BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ROSS VALLEY SCHOOL DISTRICT.

OAH CASE NUMBER 2022050504

ORDER GRANTING MOTION FOR STAY PUT

JUNE 22, 2022

On June 13, 2022, Student filed a motion for stay put. On June 15, 2022, Ross Valley School District filed an opposition on the ground that it could not implement Student's Individualized Education Program, referred to as IEP, during the extended school year session in 2022 because it has been unable to hire staff for the program. On June 17, 2022, Student filed a response to Ross Valley's opposition.

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

The parties agree that pursuant to the IEP dated May 25, 2021, as amended on March 31, 2022, Student's current placement includes extended school year services, referred to as ESY, in the amount of 540 minutes per week in a special day class, 30 minutes per week of group speech services, 60 minutes per month of occupational therapy services, and 60 minutes per month of individual counseling. Ross Valley argues that it is unable to implement the services to which Student is entitled because it is a small school district in Marin County, California, and has been unable to fill the position of the special day class teacher for the ESY program. Ross Valley's argument is unpersuasive. Notwithstanding the administrative challenges of hiring personnel, the IDEA requires Ross Valley to implement Student IEP pending resolution of the pending dispute. As such, Student's motion for stay put is granted.

IT IS SO ORDERED.

Cararea Lucier

Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings