BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026010230

# ORDER DENYING MOTION FOR STAY PUT

FEBRUARY 4, 2026

On January 26, 2026, Student filed a motion for stay put. On January 30, 2026, Capistrano Unified School District, called Capistrano, filed a response.

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.)

When a child violates the student conduct code and school personnel seek a placement change exceeding 10 school days, 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 child's parent may appeal the manifestation determination and request an expedited due process hearing. 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).)

The expedited hearing shall occur within 20 school days of the hearing request. (20 U.S.C. § 1415(k); 34 C.F.R. § 300.532.) While the appeal is pending, the child shall remain in the interim alternative educational setting pending the hearing officer's decision or until the interim alternative 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.)

Capistrano filed a sworn declaration from its assistant principal and a special education teacher. These declarations established Student was removed to an interim alternative educational setting after he inflicted serious bodily injury upon another student while at school. They also confirmed Student's program and services in the interim alternative educational setting, which Student attended has attended for only 10 days, from November 10, through 21, 2025, are and continue to be available to Student through the expedited decision in this matter. At the due process hearing on February 3, 2026, Parent clarified that Parent preferred Student continue his education with instruction in the home or a nonpublic school, rather than attend the interim alternative educational setting.

Pending appeal of the manifestation determination challenged in this matter and until the expedited decision is issued, Student must remain in the interim alternative placement. (34 C.F.R. § 300.533.) Capistrano is not required to provide a program preferred by Parent. The motion for stay put is denied.

IT IS SO ORDERED.

*Alexa Hohensee*

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings