BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025080782

SEPTEMBER 26, 2025

ORDER DENYING MOTION FOR STAY PUT

On August 19, 2025, Student filed with the Office of Administrative Hearings, called OAH, a request for due process hearing naming Los Angeles Unified School District, called Los Angeles. On September 8, 2025, Student filed a motion for stay put. On September 11, 2025, Los Angeles filed an opposition.

Los Angeles asserts stay put in the Universal Transitional Kindergarten collaborative classroom located at Third Street Elementary is unavailable to Student because, (1) placement in the Universal Transitional Kindergarten was a temporary placement; (2) Student aged-out of the Universal Transitional Kindergarten program; (3) Student's transition to the kindergarten classroom at Wilshire Park Elementary School, Student's home school, is a natural transition from Student's preschool program to

kindergarten, which does not interfere with Student's special education services or supports, and (4) the only changes to Student's individualized education program, called IEP, are a change in location of Student's kindergarten placement and a scheduled change in grade level for the 2025-2026 school year.

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.)

If a student's placement in a program was intended only to be a temporary placement, such placement does not become a student's "stay put" placement. (*Verhoeven v. Brunswick School Committee* (1st Cir. 1999) 207 F.3d 1, 7-8; *Leonard by Leonard v. McKenzie* (D.C. Cir. 1989) 869 F.2d 1558, 1563-64.)

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's motion failed to support her request for stay put. While Student's last agreed upon IEP placement was located at Third Street Elementary, Student has matriculated to a different grade level and Student's motion failed to overcome the exceptions to stay put asserted by Los Angeles.

Student consented to implementation of the April 30, 2025, IEP in its entirety, except for placement. Student provided no information which suggested she wished to remain in the Universal Transitional Kindergarten collaborative classroom preschool program, or that she did not consent to transitioning to kindergarten for the 2025-2026, school year. Student only stated she wished to continue attending the Third Street Elementary School. Student's placement, however, was the preschool program, which was located at Third Street Elementary. The placement was not the school site, placement was the preschool program. Even assuming Student wished to remain in the preschool program, the Universal Transitional Kindergarten program is a preschool program limited to children, aged five and under. At age six, Student has aged out of the preschool program and is no longer eligible to attend the Universal Transitional Kindergarten program. Student's natural transition from grade to grade at the beginning of the 2025-2026 school year, and Student's age-related ineligibility to continue attending the Universal Transitional Kindergarten, represent legitimate changes in circumstance which allows Los Angeles Unified to promote Student to a kindergarten class, Wilshire Park Elementary School can provide Student with a

kindergarten program at her home school, which can implement the April 30, 2025 IEP, to which Parent provided consent.

ORDER

Student's request for stay put is denied.

Judith Pasewark

Judith Pasewark

Administrative Law Judge

Office of Administrative Hearings