BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2026060399

ORDER DENYING MOTION FOR STAY PUT

JUNE 23, 2026

On June 14, 2026, Student filed a motion for stay put requesting stay put in the home setting pending the resolution of the due process complaint, as Student's last agreed upon and implemented IEP placement is no longer available. Student contends home placement is the appropriate comparable placement pending resolution of the due process complaint.

On June 17, 2026, Scotts Valley Unified School District filed an opposition on the ground that Student's requested stay put placement in the home setting is not comparable to Student's last agreed and implemented IEP placement. Scotts Valley contends Student's last agreed upon and implemented IEP should be implemented at Elevations, the residential treatment center offered at Student's May 26, 2026, IEP team meeting, as it is comparable to Student's last IEP placement.

On June 18, 2026, Student filed a reply rejecting Elevations as the proper stay put placement because it is similar to Student's last agreed and implemented placement which Parents assert resulted in physical injuries, lack of supervision, police involvement, repeated peer aggression, and inability to safely access her educational program. Essentially, Parent argues that because Elevations is comparable to Student's last implemented placement, moving to Elevations places Student at continued risk of harm. Parent contends stay put implementation of comparable placement in the home setting will avoid such further harm to Student, and allow time to complete a pending functional behavior assessment to identify Student's behavior needs and appropriate placement to meet Student's individualized needs.

On June 19, 2026, the prehearing conference for this matter was held. The undersigned ALJ ordered Scotts Valley to provide additional evidence related to the Motion for Stay Put, to correct typographical errors in Scotts Valley's Opposition to the Motion for Stay Put, and to provide a complete copy of the last consented to and implemented IEP, as the copy provided in Student's Motion for Stay Put did not indicate Parent consent.

On June 22, 2026, Scotts Valley filed an Amended Opposition to Motion for Stay put, a clear copy of Student's last consented to and implemented IEP, and email correspondence corroborating Parents' consent to the IEP and permission for Scotts Valley to check the consent box on their behalf.

APPLICABLE LAW

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.) Other examples in which the courts have found a changed circumstance generally involve situations where maintaining the status quo is illogical such as when the last agreed and implemented school placement closes due to budgetary reasons, or when a nonpublic school refuses to keep a student for reasons outside the local education agency's control. The parties agree that such is the case here.

It is undisputed by the parties Stay Put filings that Student's last agreed to and implemented placement is the placement documented in Student's October 29, 2025,

IEP, as amended on December 12, 2025. Student was placed at Lava Heights Academy, a residential treatment center, located in the state of Utah. The IEP provides for:

- 360 minutes per day of group specialized academic instruction;
- 60 minutes per week of individual counseling;
- 120 minutes per week of group counseling;
- 60 minutes per week of individual parent counseling;
- 30 minutes per week of group speech and language services;
- 45 minutes per month of individual occupational therapy consultation to staff related to regulation and executive functioning strategies;
- 15 minutes per month of group college awareness services;
- 15 minutes per month of career awareness services;
- Special education transportation;
- Extended school year services for credit recovery; and
- Various accommodations.

On April 24, 2026, Lava Academy sent written notice of its decision to discharge Student due to its determination that Lava Academy can no longer provide an appropriate and effective program for Student. Lava Academy determined Student's last day would be May 29, 2026.

On May 26, 2026, Scotts Valley convened an IEP team meeting to discuss possible comparable placements for Student due to the changed circumstances of Lava Academy's unilateral discharge of Student. During the meeting the IEP team, including Scotts Valley, Lava Academy staff, Parents, and Student, agreed on specific criteria a comparable placement should meet to be considered for Student's placement. The IEP team agreed on the following criteria:

- Trauma-informed practices;
- Safety/supervision;
- Therapeutic approach;
- Family communication;
- Access to student populations;
- Access to medical professionals;
- Access to student;
- Transition to adulthood services;
- Access to local communities;
- Family engagement;
- Distance from home; and
- Support for substance abuse.

The IEP team then discussed various residential treatment centers that met the agreed upon criteria. Elevations, a residential treatment center also located in the state of Utah, was discussed by the IEP team. Parents declined the placement at Elements. On May 28, 2026, Scotts Valley sent prior written notice to Parents offering Elements Residential Treatment Center as Student's IEP placement. On May 29, 2026, Parent picked Student up from Lava Heights and transported her home to California.

In support of its opposition to Student's Motion for Stay Put, Scotts Valley argued the following:

- Elements meets all the specific criteria identified as required for Student's placement;
- Elements is a lateral placement in terms of restrictiveness, which staff, including the board-certified behavior analyst who started Student's functional behavior assessment, recommended;

- Elevations provides the same services and supports as Lava Heights;
- Student's prior placements in the home setting resulted in Student's lack of access to educational services, elopement, engagement in significant unsafe behavior, a suicide attempt, and acute psychiatric hospitalization.

DISCUSSION

Based on the evidence presented in the parties' Stay Put filings, Student's last agreed upon and implemented placement was Lava Heights. Lava Heights is no longer available due to the changes circumstance of Lava Heights unilateral discharge of Student. The status quo cannot be replicated for the purpose of Stay Put due to the unavailability of placement of Student at Lava Heights. Accordingly, Student is entitled 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 failed to offer any legal support for her position that stay put should be in her home setting. There is no dispute that Student's home is not comparable to a residential treatment center. Additionally, Student did not argue that Elements in not comparable to Lava Heights. Moreover, Student did not offer factual support that Elements is not the comparable placement to which Student is entitled pending the outcome of the due process hearing in this matter. Instead, Student asserts Elements is not an appropriate placement to meet Student's needs, which is the ultimate issue to be determined at hearing, namely whether the May 26, 2026, IEP offers Student a free, appropriate public education, called a FAPE.

Scotts Valley established that Elements is a comparable placement to Lava Heights, and therefore meets the requirements for a placement to which Student is

entitled pending the resolution of the due process complaint. No finding is made regarding whether that placement offers Student a FAPE.

Student failed to sustain the burden of proof to establish a right to stay put in her home setting. Scotts Valley established that Elements is a comparable placement to Lava Heights. Student did not prove otherwise. Accordingly, Student's Motion for Stay Put is denied.

ORDER

1. Student's Motion for Stay Put in her home setting is Denied.
2. Elements is a comparable program to Lava Heights for stay put purposes.

Rita Defilippis

Rita Defilippis
Administrative Law Judge
Office of Administrative Hearings