BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ABC UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020090599

# ORDER DENYING MOTION FOR STAY PUT

SEPTEMBER 29, 2020

On September 23, 2020, Student filed a motion for stay put. ABC Unified School District filed an opposition on September 28, 2020.

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).)

Student filed a complaint for due process on September 18, 2020, in which she seeks an expedited hearing. She was not eligible for special education at the time she filed the complaint. Student asserted that, before the start of the 2020-2021 school year, she attended ABC Unified under an inter-district transfer permit. Student alleges ABC Unified declined to renew her inter-district transfer permit for the 2020-2021 school year, thereby "changing her placement." Student also claims ABC Unified denied her a free appropriate public education, referred to as FAPE, under the "child find" mandates in the Individuals with Disabilities Education Act, referred to as IDEA, by failing to assess and find her eligible for special education during the time Student attended ABC Unified. As a result, Student seeks "stay put" pending the outcome of her expedited and non-expedited claims.

Student failed to establish that she was entitled, as a child who is not eligible for special education, to "stay put" under the IDEA. She offered no IEP document that would form the basis for stay put. She similarly offered no authority that, under these facts, OAH has jurisdiction to order ABC Unified to reinstate her inter-district transfer permit pending the outcome of this case. Student's stay put motion is denied.

IT IS SO ORDERED.

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Adrienne L. Krikorian
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Adrienne L. Krikorian

Administrative Law Judge

Office of Administrative Hearings