## MOTION FOR “STAY PUT” ORDER

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**RENARD PARISH PUBLIC \*** 

**SCHOOL SYSTEM \***

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**IN THE MATTER OF \***

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**[PARENT] \***

**ON BEHALF OF [STUDENT] \***

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**MOTION FOR “STAY PUT” ORDER**

[Parent] through counsel submits this Motion for “Stay Put” on behalf of her child, [Student], pursuant to 20 U.S.C. §1415, 34 C.F.R. §300.518, and Louisiana Bulletin 1706 §518. [Parent] respectfully moves this Court to enter a pre-hearing order requiring [School District] to implement [Student]’s most recently agreed-upon Individualized Education Program (“IEP”) during the pendency of these proceedings in order to maintain his current educational placement as required by law. In support of this motion, [Parent] states the following upon information and belief:

**STATEMENT OF FACTS**

[Student] has been a special education student with the exceptionality of Developmental Delay for over three years. His most recently agreed-upon and implemented IEP is dated [Date] and describes [Student] as receiving 120 minutes of special education instruction in a regular class setting each week as well as three half-hour sessions of occupational therapy each week**.** See Attachment.

As described in the due process request filed in this matter, [SCHOOL DISTRICT] made the unilateral decision to terminate [Student]’s special educational eligibility and services at a meeting that was held on or about [Date]. Despite legal requirements to the contrary, neither parent was provided the proper prior written notice of the [Date] meeting, nor were they provided with a copy or draft of the evaluation report prior to the negative eligibility determination by [SCHOOL DISTRICT]. As a result, neither parent was able to attend the [Date] eligibility determination meeting. At no point before or after [SCHOOL DISTRICT]’s unilateral negative eligibility determination have either parent ever agreed to a termination of special education eligibility or services for [Student]

**ARGUMENT**

The stay put provision contained in the Individuals with Disabilities Education Improvement Act (“IDEA”) and its corresponding state and federal regulations require that a child involved in a request for due process remain in his or her current educational placement during the pendency of proceedings unless the local education agency and the parents agree otherwise. 20 U.S.C. §1415(j), 34 C.F.R. §300.518(a), and Louisiana Bulletin 1706 §518(A). The IDEA’s Stay Put provision “was designed as a remedy against ‘the unilateral exclusion of disabled children by schools’.” *Sherri A.D. v. Kirby*, 975 F.2d 193, 205 (5th Cir. 1992) (citing *Honig v. Doe*, 484 U.S. 305, 327 (1988)) (emphasis in original). In order to preserve [Student]’s stay put rights, [SCHOOL DISTRICT] must provide the special education services listed in his [Date] IEP until this Court enters a final decision regarding the request for due process at the heart of this matter.

Several federal appellate courts have interpreted the phrase “current educational placement” to mean the last agreed-upon placement the child has attended prior to the initiation of due process proceedings. *Doe v. East Lyme Bd. of Educ.*, 962 F.3d 649 (2nd Cir. 2020); *N.W. ex rel. J.W. v. Boone Cty. Bd. of Educ.*, 763 F.3d 611 (6th Cir. 2014); *John M. v. Bd. of Educ. of Evanston Twp. High Sch. Dist.*, 502 F.3d 708 (7th Cir. 2007). Under this formulation [Student] must continue to receive the special education services listed on his [Date] IEP since his parents never agreed to a termination of services.

Any other interpretation of the Stay Put provision is contrary to its purpose of preventing unilateral actions by schools to deny educational services to children while due process proceedings are pending. A finding that a unilaterally-imposed status consisting of a total lack of special education eligibility and services is the proper Stay Put placement would incentivize school districts to race to illegally implement an educational placement favorable to the local education agency before a due process request is filed without any regard for required procedures in the same manner as [SCHOOL DISTRICT] has done here. The request for due process filed by [Parent] details the many procedural violations [SCHOOL DISTRICT] committed when it stripped [Student] of special education eligibility. These violations include a denial of the right to prior written notice, to parental participation in the eligibility determination process, and to attend a properly convened eligibility determination meeting as part of the evaluation team. 20 U.S.C. §§1414(a)(4), 1415(b)(3); 34 C.F.R. §§300.306(a), 300.503(a); La. Bulletin 1706 §§307, 504(a); La. Bulletin 1508 §515(B). Because [SCHOOL DISTRICT] did not follow the proper eligibility determination procedure for the termination of [Student]’s special education eligibility, [Student]’s eligibility was never properly terminated and his [Date] IEP still describes the educational placement that is legally operative at the current time. Therefore, [Student] is still eligible for special education services under the law and is entitled to invoke his stay-put rights to his most recently agreed-upon, legally-operative educational placement through these proceedings.

WHEREFORE, [Parent] on behalf of her son [Student] respectfully requests this Court enter an order requiring [School District] to implement the special education placement and services described on his last agreed-upon IEP during the pendency of the current due process proceedings.

Respectfully Submitted,

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[Name and Signature Block of Attorney]

**Certificate of Service**

I hereby certify that a copy of the foregoing motion was sent via electronic mail on [INSERT DATE] to:

|  |  |
| --- | --- |
| [INSERT NAME]  Superintendent  Renard Parish Public School System 321 N. Third Street  Renard, LA 7043  [INSERT EMAIL ADDRESS] |  |

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**[Name of Attorney], Esq.**

**RENARD PARISH PUBLIC \*** 

**SCHOOL SYSTEM \***

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**IN THE MATTER OF \***

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**[PARENT] \***

**ON BEHALF OF [STUDENT] \***

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**ORDER**

Considering the foregoing Motion for Stay Put, **IT IS ORDERED** that [Parent]’s Motion for Stay Put is **GRANTED** and that [School District] provide [Student] with the placement and services described in the last agreed-upon IEP of [Date].

Rendered and signed in [City], Louisiana, this \_\_\_\_ day of \_\_\_\_\_\_\_, 20\_\_,

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Hon. [Judge]

Administrative Law Judge