BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

TUSTIN UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024051108

ORDER GRANTING MOTION FOR STAY PUT

JUNE 7, 2024

On May 31, 2025, Student filed a Request for Due Process Hearing and a Motion for Stay Put, naming Tustin Unified School District. The complaint alleged both expedited and non-expedited issues. The expedited hearing is set for June 25, 2024 and the non-expedited hearing is set for July 16, 2024. In the Motion for Stay Put, Student seeks a stay put order that restores Student's placement to his status quo prior to Tustin's revocation of an interdistrict permit, pending the results of the due process hearing.

On June 4, 2024, Tustin opposed the motion. Tustin argued that the revocation of the interdistrict transfer was a regular education procedure pursuant to school board policy and the California Education Code, and that disputes regarding the interdistrict transfer process are not within the jurisdiction of OAH.

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.)

In California, "specific educational placement" is defined as "that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs," as specified in the IEP. (Cal. Code Regs. tit. 5, § 3042, subd. (a).)

DISCUSSION

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).) The complaint alleged one expedited issue and eight non-expedited issues. The non-expedited issues concern alleged failures to provide procedural safeguards and prior written notices; to meet child find obligations; to instruct Mother how to request IEP services; to provide an assessment plan; to fully assess in all areas of suspected disability; to address and remedy bullying; to offer an appropriate program; and to make a clear, written offer of FAPE.

Pending the resolution of those disputes, Student is entitled to remain in his IEP placement that was implemented prior to the dispute arising, unless the parties agree

otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); Ed.Code, § 56505 subd. (d).) District's argument that OAH lacks jurisdiction over the revocation of interdistrict transfers cannot be resolved in motion practice given the factual disputes at issue here, that must be resolved at hearing.

ORDER

Student's motion for stay put is granted. Tustin is ordered to reverse its revocation of Student's interdistrict transfer, such that Student's placement shall be restored to his status quo prior to revocation, pending the results of the due process hearing.

IT IS SO ORDERED.

June Lehrman

June Lehrman
Administrative Law Judge
Office of Administrative Hearings