BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

WALNUT VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026020438

ORDER DENYING MOTION FOR STAY PUT

FEBRUARY 24, 2026

On February 9, 2026, Student filed a request for due process hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Walnut Valley Unified School District. On February 17, 2026, Student filed a motion for stay put. Walnut Valley did not file a response.

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 G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35, superseded by statute on other grounds, 20 U.S.C. § 1414(d)(1)(B).)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.)

Student is enrolled in and attending fifth grade at a Walnut Valley elementary school. Student contends his last agreed upon and implemented IEP was dated March 24, 2025, and includes related services of pull out speech and language 25 minutes once weekly and adapted physical education 30 minutes twice weekly. Student seeks continued placement in fifth grade with the currently implemented IEP services during the pendency of this case and argues advancement to sixth grad on a middle school campus would involve a change in physical environment, campus structure, supervision configuration, and service-delivery context.

Student did not attach a complete copy of the March 24, 2025, IEP to his motion. Instead, Student attached an incomplete copy of the IEP, only showing the Offer of FAPE pages with placement and related services. The IEP did not include a page showing Parent's consent. Student also attached a copy of a February 2, 2026, amendment IEP

that included, among other things, Parent's request that Student be retained in fifth grade. The amendment IEP included a consent page, but Parent did not consent and only signed for participation. Without proof that the March 24, 2025, IEP was the last agreed upon and implemented IEP, OAH does not have enough information to grant Student's motion for stay put.

Further, Student's motion does not indicate when Walnut Valley's proposed advancement from fifth grade to sixth grade is to occur, but Student's complaint and the February 2, 2026, amendment IEP meeting notes indicate that Student requests retention in fifth grade for the 2026-2027 school year. Presumably, the 2026-2027, school year will not begin before August 2026, nearly six months in the future. Therefore, there is no actual dispute regarding Student's placement.

ORDER

Student's request for stay-put is denied. Student may refile a motion for stay put that includes a complete copy of the last agreed upon and implemented IEP, and that argues there is an actual dispute regarding the placement and services in that IEP.

IT IS SO ORDERED.

Katherine Roe
Katherine Roe (Feb 24, 2026 15:49:23 PST)

Katherine Roe
Administrative Law Judge
Office of Administrative Hearings