BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

VALLEJO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026010991

ORDER GRANTING IN PART AND DENYING IN PART MOTION FOR STAY PUT

FEBRUARY 12, 2026

On January 25, 2026, Student filed a motion for stay put. On January 29, 2026, Vallejo City Unified School District filed an opposition to the motion. On February 2, 2026, Student filed a reply to Vallejo City's opposition. On the same day, Vallejo City filed a surreply in support of its opposition to Student's motion. On February 3, 2026, Student filed a supplemental 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." The current educational placement is typically the last

agreed upon and implemented individualized educational program, called IEP, placement prior to the dispute arising. (*L.M. ex rel. Sam M. v. Capistrano Unified Sch. Dist.* (9th Cir. 2009) 556 F.3d 900, 902; *Johnson v. Special Educ. Hearing Office* (9th Cir. 2002) 287 F.3d 1176, 1180; *Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.) The definition of educational placement is not an exact one, rather it is a combination of different factors. (*Johnson*, 287 F.3d at 1182.) 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).)

The purpose of stay put is to maintain the status quo pending the final determination of a special education due process request. (*K.D. ex rel. C.L. v. Dept. of Educ. Hawaii* (9th Cir. 2011) 665 F. 3d 1110, 1120.) However, 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 G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35, superseded by statute on other grounds, 20 U.S.C. § 1414(d)(1)(B).)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 services or placement previously offered to Student become unavailable, such as a school closure, Student must be offered a comparable program. (*S.A. ex rel. L.A. v. Exeter Union School Dist.* 2010 WL 4942539, No. CV F 10-347 LJO SMS, Nov. 24, 2010, p. 18; see also *Tilton by Richards v. Jefferson County Bd. of Educ.* (6th Cir. 1983) 705 F.2d 800, 805.)

Student and Vallejo City agree that Student's last agreed upon and implemented IEP is dated June 11, 2024, amended on February 20, 2025. Both parties submitted a copy of the June 11, 2024, IEP, amended on February 20, 2025. Student argues that her last agreed upon and implemented educational placement is at Innovation Education, and that Vallejo City is failing to implement Student's placement, as offered in the

June 11, 2024, IEP. Vallejo City contends Innovation Education is a service provider, not Student's educational placement. Vallejo City further asserts that Innovation Education is not certified by the California Department of Education and Vallejo City no longer has a contract with Innovation Education to provide services to its students. Vallejo City represents that it is ready and willing to implement the June 11, 2024, IEP as written.

Pursuant to the June 11, 2024, IEP, Student's school of attendance is Vallejo City Unified School District Independent Studies Academy. Student's program setting is a regular classroom at a public day school. Student's stay put placement is an independent studies program with one in-person class period in the resource room. Student's request to order Innovation Education as Student's placement is seeking a determination that would change the plain language of the June 11, 2024, IEP.

While the IEP indicates Student's course of study and related services for the 2023-2024 school year was provided through Innovation Education, Innovation Education is no longer an available service provider. Typically, when a student's placement becomes unavailable, the student must be offered a comparable placement. Here, Student's placement, an independent studies program, is not unavailable. However, the service provider for Student's program is now unavailable. Student contends Vallejo City's own virtual program is not comparable to Innovation Education, as Innovation Education contained therapeutic aspects that specifically addressed Student's disability-related needs. Student is entitled to a comparable program. Whether Vallejo City denied Student a FAPE by discontinuing services through Innovation Education is not addressed in this Order.

Student's motion is granted in part and denied in part. Vallejo City shall implement the June 11, 2024, IEP, amended on February 20, 2025, as closely as possible to replicate the educational placement that existed at the time the dispute arose.

Accordingly, Vallejo City will continue to offer an independent studies program that includes individualized therapeutic supports, whether Vallejo City utilizes a nonpublic agency or its own virtual program.

Student's motion is denied in part with respect to Student's request that Vallejo City contract with Innovation Education to provide Student's course of study and related services.

ORDER

1. Student's motion for stay put is granted in part. Student's stay put educational placement during the pendency of this action shall be in accordance with the June 11, 2024, IEP, as amended on February 20, 2025.
2. Student's motion for Innovation Education as stay put is denied.

Jeanie Min

Jeanie Min
Administrative Law Judge
Office of Administrative Hearings