

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2013080183

ORDER GRANTING MOTION FOR  
STAY PUT

On August 6, 2013, Parent on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a request for due process (complaint) naming the Los Angeles Unified School District (District) as respondent.

On August 9, 2013, Student filed with OAH a motion for stay put. No opposition has been received by OAH from the District.

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)<sup>1</sup>; Ed. Code, § 56505 subd. (d).) This is referred to as “stay put.” For purposes of stay put, the current educational placement is typically the placement called for in the student’s individualized education program (IEP), which has been implemented 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.)

Courts have recognized, however, that because of changing circumstances, the status quo cannot always be replicated exactly for purposes of stay put. (*Ms. S ex rel. G. v. Vashon Island Sch. Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35.) Progression to the next grade maintains the status quo for purposes of stay put. (*Van Scoy v. San Luis Coastal Unified*

---

<sup>1</sup> All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

*Sch. Dist.* (C.D. Cal. 2005) 353 F.Supp.2d 1083, 1086 [“stay put” placement was advancement to next grade]; see also *Beth B. v. Van Clay* (N.D. Ill. 2000) 126 F. Supp.2d 532, 534; Fed.Reg., Vol. 64, No. 48, p. 12616, Comment on § 300.514 [discussing grade advancement for a child with a disability.]

### DISCUSSION

In his stay put motion, Student requests to maintain placement at the Parmalee Elementary School (Parmalee). In support of his motion, Student attaches a copy of the May 16, 2013 Individualized Education Program (IEP) which was consented to by Student’s parent. The May 16, 2013 IEP places Student at Parmalee with speech and language direct service three times per month for a total of 90 minutes in a 3:1 setting; plus Adapted Physical Education (APE) one to five times per week for 231 minutes starting August 1, 2013.

### ORDER

Student’s motion for stay put is GRANTED and the District is directed to place Student at Parmalee Elementary School with the services called for in the May 16, 2013 IEP.

Dated: August 23, 2013

/s/  
\_\_\_\_\_  
ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings