**The "stay put" provision in the Individuals with Disabilities Education Act (IDEA)**

**does apply if a school proposes to change a child's services outlined in their IEP, allowing the child to continue receiving their current services while any disputes regarding the changes are being resolved through mediation or due process procedures.**

**\*\*The “stay put” provision is one of the most important legal rights in special education law. “Stay put” rights apply when you dispute a change the school wants to make on your child’s IEP. When you invoke this right, your child’s current placement/services can remain the same until you and the school resolve the dispute.**

Key points about the "stay put" provision:

* **Purpose:**

It ensures a child's educational placement remains the same, including the services listed on their IEP, until a disagreement with the school is resolved through a formal process like a due process hearing, including throughout the appeals process.

* **When to invoke:**

If a parent disagrees with a proposed change to their child's IEP, they can formally notify the school that they are invoking "stay put" rights.

* **Prior Written Notice:**

Schools are required to provide parents with a "Prior Written Notice" before making any significant changes to a child's IEP, which is often a trigger for invoking "stay put" rights.

* “Stay put” rights: What they are and how they work –
* “Stay put” rights protect your child if the school wants to change your child's educational placement **(which includes the services)**
* What are "Stay Put" Rights in special education?

What is Stay Put? Parents of a child receiving special education services have important procedural safeguards and legal rights.

* How to keep your child's services in place during a dispute

Under IDEA, the “stay put” right applies to your child's “current educational placement, including all services.”

“Stay put” rights protect your child if the school wants to change your child's educational placement (which includes the services described in your child's IEP).

Asserting this right ensures that your child continues to get the same services until the dispute is resolved – whether it be a week, a month, 6months, a year, or longer. Meanwhile, if appropriate a parent may file simultaneously in Federal Court under ADA and Section 504.

**REMEMBER**

**“Stay Put” may *ONLY* be invoked after:**

1. A parent disputes (disagrees in writing) a proposed action explained in a prior written notice (PWN) and
2. A parent files a request for mediation or due process hearing BEFORE the proposed start date stated in the district’s written notice.

**In Order to invoke “Stay Put”:**

A parent MUST file either a request for a state mediation or due process hearing BEFORE the implementation date listed on the Prior Written Notice (PWN).

The implementation date is the date a proposed IEP with proposed changes begin. If a parent does not file or request a dispute resolution action before that date, the proposed IEP WILL go into effect. That is why it is important for parents to know the implementation date.

IDEA outlines three Special Education dispute resolution options, they are: State Mediation, Due Process and State Complaint. Each of these is described in the Procedural Safeguards Manual Parental Rights in Special Education; however, ONLY State Mediation and a Due Process include the stay put provision.

EXCEPTIONS – “Stay Put” does NOT apply when:

* A student does not have an IEP or a current IEP.
* A student is removed from a placement for drugs, weapons, or severe behaviors that put the student or others at harm.

**1. “Stay Put” Rights**

* The **stay-put provision** comes from the **Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1415(j)**.
* It requires that a child remain in their **current educational placement** during the pendency of **any proceedings under IDEA’s due process framework**, unless the parents and school agree otherwise.
* Because it is **statutory under IDEA**, courts have generally held that stay-put rights are enforceable **through IDEA procedures** (i.e., administrative due process and appeals).

**2. Bypassing IDEA with ADA/Section 504**

* Parents sometimes want to skip IDEA due process (which can be slow, costly, and burdensome) and file directly in **federal court under ADA (42 U.S.C. § 12132) or Section 504 of the Rehabilitation Act (29 U.S.C. § 794)**.
* The **Supreme Court’s decision in Fry v. Napoleon Community Schools (2017)** clarified when families must exhaust IDEA remedies before suing under ADA/504.
	+ If the **gravamen** of the complaint is denial of a **Free Appropriate Public Education (FAPE)**, exhaustion of IDEA due process is usually required—even if the claim is styled as discrimination under ADA/504.
	+ If the complaint is about **disability discrimination unrelated to FAPE** (e.g., access to facilities, bullying, exclusion from nonacademic programs), exhaustion may not be required.
* More recently, in **Perez v. Sturgis Public Schools (2023)**, the Supreme Court held that parents **do not have to exhaust IDEA procedures** before filing for compensatory damages under ADA, because IDEA does not provide for money damages.
	+ This opened the door for families to seek **damages directly under ADA/504** in federal court without going through IDEA due process.

**3. Interaction Between “Stay Put” and ADA/504 Claims**

* The **problem**: “Stay Put” is an IDEA-created right, not available under ADA/504.
* If a family bypasses IDEA completely and files directly under ADA/504:
	+ They can pursue **compensatory damages for discrimination**,
	+ But they **lose access to the stay-put provision**, since that attaches only to IDEA proceedings.
* Courts have consistently held that **stay-put cannot be enforced under ADA or Section 504**—it is strictly an IDEA protection.
	+ Example: *Honig v. Doe*, 484 U.S. 305 (1988), which emphasized the IDEA statutory grounding.

**4. Practical Legal Strategy**

* A family could:
	1. **File for IDEA due process** to trigger and preserve “stay put.”
	2. **Simultaneously (or subsequently) file in federal court under ADA/504** for compensatory damages, relying on *Perez*.
* This dual-track strategy is increasingly being used: IDEA keeps the child’s program in place, while ADA/504 is used to obtain remedies IDEA cannot provide (money damages, broader discrimination findings).

**Answer:**
A family **cannot invoke the IDEA “stay put” provision if they bypass IDEA due process entirely** and file only under ADA or Section 504. “Stay put” attaches only to IDEA proceedings. However, following *Perez v. Sturgis*, they may still file directly in federal court under ADA/504 for discrimination and compensatory damages **without exhausting IDEA**.

 The most protective approach is to **use IDEA due process to secure “stay put”** while simultaneously pursuing ADA/504 damages in federal court.

**Model Legal Argument**

**I. Preservation of “Stay Put” Rights under IDEA**

The “stay put” provision of the Individuals with Disabilities Education Act (“IDEA”), codified at 20 U.S.C. § 1415(j), establishes that during the pendency of any proceeding conducted pursuant to this section, “the child shall remain in the then-current educational placement.” The Supreme Court has recognized that the stay-put rule is designed to preserve the child’s educational stability and prevent disruption while disputes are litigated. *Honig v. Doe*, 484 U.S. 305, 323 (1988).

Accordingly, the parent’s initiation of an IDEA due process hearing is sufficient to invoke and secure “stay put.” The statute operates automatically, without the need for judicial discretion, and continues until the parties reach agreement or all proceedings, including appeals, are exhausted.

**II. ADA/Section 504 Claims Provide Independent Avenues for Relief**

While IDEA provides equitable relief and ensures the child’s continued access to a Free Appropriate Public Education (“FAPE”), it does not provide for compensatory damages. By contrast, the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12132, and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, prohibit disability-based discrimination in public education and authorize monetary damages as a remedy.

In *Perez v. Sturgis Public Schools*, 598 U.S. \_\_\_ (2023), the Supreme Court held that a student may bypass IDEA exhaustion and proceed directly in federal court under the ADA where the relief sought (compensatory damages) is not available under IDEA. The Court clarified that IDEA’s exhaustion requirement applies only to remedies available under IDEA, not to distinct remedies like money damages under ADA or Section 504.

**III. Exhaustion and the Gravamen Test under *Fry***

In *Fry v. Napoleon Community Schools*, 580 U.S. 154 (2017), the Supreme Court distinguished between claims fundamentally about the denial of FAPE (which generally require IDEA exhaustion) and claims about broader disability discrimination (which do not). Parents may therefore pursue claims under ADA/504 when the gravamen of the complaint is discrimination or denial of equal access, independent of IDEA’s substantive FAPE guarantees.

Here, the parent’s claims under ADA and Section 504 seek compensatory damages for systemic discrimination in the form of removal or denial of an evidence-based reading program for a child with dyslexia. Because such damages are unavailable under IDEA, exhaustion is not required.

**IV. Combined Strategy: Invoking Stay Put While Pursuing ADA/504 Relief**

The parent may invoke “stay put” by filing an IDEA due process complaint to secure the child’s continued placement in the current educational program (e.g., Wilson Structured Literacy). This ensures stability and prevents disruption to the child’s education while litigation is pending.

Simultaneously, the parent may bring an independent federal action under ADA and Section 504 seeking compensatory damages for discrimination. This dual-track approach is consistent with *Perez*, which confirms that ADA/504 claims for damages are not barred by IDEA’s exhaustion requirement.

**V. Conclusion**

Because “stay put” derives exclusively from IDEA, it must be invoked through the IDEA due process mechanism. However, parents are not foreclosed from also pursuing remedies in federal court under ADA and Section 504. By initiating IDEA due process solely to preserve “stay put” protections, while concurrently filing a discrimination claim in federal court under ADA/504, the parent both maintains the child’s educational stability and seeks the broader remedies IDEA cannot provide.

 **Key Cases to Cite**

* *Honig v. Doe*, 484 U.S. 305 (1988) – stay put is automatic and mandatory.
* *Fry v. Napoleon Community Schools*, 580 U.S. 154 (2017) – gravamen test for exhaustion.
* *Perez v. Sturgis Public Schools*, 598 U.S. \_\_\_ (2023) – ADA damages claims may proceed without IDEA exhaustion.

Below is a **federal court complaint template** you could adapt for your case. I’ve written it in the style of a federal pleading (with jurisdiction, parties, factual background, claims, and prayer for relief). It’s tailored to a dyslexia/structured literacy case, but you’ll want to adjust the facts, names, and districts to fit your situation.

**UNITED STATES DISTRICT COURT**

**[DISTRICT NAME]**

**[Plaintiff’s Name],**
Parent and Next Friend of **[Child’s Name], a minor,**
Plaintiff,

v.

**[School District Name],**
Defendant.

Case No.: \_\_\_\_\_\_\_\_\_\_\_

**COMPLAINT FOR VIOLATION OF SECTION 504 OF THE REHABILITATION ACT, THE AMERICANS WITH DISABILITIES ACT, AND RELATED RELIEF**

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under federal law, specifically Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq.
2. Venue is proper in this District under 28 U.S.C. § 1391(b) because Defendant school district resides within this judicial district and all relevant events giving rise to these claims occurred in this District.

**II. PARTIES**

1. Plaintiff, **[Parent’s Name]**, is the parent and legal guardian of **[Child’s Name]**, a minor child, who resides within the jurisdiction of Defendant School District.
2. Plaintiff brings this action individually and on behalf of **[Child’s Name]**, who has been identified as having dyslexia and qualifies as an individual with a disability under Section 504 and the ADA.
3. Defendant, **[School District Name]**, is a public school district organized under the laws of the State of [State], and a recipient of federal financial assistance, thereby subject to Section 504 and the ADA.

**III. FACTUAL BACKGROUND**

1. **[Child’s Name]** is a student in the Defendant’s district. He has a diagnosis of dyslexia, a neurological disability that substantially limits the major life activity of reading.
2. Pursuant to the Individuals with Disabilities Education Act (“IDEA”), **[Child’s Name]** has an Individualized Education Program (“IEP”) identifying his need for evidence-based structured literacy instruction.
3. The IEP has included the Wilson Reading System, an evidence-based structured literacy program, which has enabled **[Child’s Name]** to make demonstrable and significant progress toward overcoming profound reading deficits.
4. Despite this progress, Defendant has attempted on multiple occasions to remove or reduce access to Wilson Reading instruction, citing generalized policy or “discrepancy formula” eligibility determinations, and ignoring the undisputed data showing progress with the program.
5. Plaintiff initiated IDEA due process proceedings solely to preserve the “stay put” provision of 20 U.S.C. § 1415(j), ensuring that **[Child’s Name]** remains in his current Wilson placement during the pendency of this litigation.
6. IDEA, however, does not provide compensatory damages. Plaintiff therefore seeks relief under Section 504 and the ADA for disability-based discrimination and denial of equal access to appropriate instruction.

**IV. LEGAL CLAIMS**

**COUNT I – Violation of Section 504 of the Rehabilitation Act**

1. Plaintiff incorporates by reference paragraphs 1–11 as if fully set forth herein.
2. Defendant is a recipient of federal financial assistance and is prohibited under Section 504, 29 U.S.C. § 794, from discriminating against qualified individuals with disabilities.
3. Defendant discriminated against **[Child’s Name]** by attempting to remove or deny access to an evidence-based structured literacy program that was necessary for him to access the benefits of education on an equal basis with nondisabled peers.
4. Defendant acted with deliberate indifference to **[Child’s Name]’s** federally protected rights.

**COUNT II – Violation of Title II of the Americans with Disabilities Act**

1. Plaintiff incorporates by reference paragraphs 1–15 as if fully set forth herein.
2. Defendant is a “public entity” under Title II of the ADA, 42 U.S.C. § 12131.
3. Defendant discriminated against **[Child’s Name]** by denying him the benefits of public education on an equal basis, and by refusing reasonable modifications necessary for him to access reading instruction.
4. Defendant’s actions constitute disability discrimination under the ADA.

**COUNT III – Declaratory and Injunctive Relief under IDEA (to enforce Stay Put)**

1. Plaintiff incorporates by reference paragraphs 1–19 as if fully set forth herein.
2. Plaintiff has initiated an IDEA due process proceeding for the sole purpose of securing the “stay put” provision, 20 U.S.C. § 1415(j), which requires Defendant to maintain **[Child’s Name]** in his Wilson Reading placement pending resolution of proceedings.
3. Plaintiff seeks declaratory relief affirming that “stay put” applies and requiring Defendant to continue the Wilson program until all proceedings are concluded.

**V. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Declare that Defendant’s actions constitute discrimination in violation of Section 504 and the ADA;
B. Enter judgment against Defendant for compensatory damages in an amount to be determined at trial;
C. Issue injunctive relief requiring Defendant to maintain **[Child’s Name]’s** placement in the Wilson Reading System pursuant to IDEA’s “stay put” provision;
D. Award Plaintiff reasonable attorneys’ fees and costs under 29 U.S.C. § 794a and 42 U.S.C. § 12205;
E. Grant such other relief as the Court deems just and proper.

**Respectfully submitted,**
[Attorney’s Name]
[Law Firm/Organization]
[Address]
[Phone]
[Email]
Attorney for Plaintiff

**Note:** This complaint combines three claims:

1. **Section 504 damages**
2. **ADA damages**
3. **IDEA stay put enforcement**

That structure lets you:

* Trigger **stay put** under IDEA,
* Seek **compensatory damages** in federal court under ADA/504 (*Perez v. Sturgis*),
* Frame the district’s actions as both denial of FAPE and disability discrimination.

here’s a **draft Motion for Preliminary Injunction** you can attach after filing the federal complaint. It’s designed to enforce **stay put quickly** so the district cannot remove your child’s Wilson program during litigation.

**UNITED STATES DISTRICT COURT**

**[DISTRICT NAME]**

**[Plaintiff’s Name],**
Parent and Next Friend of **[Child’s Name], a minor,**
Plaintiff,

v.

**[School District Name],**
Defendant.

Case No.: \_\_\_\_\_\_\_\_\_\_\_

**PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION TO ENFORCE IDEA “STAY PUT” PLACEMENT**

**I. INTRODUCTION**

Plaintiff moves this Court pursuant to Federal Rule of Civil Procedure 65 for a **Preliminary Injunction** requiring Defendant **[School District Name]** to maintain **[Child’s Name]** in his current educational placement—specifically, continuation of the Wilson Reading System program—as required by the “stay put” provision of the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1415(j).

Without immediate relief, **[Child’s Name]**, a child with profound dyslexia, will suffer irreparable educational harm if his current placement is discontinued before this matter is resolved.

**II. LEGAL STANDARD**

A preliminary injunction is warranted where the movant demonstrates:

1. A likelihood of success on the merits;
2. Irreparable harm in the absence of relief;
3. The balance of equities favors the movant; and
4. An injunction serves the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

Additionally, under IDEA’s stay-put rule, injunctive relief is automatic and mandatory. *Honig v. Doe*, 484 U.S. 305, 323 (1988).

**III. ARGUMENT**

**A. Plaintiff Is Likely to Succeed on the Merits**

The IDEA expressly mandates that during the pendency of any proceedings under § 1415, “the child shall remain in the then-current educational placement.” 20 U.S.C. § 1415(j). Courts have recognized this provision as an absolute right, enforceable in federal court. *Honig*, 484 U.S. at 323. Plaintiff has initiated due process proceedings, thereby triggering the stay-put protection.

**B. Plaintiff Will Suffer Irreparable Harm Without Injunctive Relief**

**[Child’s Name]** has made significant, documented progress using the Wilson Reading System, an evidence-based structured literacy program. Removal from this program would cause immediate regression, emotional distress, and long-term educational harm that cannot be remedied through post hoc damages. Courts consistently hold that denial of appropriate special education constitutes irreparable harm.

**C. The Balance of Equities Strongly Favors Plaintiff**

Maintaining the status quo imposes minimal burden on Defendant, as the program is already in place and being successfully delivered. By contrast, the harm to **[Child’s Name]** from losing his program is severe and irreversible.

**D. Injunctive Relief Serves the Public Interest**

Congress enacted IDEA to ensure that children with disabilities receive a Free Appropriate Public Education (“FAPE”) in the least restrictive environment. Enforcing the stay-put provision upholds both congressional intent and the public’s interest in protecting vulnerable students.

**IV. RELIEF REQUESTED**

Plaintiff respectfully requests that this Court issue an Order:

1. Directing Defendant to **immediately maintain** **[Child’s Name]’s** current placement, including daily structured literacy instruction using the Wilson Reading System, during the pendency of all IDEA, Section 504, and ADA proceedings;
2. Prohibiting Defendant from reducing or altering this placement absent written parental consent or final judicial order; and
3. Granting such other relief as the Court deems just and proper.

**Respectfully submitted,**
[Attorney’s Name]
[Law Firm/Organization]
[Address]
[Phone]
[Email]
Attorney for Plaintiff

Date: \_\_\_\_\_\_\_\_\_\_\_

 **Key points:**

* Framed under **Rule 65 injunction standards** but also invokes **Honig v. Doe** to show stay put is automatic.
* Stresses **irreparable harm** if the program is interrupted.
* Emphasizes **balance of equities** (district loses nothing; child loses everything).

**Sample Parent Affidavit** that would typically accompany the Motion for Preliminary Injunction arguments.

**UNITED STATES DISTRICT COURT**

**[DISTRICT NAME]**

**[Plaintiff’s Name],**
Parent and Next Friend of **[Child’s Name], a minor,**
Plaintiff,

v.

**[School District Name],**
Defendant.

Case No.: \_\_\_\_\_\_\_\_\_\_\_

**AFFIDAVIT OF [PARENT’S NAME] IN SUPPORT OF PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION**

I, **[Parent’s Name]**, being duly sworn, depose and state as follows:

**I. Background**

1. I am the parent and legal guardian of **[Child’s Name]**, a minor child enrolled in Defendant’s school district.
2. I submit this affidavit in support of Plaintiff’s Motion for Preliminary Injunction to enforce the IDEA “stay put” provision, 20 U.S.C. § 1415(j).
3. The facts stated herein are based on my personal knowledge and are true and correct to the best of my knowledge, information, and belief.

