BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GONZALES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023060598

# ORDER DENYING MOTION FOR STAY PUT

JUNE 22, 2023

On June 12, 2023, Student filed a request for due process hearing with the Office of Administrative Hearings, called OAH, naming Gonzales Unified School District as respondent. That same day, Student filed a motion for stay put. On June 15, 2023, Gonzales filed an opposition to the 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.) Students placed in interim alternative educational settings as a result of disciplinary proceedings do not have an entitlement to stay put. (20 U.S.C. 1415(k)(4).)

## STAY PUT REQUEST

In this case, Student alleges that a manifestation determination meeting was held during the second semester of the 2022-2023 school year. Student further alleges a future expulsion hearing is scheduled. Student requests stay put pending the outcome of his request for due process hearing. Student's due process hearing request was deemed to raise both expedited and non-expedited issues because Student challenges the outcome of the manifestation determination meeting.

Neither this motion nor the request for due process hearing allege Student was placed in an interim alternative educational setting during his suspension. Nor does the motion allege Student continues to attend school during the summer holiday, which began June 8, 2023. The regular school year does not resume until August 2023.

Student's motion appears to seek a stay put order in case Student is expelled, in the hope that a stay put order will prevent an expulsion. Student cites no authority granting OAH the authority to issue such an order. Gonzales' regular school year has ended. Student did not allege that extended school year services were part of his

existing individualized educational program or IEP. Nor did Student allege he is enrolled in any other Gonzales educational program over the summer break as part of his IEP. Therefore, Student's motion for Stay Put is denied.

IT IS SO ORDERED.

*Penelope Pahl*

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings