the children being driven from Vernon, where their parents owned a home, to Orchard Hill Elementary School in South Windsor. The Parents of the children own a home in Vernon. The parent's vehicles are registered in Vernon, and the children's father is registered to vote in Vernon. An aunt owns or rents homes in Windsor. The Impartial Hearing Board did not accept the

explanation that the Student's mother starts the day with the Students in South Windsor and then drives to Vernon due to family responsibilities and then drives from Vernon to the Orchard Street Elementary School in South Windsor.

**In the Matter of Students v. Woodbridge Board of Education and Amity Regional School District No. 5 Board of Education, Case No. 19-06, July 25, 2020 (III.**

**Residence A. Permanent).** The Impartial Hearing Board (IHB) determined that the Students had not met their burden to prove that they are residents of Woodbridge for school accommodation purposes. Evidence relied on by the IHB included, but was not limited to, surveillance of Students getting on and off of their school busses on randomly selected school days, statements made by one Student to his Principal to where he lived, statements by the Students' mother as to a school administrator as to where the students lived, and evidence as to the lack of significant contacts of the children in the Woodbridge community.

**In the Matter of L.K. v. South Windsor Board of Education, Case No. 19-08, July 31, 2019 (III. Residence A. Permanent).** If a town denies school accommodations based on residency, the party denied schooling has the burden of proving residency by a preponderance of the evidence. The Impartial Hearing Board determines the issue of residency *de novo*.

Student was found not to be a resident of South Windsor and to be a resident of Coventry. The South Windsor Board of Education was not responsible for providing the Student with a free public education. The Student's father was a resident of Coventry. Surveillance conducted by the South Windsor Public Schools revealed that on various days the Father would drop the Student off at the address of their paternal grandmother

in South Windsor so that the Student could then take the school bus to a school in South Windsor.

**Parent v. Rocky Hill Board of Education, Case No. 19-09, December 2, 2019**

**(Residency – Agency Placement).** Placement of Student in a group home in Wallingford was an agency placement by the Department of Developmental Services pursuant to Connecticut General Statutes Section 10-253(a). Therefore, as Student's mother lives in Rocky Hill, Rocky Hill is responsible for her education. Also, the Rocky Hill Board of Education was ordered to provide compensatory education beyond the date Student reaches the age of 21 for a period of time equal to the period she had not attended school until Student returns to school. The requirement of compensatory education is conditioned on Parent providing necessary releases and authorizations so that the Board of Education can formulate an appropriate Individual Education Plan (IEP).

**Students v. West Haven Board of Education, Case No. 19-10 (Residency).** Parent did not appear at the hearing. Parent presented no evidence of homelessness or residence in West Haven. The decision of the West Haven Board of Education denying school accommodations was affirmed as there was no basis for concluding that it was arbitrary, capricious, or unreasonable.

**Student v. Derby Board of Education, Case No. 20-04 February 5, 2021 (III.**

**Residence D. Homelessness).** Student and her parents had lived with relatives in the relative's apartment in New Haven since April 2018. The Derby Board of Education determined in January 2019 that the Student qualified as homeless under federal law and continued to provide school accommodations in Derby. The school district did not

challenge the Student's entitlement to remain a student in the Derby school district for the 2019-2020 school year. In September 2020, although the Student's living situation had not changed since the initial determination of homelessness, the Derby Board of Education determined that the Student did not qualify as a homeless child under federal and state law, was not a resident of Derby, and denied school accommodations. The Student appealed the Derby decision to the State Board of Education.

The State Board of Education Impartial Hearing Board (IHB) disagreed and determined that the Student was entitled to school accommodations in Derby. The IHB noted that the only new consideration offered as a reason to conclude that the same living arrangements which were deemed to meet the definition of McKinney-Vento in January 2019 no longer did so was the passage of time. The IHB cited federal case law for the proposition that McKinney-Vento provides no statutory limit on the duration of homelessness. The IHB determined that a preponderance of the evidence showed that the Student lacked a fixed, regular, and adequate nighttime residence, was a child or youth sharing the housing of other persons due to loss of housing, economic hardship, or similar reason under the McKinney-Vento Act, and was a homeless child or youth and entitled to accommodations from the Derby board of Education.

After it rendered its decision, the IHB granted a Motion by the Derby Board of Education to reconsider the decision on the ground that previously unavailable case authority was disclosed to the parties. After consideration of the additional case law, specifically Student v. Wethersfield, Case No. 18-02 and Student v. Hamden, Case No. 12-8, the IHB affirmed its original decision on May 21, 2021. This case was appealed to the Superior Court, but the appeal was withdrawn.

**Students v. Regional School District No. 17 Board of Education, Case No. 20-05, December 22, 2020 (II. Transportation A. Public School a. Bus stop).** The Impartial Hearing Board (IHB) found that there was no evidence that the Region 17 Board of Education violated its own regulations or that its decision to deny the request for the relocation of the bus stop was arbitrary, capricious, or unreasonable. The issue is not whether the IHB agrees or disagrees with the decision of the Board of Education; the IHB may not substitute its judgment or subjective opinion for that of the Board of Education. The IHB sustained an objection to the introduction of exhibits that were not part of the record at the Board hearing.

**Guardians-Parents/Student v. Region 11 Board of Education and Norwich Board of Education, Case No. 21-01, April 22, 2021 (III. Residence A. Permanent, Agency Placement). This matter was appealed to the Superior Court and the IHB decision on the issue of residency was affirmed although for different reasons than the reasons given by the IHB.**

The Impartial Hearing Board (IHB) concluded that: (1) the Guardian's application for and acceptance of a continuing subsidy from the Department of Children and Families (DCF) should not be considered to be a payment that would disqualify the Student as a resident of Hampton (Region 11 Board of Education) under Connecticut General Statutes Section 10-253(d); and (2) the Superior Court's granting of guardianship of Student to Guardians was not an agency placement rendering the Norwich Board of Education the responsible school district under C.G.S. Section 10-76d(e)(2). This statute does not include guardianship. Guardians home is not a foster home, a group home, a hospital, state institution, receiving home, custodial institution, or a residential



or day treatment facility, so C.G.S. Section 10-76d(e)(2) does not even apply to the facts of this case.

**Student v. Bristol Board of Education, Case No. 21-02, March 24, 2021, (I.**

**Jurisdiction A. Filing of Appeal in a Timely Manner).** The Impartial Hearing Board (IHB) dismissed the appeal because it was not filed within 20 days of the mailing of the notice of the decision of the local board of education. The Parent claimed that, although he had received the decision by email, he did not receive the copy which was sent by U.S. Mail. The IHB stated that the timeline for filing an appeal is triggered by the mailing of the finding, not its receipt. The IHB refused to decide whether the electronic delivery of the decision was sufficient to trigger the appeal period.

**Students v. Bloomfield Board of Education, Case No. 21-03, April 12, 2021 (III.**

**Residence A. Permanent).** The Impartial Hearing Board decided that the students were actual residents of Bloomfield and therefore entitled to free public school accommodations in Bloomfield. The students' father resided in Bloomfield and their mother resided in Manchester. The students were tenants of record at their father's address and attended school in Bloomfield. When schools were closed in March of 2020, the students began to spend the bulk of their time at their mother's house for COVID-19 related reasons. Citing *Mangiafico v. State Board of Education*, 138 Conn. 677 (2012) the Impartial Hearing Board viewed this as a "temporary" rather than an "indefinite" displacement and that the family would be able to return to the prior arrangement the next school year.

**Student v. Bloomfield Board of Education, Case No. 21-04, April 28, 2021 (III.**

**Residence A. Permanent)** The preponderance of the evidence established that the Student moved with her parents to South Windsor and was no longer a resident of Bloomfield.

**Parent/Student v. Sterling Board of Education, Case No. 21-05, June, 2021 (I.**

**Jurisdiction A. Filing of Appeal in a Timely Manner)** Because the appeal was not filed with the State Board of Education within the twenty-day time frame, the Impartial Hearing Board lacked jurisdiction.

**Parent/Student v. Preston Board of Education and Milford Board of Education,**

**Case No. 22-01, July 22, 2022 (III. Residence A. Permanent)**

The Preston Board of Education determined, after a hearing, that the Student was not a resident of Preston. The Student's father lived in Preston and the Student's mother lived in Milford. The Impartial Hearing Board (IHB) joined the Milford Board of Education as a party. The IHB determined that the Student was a resident of Milford. The Student's participation in activities in Milford and a calculation of the number of days the Student spends in Milford and Preston indicate that the Parent had not sustained her burden of proving that the student lived in Preston. The IHB determined that its authority was limited to a determination of residency, and the IHB did not consider a claim of municipal estoppel, citing the recent Superior Court decision in *Regional School District No 11 v. State Board of Education. et.al.* HHB-CV-21-6066176 (June 6, 2022).

**Parent/Student v. Regional School District No 10 Board of Education, Case No, 22-03, July 20, 2022 (July 20, 2022) (II. Transportation A. Public School a. Bus**

**stop).** The Parents contested the decision of the Region 10 Board of Education not to relocate the bus stop for their child. The Parents argued that the one mile walk which was required was too long for their second grade child. The Impartial Hearing Board (IHB) denied the appeal. There was no evidence that the Board of Education violated its own regulations or that its decision to deny the request for relocation of the bus stop was arbitrary, capricious, or unreasonable. The issue is not whether the IHB agrees or disagrees with the actions of the Board of Education. IHB cannot substitute its judgment or subjective opinion for that of the Board of Education. The IHB can only reverse the decision of the Board of Education if it finds that the Board of Education acted in a manner that was arbitrary, capricious, or unreasonable.

**Parent/Student A. and Student B. v. Newington Board of Education, Case No. 22-04, November 21, 2022 (III. Residence D. Homelessness).** In this matter, the Board of Education acknowledged that under the McKinney-Vento Act they had the burden to demonstrate by a preponderance of the evidence that the Students do not lack a fixed, regular, and adequate nighttime residence. The Impartial Hearing Board (IHB) noted that under McKinney-Vento students are homeless if they lack a nighttime residence that is “fixed, regular and adequate” citing 42 U.S.C. Section 11434a. (emphasis in original) Based on the evidence, the IHB determined that the Students’ shared housing was not an adequate nighttime residence and found the Students to be homeless as defined in 42 U.S.C. Section 11434a(2). Therefore, the Students were entitled to continue their education in the school of origin for the duration of homelessness and for the remainder of the academic year if they became permanently housed during the academic year, citing 42 U.S.C. Section 11432(g)(3)(A).

**Parent/Students v. East Hartford Board of Education and Hartford Board of Education, Case No. 22-05, January 25, 2023 (III. Residence A. Permanent).** The preponderance of the evidence established that the Student resided in Hartford, not East Hartford. The evidence included testimony by an East Hartford Residency Officer as to surveillance conducted by the Residency Officer.

**Parent/Students v. Woodstock Board of Education, Case No. 22-06, December 30, 2022 (III. Residence A. Permanent).** In this case, the family owned two properties, one in Thompson and one in Woodstock. The Woodstock Board of Education determined after a hearing that the Students were not residents of Woodstock, and the Parent appealed. The State Board of Education Impartial Hearing Board (IHB) determined that the Students “current, actual residence is in Woodstock, based upon a preponderance of the evidence in the record from the initial hearing, and the additional evidence presented at the hearing on the appeal.” The IHB engaged in a detailed review of prior decisions of courts and IMBs and the various factors that are evaluated in determining actual residency. The Woodstock Board of Education argued that the proper point in time to determine the Student’s residence was at the time of the Woodstock hearing rather than the time of the hearing on appeal. The IHB stated, however, that the appeal of the local board’s decision is *de novo*, the IHB determines actual residence, and the term “actual” residence also connotes the time period at which the appeal hearing is held.

**Parents v. Bridgeport Board of Education, Case No. 22-07, February 22, 2023 (III. Residence D. Homelessness).** In this case, the Impartial Hearing Board (IHB) determined that the Students were entitled to free public school accommodations in

Bridgeport pursuant to the McKinney-Vento Homeless Assistance Act. The family was living in motels in Milford and are considered homeless. The Parents requested that the Students continue to attend their school of origin in Bridgeport. The presumption in favor of stability for the Students was not outweighed by other factors in determining the best interests of the Students, and the Students were entitled by law to continue to attend their schools of origin in Bridgeport.

**Parent v. Stratford Board of Education and Bridgeport Board of Education, Case No. 23-01, October 12, 2023 (III. Residence A. Permanent).** The issue in this case was whether the Parent and Student lived in Stratford or Bridgeport. The Parent claimed residence in Stratford. However, Parent provided childcare services for a niece each day at the niece's home in Bridgeport. Parent and students would go to the Bridgeport address early every morning to allow the niece to go to work, and the Parent would then drive Student to and from school in Stratford. A school district investigator determined that the Parent and student in Bridgeport. The Parent also was responsible for certain utilities at the Bridgeport address and had voted in recent elections in Bridgeport. The Impartial Hearing Board (IHB) determined that the Parent had not met her burden of proving that the Student was a resident of Stratford and rendered the final decision.

Reconsideration was granted, and a further hearing was held. The IHB again found that the parent did not meet her burden of proving be student is a bona fide resident of Stratford and, therefore, Student was not entitled to accommodations from the Stratford Public School System.

**Parent v. New Canaan Board of Education, Case No. 23-02, August 28, 2023 (II.**

**Transportation A. Public School a. Bus stop).** The Parent asked the board of education to add a bus stop at the end of a cul-de-sac. The board refused. There was a bus stop at the intersection of the cul-de-sac and the main road. The cul-de-sac was .26 miles long, and the family lived on a private road that began at the end of the cul-de-sac .14 miles from the cul-de-sac, so the children had to walk .4 miles to get to the bus stop. The location of the bus stop complied with board of education policy. The Impartial Hearing Board (IHB) determined that the Parent had not proved that the board of education decision not to add a bus stop was arbitrary, capricious, or unreasonable, no exceptions applied and dismissed the appeal.

The Parent requested reconsideration pursuant to Connecticut General Statutes Section 4-181a. The IHB denied the request for reconsideration. There was no newly discovered evidence or other good cause for reconsideration.

**Parent v. Middletown Board of Education, Case No. 23-04, March 4, 2024 (III.**

**Residence A. Permanent).** In this case, the Impartial Hearing Board determined that the children's residence was in Meriden, not Middletown as argued by the Parent. The Parent had listed the children's address as the address of their grandparents in Middletown. The Parent stated that the children and their mother stayed with the grandparents during the week due to the Parents work schedules, but returned to Meriden where the family owned the home on weekends. There was testimony from an investigator who had conducted surveillance that the children were driven from the Meriden home to school in Middletown. There was also documentary evidence that the Parents' addresses were Meriden addresses. The Impartial Hearing Board also

determined that the case did not fall within the purview of Connecticut General Statutes Section 10-253(d) for various reasons. The fact that the grandparents had been granted temporary guardianship cut against the parents position.

**Parents v. Fairfield Board of Education, Case No. 23-05, March 14, 2024 (III.**

**Residence A. Permanent). (The Fairfield Board of Education has appealed this**

**decision to the Superior Court)** In this case contrary to the local board of education

decision, the Impartial Hearing Board determined that the student resided in Fairfield and was entitled to attend school in Fairfield. The Parents had purchased a home in Easton which was much larger than their home in Fairfield. The Parents retained ownership of the Fairfield house which was being renovated and remediated for mold.

There was testimony from an investigator who had conducted surveillance that the student had been driven from the home in Easton to school in Fairfield on a number of occasions. At the time of the hearing, the student and an adult sister were living in the Fairfield home. The Impartial Hearing Board decided that it was unreasonable to forbid the student, who at the time of the hearing slept at the Fairfield home and departed to school from the Fairfield home each day, from attending school in Fairfield.

**Student W. v. Milford Board of Education, Case No. 24-02, April 15, 2024 (III.**

**Residence A. Permanent).** In this case the Impartial Hearing Board determined that the student lived in West Haven, not Milford. The evidence included statements by the student to school personnel that he lived in West Haven, the listing of his mother and stepfathers address as West Haven on a marriage license, and surveillance evidence which showed the student being transported to school from West Haven.

**Parent v. Stratford Board of Education, Case No. 24-07, June 26, 2024 (III.**

**Residence A. Permanent).** The Impartial Hearing Board determined that the Student's actual residence was in Stratford and the Student was entitled to school accommodations from the Stratford Public School System. The Impartial Hearing Board determined that the Parent presented as a credible witness and the Board's investigation which consisted in part of surveillance. Evidence was too limited in time and scope to draw the conclusion that the Stratford address was not the Student's actual residence.

**Parent v. Stratford Board of Education, Case No. 24-08, June 29, 2024 (III.**

**Residence A. Permanent; Residence D. Homelessness).** The Impartial Hearing Board determined, first, that the Board of Education had met its burden of proving by a preponderance of the evidence that the Student did not lack a fixed, regular, and adequate nighttime residents and that the student was not homeless as defined in 42 U. S. C. Section 11434a(2). The Impartial Hearing Board then found that the Student's mother had not met her burden of proving by a preponderance of the evidence that the Student is an actual resident of Stratford. Surveillance findings contradicted the Mother's testimony that the Student lived at the Stratford address most of the time.