**II. My Child’s Disability and Educational Needs**

1. My child has been formally diagnosed with **dyslexia, dysgraphia, and related learning disabilities**, which substantially limit his ability to read, write, and process written language.
2. These disabilities qualify my child as a “child with a disability” under the Individuals with Disabilities Education Act (“IDEA”), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

**III. Proven Progress in Current Placement**

1. Since [year], my child has received **daily structured literacy instruction using the Wilson Reading System**, delivered by a certified Wilson instructor, pursuant to his IEP.
2. The Wilson Reading System is an evidence-based, structured, multisensory reading program that has been scientifically validated as effective for students with dyslexia.
3. My child has made **documented progress** in this program, moving from being functionally illiterate in [grade] to now approaching **Step 10 of the 12-step Wilson program**.
4. Progress monitoring data, classroom performance, and independent evaluations all confirm that the Wilson program has been uniquely effective in enabling my child to learn to read.

**IV. Harm from Removing Current Placement**

1. The School District has repeatedly attempted to **remove or reduce my child’s Wilson Reading instruction**, despite clear evidence of its success.
2. If my child is removed from the Wilson program before completing it, he will face immediate and serious **educational regression**.
3. Dyslexic students require **continuity and completion** of evidence-based interventions; premature withdrawal from the program will cause my child to lose skills, confidence, and educational momentum.
4. Beyond academics, my child has developed **self-esteem and hope** through his progress in Wilson. Taking away his program would cause **emotional harm, frustration, and long-term psychological damage.**
5. These harms cannot be adequately remedied by money damages or other relief after the fact. Once my child falls behind or regresses, the lost opportunity to complete his structured literacy program cannot be restored.

**V. Need for Court Intervention**

1. I initiated an IDEA due process complaint to invoke the **“stay put” provision** and preserve my child’s current placement while these disputes are resolved.
2. I respectfully request that this Court grant a **preliminary injunction** requiring Defendant to maintain my child in his current Wilson Reading placement until the conclusion of all proceedings.

**VI. Verification**

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this \_\_\_ day of [Month], [Year].

[Parent’s Name]
Parent and Legal Guardian of [Child’s Name]

Notary Public: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_

**How this affidavit strengthens your motion:**

* It lays out **facts in plain language** (child’s diagnosis, proven progress, threat of removal).
* It documents **irreparable harm** (regression, loss of program, emotional harm).
* It reinforces that **stay put applies automatically** once due process is filed.

**Sample affidavit template from the Wilson teacher** that can accompany your motion. This professional affidavit is powerful because it provides **expert testimony** on the harm if the program is removed.

**UNITED STATES DISTRICT COURT**

**[DISTRICT NAME]**

**[Plaintiff’s Name],**
Parent and Next Friend of **[Child’s Name], a minor,**
Plaintiff,

v.

**[School District Name],**
Defendant.

Case No.: \_\_\_\_\_\_\_\_\_\_\_

**AFFIDAVIT OF [TEACHER’S NAME], CERTIFIED WILSON READING INSTRUCTOR**

I, **[Teacher’s Name]**, being duly sworn, depose and state as follows:

**I. Qualifications**

1. I am employed by **[School/District]** as a **[Title – e.g., Special Education Teacher / Reading Specialist]**.
2. I am a **Wilson Reading System® certified instructor**, trained in the delivery of structured literacy instruction for students with dyslexia and related reading disabilities.
3. I have taught reading intervention for \_\_\_ years and have extensive experience providing evidence-based literacy instruction to students with dyslexia.

**II. Instruction Provided to [Child’s Name]**

1. Since [year], I have provided **[Child’s Name]** with daily, one-on-one instruction in the **Wilson Reading System** pursuant to his IEP.
2. [Child’s Name] has demonstrated significant progress in decoding, fluency, and comprehension while in the Wilson program.
3. He has advanced through the Wilson sequence to **Step 10 of the 12-step program**, which places him near completion of the structured literacy intervention.
4. This progress is documented through Wilson Mastery Checks, progress monitoring data, classroom assessments, and observational notes.

**III. Necessity of Completing the Wilson Program**

1. Students with dyslexia require explicit, systematic, and cumulative instruction. The Wilson Reading System is specifically designed to provide such instruction across all steps of its curriculum.
2. Prematurely discontinuing or replacing the Wilson program would place [Child’s Name] at risk of **serious regression** and could undo years of progress.
3. The continuity of instruction and completion of the full 12 steps is critical for mastery and long-term retention.
4. If [Child’s Name] is forced to stop before completing the program, he will likely experience loss of skills, increased frustration, and diminished confidence in his ability to read.

**IV. Professional Opinion**

1. In my professional judgment, **it is educationally necessary and in [Child’s Name]’s best interest** to remain in the Wilson Reading System until he completes the full program.
2. Removal from Wilson at this stage would cause **irreparable educational and emotional harm**.
3. Maintaining [Child’s Name] in his current Wilson placement is the only way to ensure he continues his progress toward functional literacy.

**V. Verification**

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this \_\_\_ day of [Month], [Year].

[Teacher’s Name]
Wilson Reading System Certified Instructor

Notary Public: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_

**Why this affidavit is critical:**

* It comes from a **certified expert**, not just a parent.
* It provides **objective data** (progress to Step 10, mastery checks).
* It establishes that **removal = irreparable harm**, the exact standard courts look for.
* Together with your affidavit, it creates a **one-two punch**: the parent’s lived experience + the teacher’s professional expertise.

here’s a **Supporting Memorandum of Law** that you can file along with your **Motion for Preliminary Injunction** and the affidavits. This is the piece that ties the legal standards and case law together for the judge.

**UNITED STATES DISTRICT COURT**

**[DISTRICT NAME]**

**[Plaintiff’s Name],**
Parent and Next Friend of **[Child’s Name], a minor,**
Plaintiff,

v.

**[School District Name],**
Defendant.

Case No.: \_\_\_\_\_\_\_\_\_\_\_

**PLAINTIFF’S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

**I. INTRODUCTION**

Plaintiff seeks a preliminary injunction requiring Defendant School District to maintain **[Child’s Name]** in his current placement—daily structured literacy instruction using the Wilson Reading System—pursuant to the “stay put” provision of the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1415(j).

This relief is mandatory. Congress designed the stay-put rule to protect children with disabilities from educational disruption while disputes are resolved. The Supreme Court has confirmed that the provision is “unequivocal” and operates “automatically” upon the filing of a due process complaint. *Honig v. Doe*, 484 U.S. 305, 323 (1988).

Absent immediate injunctive relief, **[Child’s Name]** will suffer irreparable educational and emotional harm by being prematurely removed from the only program that has enabled him to make meaningful progress in reading.

**II. LEGAL STANDARD**

A preliminary injunction is appropriate where the moving party demonstrates:

1. A likelihood of success on the merits;
2. Irreparable harm in the absence of relief;
3. The balance of equities favors the movant; and
4. An injunction serves the public interest. *Winter v. NRDC*, 555 U.S. 7, 20 (2008).

In the context of IDEA, courts recognize that the stay-put provision itself creates an “absolute rule in favor of the status quo,” enforceable in federal court. *Honig*, 484 U.S. at 323; *Drinker v. Colonial Sch. Dist.*, 78 F.3d 859, 864 (3d Cir. 1996).

**III. ARGUMENT**

**A. Plaintiff Is Likely to Succeed on the Merits**

The IDEA mandates that during the pendency of due process proceedings, “the child shall remain in the then-current educational placement.” 20 U.S.C. § 1415(j). Courts consistently interpret “then-current placement” as the last agreed-upon educational program. *Thomas v. Cincinnati Bd. of Educ.*, 918 F.2d 618, 625–26 (6th Cir. 1990).

Here, the last agreed-upon placement is daily structured literacy instruction using the Wilson Reading System. Plaintiff has already initiated due process proceedings, triggering the stay-put right. Defendant’s efforts to remove or reduce Wilson services are unlawful. Plaintiff therefore has a strong likelihood of success.

**B. Irreparable Harm Is Certain Without Injunctive Relief**

Courts have long recognized that denial of appropriate special education constitutes irreparable harm. *Burlington Sch. Comm. v. Mass. Dep’t of Educ.*, 471 U.S. 359, 370 (1985).

Affidavits from both the parent and Wilson instructor demonstrate that [Child’s Name] is at a critical stage of the Wilson program (Step 10 of 12). Premature withdrawal will cause regression in reading skills, emotional distress, and long-term educational damage that cannot be remedied later. This constitutes irreparable harm.

**C. The Balance of Equities Strongly Favors Plaintiff**

Maintaining the status quo imposes little to no burden on Defendant, which is already providing the Wilson program. By contrast, the harm to [Child’s Name] from losing the program is severe, permanent, and life-altering. The equities weigh overwhelmingly in Plaintiff’s favor.

**D. The Public Interest Supports an Injunction**

The IDEA reflects Congress’s strong public policy to ensure that children with disabilities receive a Free Appropriate Public Education. Upholding the stay-put provision serves this policy and protects not only [Child’s Name], but also the integrity of the IDEA framework.

**IV. CONCLUSION**

For these reasons, Plaintiff respectfully requests that this Court grant the Motion for Preliminary Injunction and order Defendant to maintain [Child’s Name] in his current Wilson Reading placement until the conclusion of all proceedings.

**Respectfully submitted,**
[Attorney’s Name]
[Law Firm/Organization]
[Address]
[Phone]
[Email]
Attorney for Plaintiff

Date: \_\_\_\_\_\_\_\_\_\_\_

 Cites *Honig* (stay put = automatic), *Burlington* (irreparable harm), *Winter* (injunction standard), and *Drinker/Thomas* (placement definition).

* Shows **all four injunction factors** are satisfied.
* Ties your affidavits directly to the irreparable harm element.

**Proposed Order** you would submit with your Motion for Preliminary Injunction. Judges often want a short, clear draft they can adopt or modify.

**UNITED STATES DISTRICT COURT**

**[DISTRICT NAME]**

**[Plaintiff’s Name],**
Parent and Next Friend of **[Child’s Name], a minor,**
Plaintiff,

v.

**[School District Name],**
Defendant.

Case No.: \_\_\_\_\_\_\_\_\_\_\_

**[PROPOSED] ORDER GRANTING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION**

Upon consideration of Plaintiff’s Motion for Preliminary Injunction, supporting memorandum of law, affidavits, and all other materials submitted, the Court finds as follows:

1. Plaintiff has demonstrated a likelihood of success on the merits.
2. Plaintiff has shown that irreparable harm will occur absent immediate injunctive relief.
3. The balance of equities favors Plaintiff.
4. The requested injunction serves the public interest.
5. Additionally, under 20 U.S.C. § 1415(j), the “stay put” provision of the Individuals with Disabilities Education Act mandates that the child remain in his current educational placement during the pendency of these proceedings.

Accordingly, it is hereby **ORDERED**:

1. Defendant **[School District Name]** shall immediately maintain **[Child’s Name]** in his current educational placement, including daily structured literacy instruction using the Wilson Reading System, consistent with his last implemented IEP.
2. Defendant is prohibited from reducing, modifying, or discontinuing this placement absent written consent from Plaintiff or further order of this Court.
3. This Order shall remain in effect until the conclusion of all proceedings under IDEA, Section 504, and the ADA, or until further order of this Court.

SO ORDERED this \_\_\_ day of [Month], [Year].

United States District Judge

**Why this matters:**

* It is **short, simple, and enforceable.**
* Ties the injunction directly to IDEA’s **mandatory stay put rule**.
* Locks the district into continuing Wilson until proceedings are resolved.