BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

MT. DIABLO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025121102

ORDER DENYING MOTION FOR STAY PUT

JANUARY 21, 2026

On January 12, 2026, Student filed a motion for stay put. On January 15, 2026, Mt. Diablo Unified School District filed an opposition to the motion on the grounds that Student failed to submit evidence of the Student's last agreed upon placement.

Until due process hearing procedures are complete, a special education student is entitled to remain in his current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); Ed. Code, § 56505 subd. (d).) This is referred to as "stay put." For purposes of stay put, the current educational placement is typically the last agreed upon and implemented individualized educational program, called IEP, placement prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

In California, "specific educational placement" is defined as "that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs," as specified in the IEP. (Cal. Code Regs. tit. 5, § 3042, subd. (a).)

Courts have recognized, however, that the status quo cannot always be replicated exactly for purposes of stay put. (*Ms. S. ex rel. G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35, superseded by statute on other grounds, 20 U.S.C. § 1414(d)(1)(B).) When a student advances from grade to grade, the stay-put provision entitles the student to receive a placement that, as closely as possible, replicates the placement that existed at the time the dispute arose, taking into account the changed circumstances. (*R.F. Frankel v. Delano Union School District,* (E.D. Cal 2016) 224 F. Supp. 3d, 979, *citing, Van Scoy ex rel. Van Scoy v. San Luis Coastal Unified School Dist.* (C.D. Cal. 2005) 353 F.Supp.2d 1083, 1086.)

Student is entitled to remain in his last agreed upon and implemented placement while a dispute is pending and an order for stay put is generally not required unless a dispute over placement exists. Student references a May 2024 IEP and asserts the last agreed upon and implemented placement is the Autism Magnet Program at Foothill Middle School, and Student was scheduled to matriculate to Northgate High School, the alleged designated continuation site for the Magnet Program at Foothill Middle School. Student contends Mt. Diablo unilaterally reassigned Student to Concord High School. However, Student did not provide a copy of the May 2024 IEP or evidence supporting Student's contention that Northgate is the site that most closely replicates Student's placement that existed at the time this dispute arose.

While Student has alleged a dispute exists as to Student's placement and services while Student's due process hearing request is pending, Student did not provide

sufficient evidence as to the last agreed upon and implemented placement and services. Student may file a request for stay put with more specificity as to the nature of the dispute and the terms of stay put. The motion for stay put is denied.

IT IS SO ORDERED.

Jeanie Min

Jeanie Min
Administrative Law Judge
Office of Administrative Hearings