

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

INSPIRE SCHOOL OF ARTS & SCIENCES.

OAH CASE NUMBER 2026080289

ORDER DENYING MOTION FOR STAY PUT

AUGUST 28, 2026

On August 10, 2026, Student filed a request for due process hearing, or complaint, with the Office of Administrative Hearings, called OAH, naming Inspire School of Arts & Sciences, called Inspire. Also on August 10, 2026, Student filed a motion for stay put. On August 13, 2026, Inspire filed an opposition to the stay put motion. On August 17, 2026, Student filed a reply to Inspire's opposition. On August 17, 2026, Inspire filed a response to Student's reply to Inspire's opposition.

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 education

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 special education student transfers to a new school district in the same academic year, the new district must adopt an interim program that approximates the student's old special education program, as closely as possible for 30 days until the old IEP is adopted or a new IEP is developed. (20 U.S.C. § 1414(d)(2)(C)(i)(1); 34 C.F.R. § 300.323(e); Ed. Code, § 56325, subd. (a)(1); see *Ms. S. ex rel. G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1134 (*Vashon*), 20 U.S.C. § 1414(d)(1)(B).) "When a dispute arises under the IDEA [Individuals with Disabilities Education Act] involving a transfer student, and there is disagreement between the parent and student's new school district about the most appropriate educational placement, the new district will satisfy the IDEA if it implements the student's last agreed-upon IEP; but if it is not possible for the new district to implement in full the student's last agreed-upon IEP, the new district must adopt a plan that approximates the student's old IEP as closely as possible." (*Vashon, supra*, 337 F.3d 1115, at p. 1134.)

These rights of a transferring student only apply in the case of a transfer within the same academic year that the student was in the previous district. There are no federal or state statutory provisions addressing the situation where a student transfers between school years, such as during summer vacation. In the official comments to the 2006 Federal Regulations, the United States Department of Education addressed whether it needed to clarify the Regulations regarding the responsibilities of a new school district for a child with a disability who transferred during summer. The Department of Education stated that the IDEA, (20 U.S.C. § 1414(d)(2)(a)), is clear that each school district must have an IEP in place for a child at the beginning of the school

year. Therefore, the new district must have a means for ensuring that an IEP is in effect at the beginning of the school year. (71 Fed. Reg. 46682 (August 14, 2006).)

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).)

Here, Student transferred from CORE Butte Charter High School, called CORE, to Inspire during summer 2026. Student's last agreed upon and implemented IEP was dated November 17, 2025, from CORE. That IEP offered Student:

- 60 minutes per week of specialized academic instruction in an individual setting in a regular classroom public day school;
- 30 minutes per week of counseling and guidance in an individual setting in a regular classroom public day school;
- 30 minutes per month of speech and language in a group setting in a regular classroom public day school;
- 120 minutes per year of college awareness individually and in a group setting in a regular classroom public day school;
- 120 minutes per year of career awareness individually and in a group setting in a regular classroom public day school; and
- 120 minutes per month, served 4 times a month for 30 minutes each of occupational therapy in an individual setting in a regular classroom public day school.

Student was in general education for 93 percent of the school day, and his program setting was regular independent study or virtual charter.

Inspire drafted an interim IEP offer on August 14, 2026. Inspire offered the exact same services CORE offered in the November 17, 2025, IEP. Inspire listed Student's program setting as regular independent study or virtual charter with 94 percent of his time in a regular class. In Student's reply to Inspire's opposition Student contends the services are not the subject of the dispute but rather where and how Student's educational program will be delivered.

Student filed his motion for stay put alleging Inspire unilaterally proposed to change Student's educational delivery model from 100 percent live, adult-mediated instruction, to asynchronous online independent study via Edgenuity for his core academic subjects, restricting his on-campus presence to two elective periods. Student argues that his educational program has historically been provided by live, teacher-mediated, and adult-led instruction, not an asynchronous computer driven platform. Student requests that OAH order Inspire to implement 100 percent in-person, classroom-based instruction with 93 percent of the time in general education as stay put.

Student supported his motion for stay put with CORE's November 17, 2025, IEP that lists his program setting as regular independent study or virtual charter. Student did not provide any evidence that CORE changed his program setting on his IEP or implemented in-person instruction. Stay put requires implementation of a student's last agreed upon and implemented IEP, or implementation as closely as possible in the case where students transfer school districts.

Here, Inspire offered a near identical interim IEP to Student's last agreed upon and implemented IEP from CORE. Student's request for 100 percent in-person, classroom-based instruction is not stay put. Therefore, Student's motion for stay put is denied.

ORDER

Student's request for stay put is denied.

Linda Dowd

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Administrative Law Judge

Office of Administrative Hearings