BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PAJARO VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022060234

ORDER DENYING MOTION FOR STAY PUT

JUNE 28, 2022

On June 7, 2022, Student filed a request for due process naming Pajaro Valley Unified School District as respondent. On June 20. 2022, Student filed a motion for stay put. On June 23, 2022, Pajaro Valley filed an opposition to the Stay Put motion.

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); 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.)

Student asserts that he should be allowed to continue in a summer program, which is referred to as an extended school year program in his IEP, that begins July 11, 2022 and ends August 30, 2022. However, Student turned 22 on May 21, 2022, as admitted in his motion for Stay Put and in his request for due process hearing. A student's right to receive special education and related services terminates at the end of the fiscal year for Student's who turn 22 in the months of January through June of each year. (Ed. Code. §56026(c)(4)(A).) The fiscal year ends on June 30 of each year.

The purpose of Stay Put is to ensure that an eligible special education student is not removed from their last, implemented IEP placement while a due process hearing is pending. Attendance at the July and August 2022 summer program is written into Student's March 20, 2022, individualized educational program, or IEP to which Parent consented on behalf of the conserved Student on April 7, 2022. However, the Individuals with Disabilities Education Act, or IDEA, provides services to students "between 3 and 21 years old, inclusive." (20 U.S.C. 1412(a)(1).) Student is eligible for extended school year services through the end of the fiscal year, which is June 30, 2022. The program described in Student's last IEP as "extended school year" does not begin until July 11, 2022, after Student's eligibility for special education and related services ends.

Student offers no legal authority establishing that statements in an IEP can extend Student's eligibility for special education and related services beyond the end date mandated by Congress or the California state legislature. In fact, "[n]o local educational agency may develop an individualized educational program that extends these eligibility dates, and in no event may a pupil be required or allowed to attend

school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives." (Ed. Code § 56026, subd. (c)(4)(D).)

Student's motion admits that Parent is the administrator of his program at OASIS non-public school. Parent asserts an equitable claim to compensation for the summer program, stating that she reasonably relied on the IEP which states, in notes, that Student will continue in the OASIS program through the end of August 2022. This is not an issue that is resolved via a Stay Put motion.

Student's motion for Stay Put in the summer program beginning July 11, 2022, is Denied.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings