BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. REDLANDS UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017090039 ORDER DENYING MOTION FOR STAY PUT

Student filed a request for due process hearing on September 1, 2017. She concurrently filed a motion for stay put. On September 8, 2017, Redlands Unified School District filed an opposition to Student's 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)[1]; 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, which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

However, if a student's placement in a program was intended only to be a temporary placement, such placement does not provide the basis for a student's "stay put" placement. (*Verhoeven v. Brunswick School Committee* (1st Cir. 1999) 207 F.3d 1, 7-8; *Leonard by Leonard v. McKenzie* (D.C. Cir. 1989) 869 F.2d 1558, 1563-64.)

DISCUSSION AND LEGAL CONCLUSIONS

Student moves for an order that her stay put placement is at Discovery Ranch for Girls, a residential treatment center located in Utah, where she presently resides. Student argues that she has a right to remain at Discovery Ranch not because the placement is based on her last agreed upon and consented to IEP, but because she would suffer harm if she is not

[1] All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

permitted to stay there. Student did not provide copies of any documentation to support her motion for stay put. District, however, provided all necessary documentation in its opposition to Student's motion, including two settlement agreements between the parties and the IEP that does constitute Student's stay put.

In response to a previous request for due process in OAH case number 2016070613, Student's parents and District entered into a settlement agreement dated August 26, 2016. The parties agreed that, as compensatory education, District would contract with Discovery Ranch to place Student there through January 31, 2017. The parties further agreed that District would convene an initial IEP team meeting for Student no later than November 30, 2016. The parties agreed that Discovery Ranch would not be Student's stay put. Rather, if there was a disagreement over the placement District offered in Student's initial IEP, her stay put placement would be whatever the initial IEP offered.

District convened an IEP team meeting for Student on November 29, 2016. The IEP team meeting did not conclude until February 13, 2017. At the February 13, 2017 IEP team meeting, District offered Student a placement at one of its comprehensive high schools, including specialized academic instruction, in-home wraparound services, including counseling, to support Student and her family.

Parents did not consent to the February 13, 2017 IEP. Student remained at Discovery Ranch. She filed another request for due process in OAH case number 2017040150. On June 6, 2017, Parents and District entered into another settlement agreement to resolve the issues raised in this second case. District agreed to fund Student's placement at Discovery Ranch from February 1, 2017, to July 31, 2017, as compensatory education to resolve the pending due process dispute. The parties again agreed that Discovery Ranch would not be Student's stay put placement. The parties agreed that District would convene an IEP team meeting for Student no later than July 31, 2017. The parties agreed that if there was disagreement over District's offer at the IEP meeting, Student's placement would be that offered in her initial IEP of February 17, 2017.

District convened an IEP team meeting for Student on July 27, 2017. The offer it made to Student that day was the educational program it had offered in Student's initial IEP on February 13, 2017. District agreed to extend funding for Student's placement at Discovery Ranch until August 31, 2017, to permit her time to transition back to a District high school. Parents declined to consent to the July 27, 2017 IEP offer and filed the instant due process request.

Student is asking OAH to order District to continue funding her placement at Discovery Ranch until the parties can meet in mediation and Student can negotiate further funding for her placement through the settlement process. Student basically requests OAH to force District to continue funding a settlement placement although District has no legal obligation to do so and has not agreed to further funding through a settlement. Student offers no support for her contention that Discovery Ranch is her stay put. She offers no support, other than her argument that it would be detrimental to her to leave Discovery Ranch, for her

request for further funding of the placement. Student's request for stay put at Discovery Ranch, unsupported by the facts of this case and unsupported by legal authority is denied. Student's stay put is that offered in the November 29, 2016/February 13, 2017 IEP

ORDER

Student's request for an order that her stay put placement is at Discovery Ranch for Girls in Utah, is denied.

DATE: September 15, 2017

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Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings