

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

MANHATTAN BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026070244

ORDER GRANTING MOTION FOR STAY PUT

JULY 14, 2026

On July 1, 2026, Parents, on behalf of Student, filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Manhattan Beach Unified School District as respondent. On July 1, 2026, Student also filed a motion for stay put. On July 6, 2026, Manhattan Beach filed an opposition to Student's stay put motion.

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.)

STUDENT'S LAST CONSENTED IEP

Student asserts he is entitled to stay put in the May 29, 2026, IEP because a specific location was offered that was then unilaterally changed. Manhattan Beach contends the May 29, 2026, IEP was never implemented, and therefore is not eligible to be implemented as stay put. Manhattan Beach argues the last consented to and implemented IEP was the IEP Parents partially consented to that led to Student's one week enrollment in a special day class at Pacifica school in February 2026. Manhattan Beach also argues that no specific location was offered, so there has been no change in placement.

According to Student's complaint, Parents ultimately enrolled Student in a private preschool, for the 2025-2026 school year because Manhattan Beach refused Student placement at his neighborhood elementary school. Student's complaint goes on to say that Parents re-enrolled in Manhattan Beach on December 2, 2025. Parents were told Student could not attend the neighborhood elementary school because his offer included partial attendance in a special day class which was not on that campus. Student's complaint asserts Parents agreed to a trial period, which commenced, February 2, 2026, and ended February 6, 2026. Student then returned to the private preschool. Manhattan Beach denies it was a trial period. Neither party appended a copy of operative IEP for the 2025-2026 school year to its moving papers, so neither the IEP date nor its terms were in evidence.

This is an unusual stay put motion. Generally, Student receives a new IEP offer that proposes a change and seeks stay put to maintain the status quo while the matter is pending. This motion presents the opposite. Here, Student received an IEP offer on May 29, 2026, that included, among other things, placement for the upcoming 2026-2027 school year. Parents consented to the offer believing it was for placement at Meadows Avenue, Student's neighborhood school. Thereafter, Manhattan Beach informed Parents that the school site was no longer available. Student, now asks that the offer, although not yet implemented, be enforced through stay put because, from Student's perspective, the offer has materially changed.

STUDENT HAS MATRICULATED TO A NEW SCHOOL LEVEL

Student was in preschool for the 2025-2026 school year. Student's operative IEP for the 2025-2026 school year placed him in in a preschool special day class. Student will matriculate to kindergarten for the 2025-2026 school year. Courts have recognized that the status quo cannot always be replicated exactly for purposes of stay put. (*Ms. S. ex rel. G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35, superseded by statute on other grounds, 20 U.S.C. § 1414(d)(1)(B).) When the last implemented IEP is no longer appropriate, such as when a student matriculates to a new school level, the stay put provision entitles the student to receive a placement that, as closely as possible, replicates the placement that existed at the time the dispute arose, considering the changed circumstances. (*R.F. Frankel v. Delano Union School District*, (E.D. Cal 2016) 224 F. Supp. 3d, 979, *citing*, *Van Scoy ex rel. Van Scoy v. San Luis Coastal Unified School Dist.* (C.D. Cal. 2005) 353 F.Supp.2d 1083, 1086.)

Typically, a comparable program would include a special day class placement for stay put as that was the last agreed upon and implemented IEP. Here, during the May 29, 2026, IEP team meeting, all the IEP team members agreed Student should be placed

in a general education setting with special education supports and services. Thus, the previously offered IEP placing Student in a special day class, whether or not the placement was intended to be a trial period, is not stay put as all parties agreed it is no longer an appropriate IEP and changed the placement with the May 29, 2026 IEP offer, to which Parents' consented. Student's special education needs have changed.

The question becomes whether, in these circumstances, the May 29, 2026 IEP, that both sides agreed to, should be implemented as stay put because it replicates the placement that existed at the time the dispute arose, that is when the due process hearing request was filed, taking into account the changed circumstances. Both sides agree in the May 29, 2026, IEP that Student should receive supportive services and accommodations in a general education classroom to meet Student's needs. Furthermore, state and federal law allow the parties to agree to an alternate stay put placement. For the purposes of stay put, and under the specific facts in this case, it is determined that the parties reached an agreement to change Student's placement from a special day class to a general education classroom with supports and services (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); Ed. Code, § 56505 subd. (d).)

Student's request for due process disputes whether Manhattan Beach is allowed to change the location of where the services will be offered. That question, however, is not an element of the question of stay put and will be reserved for hearing.

CURRENT EDUCATIONAL PLACEMENT

For purposes of stay put, the question is whether the agreed upon, May 29, 2026, IEP offer, should be considered Student's current educational placement and, therefore, constitute stay put despite not having been implemented. While it has not been implemented, the May 29, 2026, IEP has the benefit of delineating placement and

services agreed to by both sides. This IEP also takes into consideration Student's changed circumstances since the early February 2026 IEP partial special day class placement, offered when Student was still in preschool. Student's May 29, 2026, IEP offered services the entire IEP team agreed would meet his needs during his kindergarten year.

Regarding the location where the offer should be implemented, Manhattan Beach's argument that it did not offer a specific location of placement in the May 29, 2026, IEP is not persuasive for purposes of stay put. On page one of the May 29, 2026, IEP, Manhattan Beach identifies Student's "residence school" as Meadows Avenue Elementary, student's neighborhood school. On page 25 of the May 29, 2026, IEP, Manhattan Beach identifies Student's "school of attendance" as Meadows Avenue Elementary. Also, on page 25 of the May 29, 2026, IEP, the phrase "all special education services provided at Student's school of residence" is checked "yes." Two business days after the IEP, on June 2, 2026, Samantha Hucker emailed Parents and told them, "I checked at Meadows and Student is not enrolled for next year. You will need to complete enrollment if he will be attending an MBUSD school next year." Parents emailed back that they completed enrollment on June 2, 2026. For purposes of Stay Put the last agreed upon IEP that offered a program that meet Student's needs, upon advancing from preschool to kindergarten, was the May 29, 2026, IEP.

The undersigned acknowledges the Ninth Circuit Court of Appeals' decision in *E. E. by and through Hutchison-Escobedo v. Norris School District*, (9th. Cir. 2021) 4 F.4th 866. In that case, the Ninth Circuit Court of Appeals disapproved of an ALJ's decision that a future IEP would be stay put. However, that case involved the Court of Appeals' review of an ALJ's finding that an IEP, to which Parents *had not consented* should be stay put. (*E.E. v. Norris*, *supra*, 4 F. 4th at p. 870.) This case is materially different.

In the case of *E.E. v. Norris*, the Ninth Circuit court of Appeal reiterated its often described definition of the last IEP as “typically the last consented and implemented IEP.” (*E.E. v. Norris*, supra, 4 F. 4th at p. 872.) However, it also acknowledged:

While the statute uses the term “educational placement” instead of IEP, “the purpose of an IEP is to embody the services and educational placement or placements that are planned for the child.”

Here, while the last agreed to IEP has not been implemented, Manhattan Beach offered it, and Parents agreed to it. In this case, Parents are simply asking that the IEP as written, and offered, and to which they agreed, be implemented as stay put, pending the outcome of Student’s case. Given the unusual circumstances involved in this stay put request, this is the result that most closely aligns with the principles of stay put: that is, that Student be put in the placement the parties previously agreed meets Student’s needs, pending the out of the due process hearing. Manhattan Beach will have every opportunity, during the hearing, to prove that its proposed change of location was legally permissible.

STAY PUT SHOULD NOT PREMATURELY DECIDE THE MERITS OF STUDENT’S CLAIMS

A district court should not prematurely decide the ultimate merits of an unexhausted claim of a FAPE denial through the preliminary vehicle of a stay-put request. (*E.M.C. v. Ventura Unified School District*, (C.D. Cal. 2020) 2020 WL 7094071, citing, *N.D. ex rel. parents acting as guardians ad litem v. Hawaii Dep’t of Educ.*, (9th Cir. 2010) 600 F.3d 1104, 1114 and *Van Duyn v. Baker Sch. Dist.* 5J, (9th Cir. 2007) 502 F.3d 811, 822.)

The sole issue determined herein is that Student is entitled to stay put at Meadows Avenue. Whether Student is entitled to remain at Meadows Avenue upon completion of Student's due process hearing involves resolution of several questions of fact and law. These disputes will be determined upon review of the evidence presented and consideration of the applicable law following Student's due process hearing.

ORDER

1. Student's stay put motion is granted.
2. Stay put is the offer in Student' May 29, 2026, IEP which is attached to Student's stay put motion and was not disputed by Manhattan Beach. Stay Put is:
 - a. placement at Meadows Elementary School;
 - b. all services and accommodations stated in the May 29, 2026, IEP.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings