BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025080336

ORDER DENYING MOTION FOR STAY PUT

AUGUST 19, 2025

On August 9, 2025, Student filed a motion for stay put, attaching Student's last agreed upon, individualized education program, called an IEP, dated January 23, 2025. On August 14, 2025, Sacramento City Unified School District filed an opposition. Sacramento City's opposition was supported by a declaration by Becky Bryant, assistant superintendent of special education, under penalty of perjury. Sacramento City acknowledged in its opposition that the January 23, 2025, IEP was Student's operative IEP.

On August 14, 2025, Student filed a supplemental brief in support of its motion for stay put, attaching exhibits. On August 18, 2025, Student filed a second supplemental brief in support of its motion for stay put, attaching exhibits.

APPLICABLE LAW

Until due process hearing procedures are complete, a student who is eligible for special education is entitled to remain in their 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 IEP placement prior to the dispute arising. (*L.M. v. Capistrano Unified School Dist*. (9th Cir. 2009) 556 F.3d 900, 902.) 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

Student contends that his current educational placement includes daily, intensive individual instruction services. The intensive individual services are one-to-one aide services. Student further contends that stay put includes maintaining his most recent aide, Merisa, because she has served Student for over two-and-one-half years, is trained to meet his medical and behavioral needs, and has developed a positive relationship with Student.

Sacramento City does not dispute Student's contention that Student is entitled to daily, intensive individual services or that such service is a one-to-one aide. Rather, Sacramento City asserts that Student's most recent one-to-one aide, Merisa, is not part of Student's IEP, and therefore, not Student's stay put placement. Sacramento City contends that Student's January 23, 2025, IEP does not specify a particular person or agency who would serve as Student's one-to-one aide. Sacramento City further asserts

that it elected not to contract with SPGTherapy, the agency that provided Merisa, for intensive individual services or behavior services for the 2025-2026 school year. It contends that it will have a qualified staff person in place to provide intensive individual services to Student in accordance with Student's operative IEP at the beginning of the 2025-2026 school year.

Student's motion fails to establish that Student's most recent one-to-one aide, Merisa, is part of Student's educational placement and, thus, Student's stay-put placement. Although "personnel" is an element of the definition of "a specific educational placement" under California law, Student's motion fails to provide any legal authority for the contention that personnel refers to a specific, named individual, rather than a particular title, role, or set of qualifications.

Moreover, Student did not establish that Merisa was offered as part of Student's IEP. For stay put purposes, Student is entitled to intensive individual services, which is specifically a one-to-one aide. Given that neither the aide nor the nonpublic agency were named in the operative IEP, and that the Individuals with Disabilities Education Act (IDEA) does not empower parents to make unilateral school personnel decisions, the absence of Merisa does not constitute a violation of stay put in this case. (See, e.g., *Corona-Norco Unified School District v. Student* (June 2018) OAH Case No. 2018060621, "Order Denying Motion for Stay Put," [finding student not entitled to retain a specific individual as his instructional assistant during the pendency of the due process hearing], citing *N.R. v. San Ramon Valley Unified School Dist*. (N.D.Cal. January 25, 2007, No. C 06-1987 MHP) 2007 WL 216323, at p.7; [finding parents not entitled to their preferred provider]; *Slama v. Independent School Dist. No. 2580* (D. Minn. 2003) 259 F. Supp.2d 880, 885 [finding a refusal to assign service providers of parent's choice does not result in a denial of a FAPE.].) Accordingly, Student's motion is denied.

ORDER

Student's motion for stay put is denied.

IT IS SO ORDERED.

Daniel Senter

Daniel Senter

Administrative Law Judge

Office of Administrative Hearings