BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

FOLSOM-CORDOVA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025120207

ORDER DENYING MOTION FOR STAY PUT

DECEMBER 19, 2025

On November 26, 2025, Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Folsom-Cordova Unified School District, and a request for stay put. Folsom-Cordova Unified filed opposition to Student's motion for stay put on December 10, 2025.

Student filed this due process hearing alleging, in part, that Folsom-Cordova unilaterally placed Student at Folsom Hills Elementary School, called Folsom Hills. Student argues that Student's placement was changed when he was forced to attend the intensive special day class at Folsom Hills which, he argues, does not have a credentialed teacher or appropriate behavioral supports, and is not comparable to his previous placement at Carl H. Sundahl Elementary School, called Sundahl. Further, Parents were not apprised of their rights until seeking counsel and then promptly filed

this matter and the stay put motion simultaneously. Student maintains his stay put placement requires he return physically to the Sundahl program, the program he attended the previous school year. Although in the title of Student's motion, it states declarations and exhibits are attached, no declarations were attached or referred to throughout the motion. Student, however, attached two exhibits in support of his motion, labeled A and B, which were Student's February 2024 and February 2025 individualized educational program, called IEP, documents.

Folsom-Cordova argues that Student's current educational placement is the Folsom Hills program. Thus, Student cannot request a previous placement as stay put. Further, the change of physical site location does not constitute a change of placement because Student receives the same IEP program at Folsom Hills that he received at Sundahl. Folsom-Cordova filed a sworn declaration under penalty of perjury of Folsom-Cordova Program Coordinator Hunt Lin in support of its motion.

The narrow issue presented by this stay put motion is whether Student can return to his previous placement that he attended before this dispute arose. Until due process hearing procedures are complete, a special education student is entitled to remain in his or her 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." (*See K.D. ex rel. C.L. v. Dpt. of Educ., Hawaii* (9th Cir. 2011) 665 F.3d 110, 1117.) (*K.D.*)

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).)

The parties agree to the following undisputed facts:

1. Student attended Sundahl Elementary School, during the 2023-2024 and 2024-2025 school years in its intensive special day class.

2. The last consented and implemented individualized education program, called IEP, is dated February 5, 2025.

3. In May 2025, Folsom-Cordova informed Student of the new intensive special day class at Folsom Hills Elementary School, Student's resident school, set to begin during the 2025-2026 school year.

4. Student began attending the intensive special day class at Folsom Hills at the beginning of the 2025-2026 school year.

5. Student filed for due process hearing and stay put in November 2025, while attending Folsom Hills.

Stay put maintains the status quo of the student's educational program pending resolution of the due process hearing. (*Stacey G., by William and Jane G. v. Pasadena Independent Sch. Dist.* (5th Cir. 1983) 695 F.2d 949, 953; *Zvi D. by Shirley D. v. Ambach* (2nd Cir. 1982) 694 F.2d 904, 906.) (*Ziv D.*) Under the statue, the inquiry focuses on what is the then current educational placement. (*Ziv. D., supra*, 695 F.2d 949, at p. 906.)

For purposes of stay put, the current educational placement is typically the last agreed upon and implemented individualized educational program, called IEP, (*K.D., supra*, 665 F.3d 110, at p. 1116-1117; *L.M. v. Capistrano Unified Sch. Dist.* (9th Cir. 2009) 556 F.3d 900, 902-903.) The current educational placement is the IEP actually functioning at the time the dispute arises. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625-626.)

The last consented to and implemented IEP, is dated February 5, 2025, which offered Student an intensive special day class with specialized academic instruction, speech and language therapy, occupational therapy related services, accommodations, and supports. Here, Student began attending the intensive special day class at Folsom Hills at the beginning of the 2025-2026 school year, months before this matter was filed in November 2025. Thus, the current educational placement is Student's program located at Folsom Hills.

Stay put is intended to maintain the status quo. However, if the move to the new school did involve a significant change in the student's actual program, not just the location, a student might be entitled to return to the previous location under some circumstances. However, if the program is the same, courts have held that stay put does not prevent a district from changing the location of the program. A change in school site location alone does not constitute a change in placement; however, a change in placement can occur when "there is a significant change in student's program." (*N.D. v. Haw. Dept. of Educ.* (9th Cir. 2010) 600 F.3d 1104, 1116; See Letter to Fisher, 21 IDELR 992, 995 (OSEP July 6, 1994) [A change in location can result in a change in placement if it substantially alters student's educational program].) The stay-put provision is not triggered merely because a district transfers the location where an established program is delivered, absent a substantive programmatic change. (*Concerned Parents v. N.Y.C. Bd. of Educ*. (2d Cir. 1980) 629 F.2d 751, 753–754.)

Here, Folsom-Cordova represented through the declaration under penalty of perjury of Lin that it implemented the identical special day class intensive program at Folsom Hills. Student argued in its motion that Folsom-Cordova unilaterally placed Student at this different location, and the intensive special day class at Folsom Hills did

not have a credential teacher and less behavioral supports. Student's argument was not supported by a sworn declaration, thus, unpersuasive.

Further, even if Student presented a sworn declaration with the same information, the allegations, as presented, do not establish a substantial change in Student's educational program sufficient to alter Student's then current educational placement. Student did not present evidence of modifications to service minutes, instructional model, the level of restrictiveness, or that the staffing concern resulted in a different educational program. Stay put is not intended to adjudicate merits of a free appropriate public education, called FAPE, claims, but rather to preserve education status during litigation. Here, Student's argument focused on alleged violations of FAPE, which can be addressed at the due process hearing.

Student also argued that the February 5, 2025, IEP specifically states that Sundahl is a part of the FAPE offer, that therefore, the Sundahl program constitutes Student's current educational placement for stay-put purposes. The argument is not persuasive.

Although the name of the school, Sundahl, appears in the school of attendance field under the educational setting page, it does not appear underneath, under the title of school setting where it states regular classroom/public day school and then separate school. It also does not appear in the FAPE offer description anywhere in the IEP, including the notes Instead, the notation indicates Student's attendance at the school, and underneath it states it is school choice. By itself, without any other evidence in the IEP that the intention was for the school location to be a part of the IEP offer, the argument fails. Further, the IEP does not tie any of the services, supports, accommodations, and extended school year offer to a specific school site.

Even assuming that the IEP's reference to the prior school could be construed as incorporating the location into the educational program offer, Student still failed to meet his burden. For stay put purposes, Student did not establish the program currently implemented at Student's resident school, Folsom Hills, is substantially or materially different from the program offered at Sundahl.

Stay put preserves the operative placement actually functioning at the time the dispute arises, not a preferred or previously attended site. Because Student was attending the resident school intensive special day school program, Folsom Hills, since August 2025, months before he filed the due process complaint, and no material program differences were shown between the Folsom Hills and Sundahl educational programs, Folsom Hills program constitutes Student's current educational placement. Accordingly, Student's motion for stay put is denied.

IT IS SO ORDERED.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings