BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025120051

ORDER DENYING MOTION FOR STAY PUT

JANUARY 15, 2026

On, December 1, 2025, Parent, on behalf of Student, filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming San Diego Unified School District as respondent. On January 8, 2026, Student filed a motion for stay put. On January 14, 2026, San Diego filed an opposition to the stay put motion on the grounds that the motion was not timely and the requested relief did not constitute maintenance of the status quo. On January 15, 2026, Student filed a reply to San Diego's opposition.

APPLICABLE LAW

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her then-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.)

TIMELINESS OF REQUEST

San Diego asserts Student was required to file the motion by January 7, 2026 pursuant to OAH's scheduling order requiring all prehearing motions be filed three business days prior to the prehearing conference. San Diego offers no legal authority limiting the time Student may file a request for Stay put. Additionally, San Diego identifies no prejudice to the district due to Student's filing on January 8, 2026.

The general rule in both federal and state forums is that purely technical violations of procedures, resulting in no prejudice, are not grounds for relief. (See, 34 C.F.R. § 300.513(a)(2), [prohibiting IDEA hearing decisions to be based on solely technical violations of the IDEA]. San Diego failed to establish a basis for denying Student's Stay Put motion on the grounds of the timeliness of the filing. San Diego's objection that Student filed the motion late is overruled.

STAY PUT

Student asserts that her last consented to and implemented IEP was the IEP offered by La Mesa Spring Valley Unified School District on October 16, 2020. However, Student has not offered evidence that the October 16, 2020 IEP is Student's current educational placement.

In 2019 school year, Student's mother moved into La Mesa Spring Valley's district. Student continued attending school in San Diego, where her father resided. In the 2020-2021 school year, Student begin attending school in the La Mesa Spring Valley district. The October 16, 2020 IEP continued placement in a non-public school Student originally attended pursuant to a 2019 IEP from San Diego Unified School District, the district in which her father resides. At the time of the October 16, 2020 IEP, Student was 12 years old, and in the sixth grade. Parent states this was the last consented to and implemented IEP. However, Parent's declaration states Student stopped attending school when other students returned to in-person classes following the pandemic, due to Student's inability to wear a mask. The date Student discontinued attending public school is not provided. Nor did Student provide any evidence of being enrolled in a public-school homeschooling program.

Student's moving papers and Parent's declaration state Student has been homeschooled without an IEP since students returned to campus following the pandemic. According to Student's moving papers, she has not received IEP services from at least mid-October of the 2021-2022 school year.

Student requested an IEP from San Diego to continue her nonpublic school placement for the 2025-2026 school year. San Diego convened an IEP team meeting and made an offer of FAPE on June 6, 2025. According to Student's moving papers, Parents did not consent to implementation of the June 2025 IEP. Disputes regarding whether the placement offered in the June 6, 2025 IEP meets Student's needs appear to be the gravamen of Student's complaint.

Student failed to establish that her last educational placement was made pursuant to her October 16, 2020 IEP. Nor has Student established that placement in the nonpublic school continues her current placement.

The purpose of stay put is to protect the student from having her current placement disrupted. (*Joshua A. v. Rocklin Unified Sch. Dist.*, (9th Cir. 2009). 559 F.3d 1036, 1040 (9th Cir. 2009). Student's moving papers established that Student's current placement is in a homeschool program with no currently operative IEP.

Student's motion for stay put is denied.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings