BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026030071

ORDER GRANTING MOTION FOR STAY PUT

MAY 6, 2026

On March 3, 2026, Parent on behalf of Student filed a request for due process hearing, called complaint, with the Office of Administrative Hearings, called OAH, naming Irvine Unified School District, called Irvine. On March 23, 2026, Student filed a motion to amend the complaint and an amended complaint. On April 1, 2026, OAH issued an order granting Student's motion to amend. The due process hearing is scheduled to begin on May 19, 2026.

On April 20, 2026, Student filed a motion for stay put. On April 23, 2026, Irvine filed an opposition to Student's motion.

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 G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35, superseded by statute on other grounds, 20 U.S.C. § 1414(d)(1)(B).)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, considering the changed circumstances. (*R.F. Frankel v. Delano Union Sch. Dist.* (E.D. Cal 2016) 224 F. Supp. 3d, 979, *citing, Van Scoy ex rel. Van Scoy v. San Luis Coastal Unified Sch. Dist.* (C.D. Cal. 2005) 353 F.Supp.2d 1083, 1086.)

Graduation from high school with a regular high school diploma is considered a change of placement. (34 C.F.R. § 300.102(a)(3)(iii); *Larkin v. Temecula Valley Unified Sch. Dist.* (C.D. Cal. June 12, 2018, EDCV 17-01381) 2018 WL 6131191, *6.) A school district's issuance of a regular high school diploma does not automatically extinguish a special education student's stay put rights, where the parent is challenging whether the student has met the standards to receive a diploma. (See *R.Y. v. State of Hawaii, Dept. of Educ.* (February17, 2010, Civ. No. 09-00242) 2010 WL 558552, **6-7 (*R.Y.*) (holding the

Hawaii Department of Education violated stay put when it granted a high school diploma to a special education student while the issue of student's graduation was pending in a judicial proceeding; See also *Kevin T. v. Elmhurst Community Sch. Dist. No. 205* (N.D. Ill. March 20, 2002, No. 01 C 0005) 2002 WL 433061 (holding that a student could return to his private school placement at the school district's expense during the pendency of a dispute of whether student should be able to graduate from high school).) Preserving stay put rights under these circumstances limits a school district's ability to unilaterally terminate a student's benefits under the Individuals with Disabilities Education Act, called IDEA, simply by issuing a regular high school diploma, when the issue of graduation is pending before a court. (*R.Y.*, *supra.*, 2010 WL 558552, at **6-7 ["the language of the stay-put provision is unequivocal-student is entitled to remain in her 'then-current educational placement' pending these proceedings"]; See also *Clovis Unified Sch. Dist. v. Cal. Office of Admin. Hearings* (9th Cir. 1990) 903 F.2d 635, 641.)

Student argues he is entitled to stay put protections during the pendency of this case, and that Irvine should not be allowed to unilaterally change Student's placement by issuing a regular high school diploma and exiting Student from special education. Student attached a copy of what Student purported is the last agreed upon and implemented IEP, dated September 18, 2024. Irvine did not dispute that the September 18, 2024, was Student's last agreed upon and implemented IEP.

The September 18, 2024, IEP offered Student:

- placement in a regular class;
- 205 minutes weekly specialized academic instruction in a group setting in Student's Directed Studies class;
- 205 minutes weekly specialized academic instruction in Student's regular history class;

- 375 minutes yearly language and speech services in a separate classroom, delivered in 15, 25-minute sessions;
- 300 minutes yearly individual counseling delivered in a separate classroom, in 10, 30-minute sessions;
- 60 minutes yearly college awareness services in a separate classroom; and
- 60 minutes yearly career awareness services in a separate classroom.

Student is now over the age of 18 following his birthday on January 3, 2008. Parent alleges Irvine intends to issue a regular high school diploma and exit him from special education following completion of the 2025-2026 school year. Student's complaint alleges Irvine failed to provide Student with an adequate educational program, failed to conduct an adequate transition assessment for Student, predetermined Student's placement, and committed numerous procedural violations that denied Parent meaningful participation in the planning of Student's educational program and caused a loss of educational benefit to Student.

Irvine argues Student in on track to meet all California and Irvine requirements to receive a high school diploma, and that pursuant to California law it is required to issue Student a diploma pending completion of the graduation requirements. Irvine's argument is relevant and may be a defense to Student's complaint. However, it is not sufficient to deprive Student of his stay put protections. Where, as here, the issue of a student's graduation is properly before OAH, a school district may not unilaterally terminate a student's protections under the IDEA simply by issuing a regular high school diploma. (*R.Y.*, *supra*, 2010 WL 558552, at *7.)

Student's filing of the amended complaint challenging his readiness for graduation triggered his automatic right to stay put protection under the IDEA. As such, while this case is pending, Student has a right to remain in the last agreed upon and

implemented placement before the dispute arose. As Irvine did not dispute the September 18, 2024, IEP was the last agreed upon and implemented IEP, it is the controlling IEP when determining Student's stay put placement.

ORDER

1. Student's motion for stay put is granted.
2. Irvine must continue to implement Student's September 18, 2024, IEP, as closely as possible, pending completion of this due process case and Student will remain eligible as a special education student, pursuant to the IDEA.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings