



STATE OF NEW JERSEY
DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: August 6, 2019
To: Chief School Administrators, Charter School and Renaissance School Project Leads, Administrators of Approved Private Schools for Students with Disabilities, Nonpublic School Administrators, Administrative Law Judges
Route To: Directors of Special Education
From: Carolyn J. Marano, Assistant Commissioner
Division of Student Services

**Revised Procedures for Determining a Student's Status During a
Special Education Due Process Hearing**

Under the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, while any administrative or judicial proceeding regarding a request for a due process hearing is pending, the student involved in the request must remain in his or her current educational placement unless the parent/guardian and the local educational agency (LEA) agree otherwise. This procedural protection is commonly referred to as "stay put."

While neither IDEA nor its implementing regulations define "*current educational placement*," IDEA presumes that the student's current educational placement is the last agreed-upon placement where the student must remain until the resolution of the dispute, unless the LEA and the parent/guardian agree to some other placement. A student's right to "stay put" is ensured regardless of when the student's parent/guardian files a request for a due process hearing. ***A student's right to "stay put" applies even if the filing occurs more than 15 calendar days after the proposed change in the student's program or placement.***

In response to a corrective action plan issued by the United States Department of Education, ***prior references to limiting a student's right to "stay put" protections to filings that occur within 15 calendar days of the proposed change in the student's placement have been removed from the Parental Rights in Special Education (PRISE) booklet and have also been removed from all documents issued and/or published by the Department.***

Further, if a parent/guardian's request for a due process hearing involves one or more issues that affect a determination of the student's current educational placement for the purposes of "stay-put," it is appropriate for an Administrative Law Judge (ALJ) to make an initial determination regarding the student's placement pending the final decision in a due process hearing.

However, if a parent/guardian's request for a due process hearing does not involve a dispute about the student's educational placement, an initial determination concerning the student's placement by an ALJ is not required.

For more information regarding the revised procedures, please contact the Office of Special Education Policy and Dispute Resolution at (609) 376-9060.

c: Members, State Board of Education
Lamont O. Repollet, Ed.D., Commissioner
The Hon. Lisa James-Beavers, Acting Director, Office of Administrative Law
Dwight Thomas, U.S. Department of Education

NJDOE Staff
Statewide Parent Advocacy Network
NJ LEE Group
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