BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GLENDALE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025120710

ORDER DENYING MOTION FOR STAY PUT

FEBRUARY 12, 2026

On February 3, 2026, Student filed a motion for stay put and order for immediate reenrollment and request for immediate orders and relief. On February 9, 2026, Glendale Unified School District filed an opposition, attaching exhibits.

Within Student's February 3, 2026, motion, Student included additional information and requested clarification and reconsideration of an order for Parent to testify, and an order for immediate enrollment.

OAH will not consider multiple motions in one pleading. OAH interprets Student's February 3, 2026, motion as a motion for stay put. If Student has additional requests, those requests must be filed as separate, distinct motions.

This Order only addresses Student's February 3, 2026, motion for stay put. On February 4, 2026, Student filed a motion for immediate reenrollment, the substance of which appears identical to the February 3, 2026, motion for stay put. On February 4, 2026, Student filed a motion for immediate orders and relief, the substance of which also appears identical to the February 3, 2026, motion for stay put. This Order does not address those Student motions filed on February 4, 2026.

Student's February 3, 2026, motion for stay put was filed during the pendency of the expedited due process hearing in this matter. This Order only addresses the arguments and evidence set forth in Student's stay-put motion and Glendale's opposition. It does not consider evidence and arguments not included in those pleadings that were presented at the expedited hearing. A separate written Expedited Decision will be issued based on the expedited hearing.

APPLICABLE LAW

Until due process hearing procedures are complete, a Student eligible for special education services is entitled to remain in his or her current educational placement, unless the parties agree otherwise, except as provided in 20 U.S.C. § 1415(k)(4). (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. (*L.M. v. Capistrano Unified Sch. Dist.*, (9th Cir. 2009) 556 F.3d 900, 902.)

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).)

When school personnel seek a placement change exceeding ten school days because a student violates school code of conduct, the local educational agency, the parent, and the relevant IEP team members shall determine if the conduct was a manifestation of the child's disability. A parent of a child with a disability may appeal any decision regarding a student's placement under 34 Code of Federal Regulations, parts 300.530 and 300.531, including a decision not to hold a manifestation determination review under part 300.530(e), by requesting an expedited due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. 300.532(a) & (c).) In such cases, "the State or local education agency shall arrange for an expedited hearing." (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c).) While the appeal is pending, the child shall remain in the interim alternative educational setting, often called IAES, pending the hearing officer's decision or until IAES placement expires after 45 school days, whichever is first, unless the parent and the local education agency agree otherwise. (Ed.Code, § 56505, subd. (d); see 20 U.S.C. §1415(k)(4)(A) & 34 C.F.R. §§ 300.532, 300.533.)

For a student who has not yet been determined eligible for special education, the right to a manifestation determination applies only if school personnel removed the student because of behavior that violated the code of conduct of the local education agency and the local educational agency had a basis of knowledge that the student had a disability before the behavior prompting the disciplinary action occurred. (20 U.S.C. § 1415(k)(5).) The local educational agency had a basis of knowledge that a student was a student with a disability before the behavior occurred if:

- The parent of the child has expressed concern in writing to supervisors or administrative personnel of the appropriate educational agency, or a

teacher of the child, that the child is in need of special education and related services;

- The parent of the child has requested an evaluation of the child pursuant to 20 U.S.C. § 1414(a)(1)(B); or

- The teacher of the child, or other personnel of the local educational agency, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency.

(20 U.S.C. § 1415(k)(5)(B); 34 C.F.R. § 300.534(b).)

However, there are statutory exceptions. The local educational agency shall not be deemed to have knowledge that the child is a child with a disability if:

- The parent of the child has not allowed an evaluation of the child pursuant to 20 U.S.C. § 1414(a)(1)(D);
- The parent of the child has refused special education and related services; or
- The child has been evaluated and it was determined that the child was not a child with a disability under the IDEA.

(20 U.S.C. § 1415(k)(5)(C); 34 C.F.R. § 300.534(c).)

DISCUSSION

Student asserts that because Parent presented evidence during the expedited hearing that identifies Student as a student with disabilities, Student must be returned to his original placement until the hearing proceedings are complete. Student further asserts that Glendale unilaterally and continually changed Student's placement, citing

curriculum changes, instructional setting changes, pattern of in- and out-of-school suspension, switching schools, disallowing and removing services, and a failure to convene a manifestation determination review meeting. For these reasons, Student contends that he is entitled to return to his last agreed-upon placement, Thomas Edison Elementary, pending the resolution of the due process hearing.

Glendale asserts that it never assessed Student for special education, determined Student eligible for special education, or offered or provided special education and related services to Student. Moreover, Glendale asserts that it offered Parent special education assessment plans on two different occasions, which Parent either signed and later revoked consent, or did not respond to at all. Because Student never had a special education placement, never was eligible for special education, and does not have an operative IEP, Glendale asserts Student is not entitled to stay-put protections.

Here, Student does not dispute that he has not yet been assessed or been found eligible for special education and related services. However, the parties dispute whether Glendale had a "basis of knowledge" that Student was a student with a disability. Student has offered no persuasive legal authority that where a dispute exists regarding a school district's "basis of knowledge" in an expedited due process case regarding alleged refusals by Parent of assessment requests, a student is entitled to a stay-put placement.

Student cites 20 U.S.C. § 1415(j) for the proposition that Student is entitled to remain in his placement. However, the exception to this statute provides that when an appeal of a manifestation determination, under 20 U.S.C. § 1415(k)(3), has been requested, "the child shall remain in the interim alternative educational setting pending the decision of the hearing officer . . . ." (20 U.S.C. § 1415(k)(4).) Student offered no legal authority that reconciles this exception, which allows a student to remain in an

interim alternative educational setting, and Student's assertion that he has a right to remain at Edison Elementary and that is his stay-put placement.

Moreover, because Student is not eligible for special education and does not have an operative IEP, Student has not proven that he has a specific special education placement to be maintained during the pendency of the due process hearing. Accordingly, Student's motion for stay put is denied.

IT IS SO ORDERED.

Daniel Senter

Daniel Senter
Administrative Law Judge
Office of Administrative Hearings