BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

MILPITAS UNIFIED SCHOOL DISTRICT,

and

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2025060681

OAH CASE NUMBER 2025030762

ORDER DENYING MOTION FOR STAY PUT WITHOUT PREJUDICE, DENYING STUDENT'S REQUEST TO ADD ISSUES TO HIS DUE PROCESS COMPLAINT

OCTOBER 9, 2025

On October 7, 2025, Student filed a motion for stay put. Parent also raised new allegations of using a weighted vest on Student without Parental consent. On October 7, 2025, Milpitas filed an objection to Student's motion to dismiss argument and attempt to add an issue to Student's pending due process complaint. Milpitas' response was silent to Student's motion for stay put.

APPLICABLE LAW

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." 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.)

DISCUSSION

Student did not provide a copy of the last consented to and implemented IEP. Student carries the burden to demonstrate what was his last consented to and implemented IEP. Student's motion for stay put is denied without prejudice.

Student did not seek to amend the complaint. Rather, Student simply sought to add a new issue. Student's request to add additional issues to the on-going due process complaint is denied. Student is free to bring a separate filing on the newly discovered issues. Only Student's issues as clarified during the prehearing conference on October 2, 2025, will be addressed at the October 14, 2025, due process hearing.

ORDER

1. Student's motion for stay put is denied without prejudice.

2. Student's request to add an additional issue is denied.

IT IS SO ORDERED.

Tiffany Gilmartin

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings