BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018110769 ORDER FOR SUPPLEMENTAL BRIEFING FOR MOTION FOR STAY PUT

On November 21, 2018, Parent on behalf of Student filed with the Office of Administrative Hearings a request for due process, naming Los Angeles Unified School District. On November 27, 2018, Student filed a motion for stay put. On December 4, 2018 Los Angeles filed an opposition.

Based upon the pleadings, additional briefing is required to determine Student's stay put placement.

The parties agree that Student's last agreed upon and implemented placement is Beacon Day School, a nonpublic school, per Student's individualized education program dated January 23, 2018. In his motion, Student requests that Beacon be provided by Los Angeles as his stay put placement during the pendency of this matter. In its opposition, Los Angeles confirms that Beacon would normally be considered Student's stay put placement and that it is not providing Beacon during the pendency of this matter. Rather, Los Angeles argues that, because of changed circumstances, it is not able to provide Student placement at Beacon, including during the pendency of this matter.

Los Angeles asserts that it is required to maintain a master contract with nonpublic schools where it serves students. Beginning in May 2018, Los Angeles began its annual contract negotiations with Beacon. By July 2018, Los Angeles and Beacon were unable to agree to contract terms, and Los Angeles requested mediation to resolve the dispute. Los Angeles' opposition included a declaration from Deanna Peterson, Administrative Coordinator, declaring that Beacon refused to comply with a September 27, 2018 mediation order, and elected to disenroll all Los Angeles students from its program. Beacon and Los Angeles agreed to a contract extension, through the end of October 2018, to allow for the transition of Los Angeles' students to alternative placements. At present, Parents have not agreed to an alternative placement, including an alternative nonpublic school, and Beacon has not agreed to a master contract with Los Angeles.

Given the foregoing, the following information is necessary to determine whether changed circumstances exist that would permit a stay put placement other than Beacon:

1. Whether Los Angeles is able to contract with Beacon individually for Student's placement;

2. The terms of the mediation order, its legal impact on the parties, and whether Beacon's failure to comply with the mediation order negates Los Angeles' obligation to place Student at Beacon; and

3. The basis of the master contract dispute between Los Angeles and Beacon; e.g. whether Beacon is unable to comply with statutory requirements for placement; provide disability access; address health and safety issues; and/or substantially increased its costs.

ORDER

1. Within five business days, Los Angeles shall provide additional briefing, including documentation and declarations, regarding:

   a. Los Angeles' ability to contract with Beacon individually for Student's placement;

   b. The terms and legal impact of the mediation order; and

   c. The basis of the master contract dispute between Los Angeles and Beacon.

2. Student shall have three business days from Los Angeles' submission of additional briefing to file a reply.

DATE: December 12, 2018

DocuSigned by:
Paul Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings