BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

NATIONAL SCHOOL DISTRICT.

OAH CASE NUMBER 2026021010

ORDER DENYING MOTION FOR STAY PUT

MARCH 16, 2026

On February 24, 2026, Student filed a request for due process hearing, called a complaint, naming National School District. On March 11, 2026, Student filed a motion for stay put. On March 16, 2026, National filed an opposition to the motion.

Until due process hearing procedures are complete, a special education student is entitled to remain in 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." 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).)

The primary responsibility for providing a free appropriate public education, called FAPE, to a disabled student rests on a local education agency. (20 U.S.C. § 1414(d)(2)(A); Ed. Code, § 48200.) As a general rule, a student's school attendance is determined by the residency of his parent or guardian. (*Katz v. Los Gatos Saratoga Joint Union High School Dist.* (2004) 117 Cal.App.4th 47, 57.) When a special education student transfers to a new school district in the same academic year, the new district must adopt an interim program that approximates the student's old special education program, as closely as possible for 30 days until the old IEP is adopted or a new IEP is developed. (20 U.S.C. § 1414(d)(2)(C)(i)(1); 34 C.F.R. § 300.323(e); Ed. Code, § 56325, subd. (a)(1); see *Ms. S. ex rel. G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1134, 20 U.S.C. § 1414(d)(1)(B).)

Student contends her current educational placement is at Mt. Helix Academy, pursuant to the January 5, 2026 IEP. Student submitted a copy of the October 8, 2024, IEP, amended on December 3, 2025, developed by Alpine Unified School District, which noted a Plan Effective Start Date of January 5, 2026. The copy of the IEP that Student submitted did not include signatures from the IEP team members. Student did not show that the last consented to and implemented IEP is dated January 5, 2026, or October 8, 2024, and that her current educational placement is at Mt. Helix Academy pursuant to either of these IEPs.

Moreover, Student contends her stay put placement should be implemented by National, not Alpine. National contends it is not the local educational agency

responsible for providing special education to Student. National argues that Student never resided within its jurisdictional boundaries, nor attended a National school through an interdistrict transfer or under the McKinney-Vento Act as a homeless student. Student did not provide authority supporting its contention that National is responsible for implementing Alpine's IEP as stay put during the pendency of the proceedings.

Moreover, stay put is intended to preserve the status quo during a dispute. Student's complaint alleges that Student should have been eligible to enroll in National under the McKinney-Vento Act as a homeless student. The requested relief in Student's stay put motion effectively requests OAH to resolve the issue of whether National was responsible for providing Student a FAPE.

Student has the burden of persuasion as the moving party, and failed to establish that National is responsible for Student's stay put placement, or that the last consented to and implemented placement is at Mt. Helix Academy. Accordingly, the motion for stay put is denied. Nothing in this Order is determinative of the issue Student intends to bring to hearing.

IT IS SO ORDERED.

Jeanie Min

Jeanie Min
Administrative Law Judge
Office of Administrative Hearings