

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

RIVERSIDE UNIFIED SCHOOL DISTRICT,

and

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2026090141

OAH CASE NUMBER 2026080159

ORDER GRANTING MOTION FOR STAY PUT

SEPTEMBER 11, 2026

On July 29, 2026, Parent, on behalf of Student, filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Riverside Unified School District as respondent. On August 18, 2026, OAH issued an order determining Student's complaint only partially sufficient. Student did not amend his complaint in response to the Notice of Partial Sufficiency. Therefore, pursuant to that Order, the complaint proceeds only on the issues deemed sufficient.

On September 1, 2026, Riverside filed a complaint naming Student as respondent. During the September 4, 2026 prehearing conference in Student's case, the cases were consolidated and continued. On September 4, 2026, Student filed a motion

for Stay Put. Riverside filed an opposition to the Stay Put motion on September 10, 2026.

LEGAL AUTHORITY

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.)

STAY PUT IS THE NOVEMBER 20, 2025 IEP

In this case, both sides agree that the last consented to and implemented IEP is the IEP dated November 20, 2025. Riverside attaches many documents to its opposition, including maps of the middle school, a psychoeducational assessment report, and the April 27, 2026 offer Riverside has filed to prove it offers FAPE. Riverside devotes a substantial portion of its argument to the precept that stay put should encompass IEP elements that have not previously been implemented. Riverside asserts that a different IEP would better serve Student as a middle school student.

While the issue of whether the April 2026 IEP constituted an offer of FAPE is raised by Riverside in its September 1, 2026 due process hearing request, determining whether a different IEP might serve Student better is not the question addressed in a motion for Stay Put. The merits of an unexhausted claim should not be prematurely decided through the 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.)

Stay put was established to maintain a Student's status quo while disputed IEPs and other IDEA violations were pursued in due process. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); Ed. Code, § 56505 subd. (d).) However, the stay put law does recognize that, sometimes, the status quo cannot be replicated completely, such as when a child matriculates to a new level of education. (*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 Dist.*, (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.)

Here, at the beginning of the 2026-2027 school year, Student advanced from elementary to middle school. Student asserts the placement and services provided for in his November 20, 2025 IEP were not implemented from the first day of middle school attendance, that is, August 7, 2026. Riverside argues that "implementation changes are necessary..." However, stay put does not determine necessary changes to an IEP. It determines the last consented to IEP to be implemented pending the resolution of the due process request.

Riverside does not dispute this IEP constitutes stay put. Therefore, Student has established he is entitled to stay put during the pendency of these proceedings.

ORDER

1. Student's motion for stay put is granted.
2. Stay Put shall be the goals, services, accommodations, placement, consultation services to Parents, and positive behavior intervention plan described in Student's November 20, 2025 IEP, replicated as closely as possible given Student's new status as a middle school student.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings