

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

V.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026061348

ORDER GRANTING, IN PART, MOTION FOR STAY PUT

AUGUST 28, 2026

On June 25, 2026, Student filed a request for due process hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Los Angeles Unified School District.

On August 5, 2026, Student filed a motion for stay put. On August 10, 2026, Los Angeles filed an opposition to the motion. On August 11, 2026, Student filed a reply.

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.)

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).)

Courts have recognized, however, 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 G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35, superseded by statute on other grounds, 20 U.S.C. § 1414(d)(1)(B).)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 a student advances from grade to grade, 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, taking into account 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.)

Student asserts the last agreed-upon and implemented placement is reflected in the IEP dated October 7, 2025, as amended on February 4, 2026. Student asserts Parent did not consent to the placement and curriculum offered in the May 19, 2026 IEP. A copy of the May 19, 2026 IEP and the signed consent page were attached as exhibits to Student’s motion. Parent signed in consent to the May 19, 2026 IEP with an exception to the instructional setting.

During the 2025-2026 school year, Student participated in a Preschool for All Learners program at Dena Elementary School, with a general education curriculum in a special education instructional setting. Parent did not consent to Los Angeles's offer of a modified core curriculum in a special education setting, in the Intellectual Disability-Moderate program, at Second Street Elementary School for the 2026-2027 school year. Student argues her stay put placement is the Preschool for All Learners program at Dena Elementary.

Los Angeles opposes Student's motion for stay put in the Preschool for All Learners program. Los Angeles argues that the Preschool for All Learners program provides special education services for preschool children eligible for special education. The Preschool for All Learners program is age-specific and intended to provide early childhood educational services until students reach kindergarten age and transition to a school-age program. Based on Student's age, she would not be eligible for this program during the 2026-2027 school year. Los Angeles asserts that the Autism Core program at Dena Elementary is a comparable program for Student's natural progression to kindergarten, as the Autism Core program is similarly a language-rich educational setting, implements the general education curriculum, designed to support students with autistic characteristics, and provide smaller class sizes with resource specialist support.

In her reply to Los Angeles's opposition, Student disputes the adequacy of the Autism Core program at Dena Elementary as a comparable program to the Preschool for All Learners program. Student newly argues her stay put placement is in a general education setting at Dena Elementary.

Student's placement at the time of the complaint's filing was the Preschool for All Learners program at Dena Elementary. Student's May 19, 2026 IEP describes this last placement as a general education curriculum in a special education instructional setting at Dena Elementary. Specifically, Student spent 1,350 minutes per week in a special day program, with zero percent of time in general education per week. Student received small group instruction and preferential seating as instructional accommodations and was supported by trained staff for toileting and diapering needs.

While the dispute is pending, Student seeks to remain in her last agreed-upon and implemented IEP placement in the preschool program, or alternatively, a general education setting. Although stay put is generally automatic when a due process case is filed, stay put was never intended to prevent a child from advancing from one grade to another. (*Van Scoy, supra*, 353 F.Supp.2d at p. 1086.) The stay put provision entitles a student to receive a placement that, as closely as possible, replicates the placement that existed at the time the dispute arose, taking into account the changed circumstances. Student has not made a sufficient factual or legal showing to prevent her from matriculating to kindergarten while this case is pending.

Furthermore, Student's request for a general education setting as stay put is not supported by the facts. Pursuant to Student's IEP, Student's last agreed-upon and implemented placement is a special education instructional setting, or a special day program, with a general education curriculum.

ORDER

Student's request for stay put is granted, in part. Los Angeles may matriculate Student to kindergarten. Los Angeles must replicate, as closely as possible, the placement that existed at the time the dispute arose, specifically, a special education

instructional setting at Dena Elementary with a general education curriculum.

Los Angeles must continue to provide supports and services which are the same as or equivalent to those contained in the last agreed-upon IEP. Student's specific requests for stay put placement in the Preschool for All Learners program or in a general education setting are denied.

A handwritten signature in black ink that reads "Jeanie Min". The script is cursive and fluid.

Jeanie Min

Administrative Law Judge

Office of Administrative Hearings