BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2025040246

ORDER GRANTING MOTION FOR STAY PUT

APRIL 18, 2025

On April 4, 2025, Student filed a motion for stay put. On April 9, 2025, Student filed a reply in support of Student's motion for Stay Put. On April 10, 2025, San Dieguito filed a sur-reply to Student's reply in support of Stay Put. On April 16, 2025, the undersigned ordered San Dieguito to file a copy of its original opposition with OAH as the OAH record was incomplete. On April 17, 2025, San Dieguito filed an opposition to Student's motion for Stay Put and an amended opposition to Student's request for Stay Put. On April 17, 2025, Student filed an objection to San Dieguito's opposition for Stay Put. The motion, original and amended opposition, reply, sur-reply, and opposition were reviewed and considered.

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

On December 23, 2024, Student filed a request for due process and a motion for Stay Put in OAH case number 2024120859. On December 31, 2024, Student's motion for Stay Put was granted. Student then withdrew her Due Process request on April 3, 2025.

Student brought a new due process request and motion for Stay Put on April 4, 2025, in OAH case 2025040246. Specifically, Student seeks an order to receive live real-time CART transcription services as provided in Student's last agreed upon and implemented IEP dated January 26, 2024. Parent consented to the IEP on March 20, 2024. At Student's previous placement, she was provided live CART transcription services. She subsequently enrolled in San Dieguito for the 2024-2025 school year.

Student's January 26, 2025, IEP specifically offered Transcription Services (CART) as 1440 minutes per week, CART transcription services for the school day Monday through Thursday from 8:00 a.m. until 2:00 p.m., with the exception of 30 minutes at lunch.

In response to the order granting Student's request for Stay Put in OAH case number 2024120859, San Dieguito contracted with Diana Brandin Realtime Captioning & Sign Language Service LLC to provide live transcription services. In support of its Opposition to Student's motion for Stay Put, San Dieguito provided a copy of the services contract with Diana Brandin Realtime Captioning & Sign Language Service LLC.

San Dieguito objects to Student's motion for Stay Put on the grounds that live real-time CART services are not stay put as San Dieguito is implementing Student's CART services through a computer-assisted model. San Dieguito argues Student cannot dictate the chosen methodology provided to a student so long as it meets the student's needs and provides an educational benefit.

To prevail on this argument, San Dieguito must demonstrate it is providing Student what her operative IEP requires and that the shift to a computer-assisted model constitutes methodology. San Dieguito's own contract with Brandin Realtime Captioning & Sign Language Service LLC undermines its argument that it is providing Student with a service as described in her operative IEP. Moreover, the IEP specifies that, Student requires low incidence services and equipment to meet educational goals including CART Captioning services, among other reasons, "to support auditory access in virtual and in-person education settings, including access to peer comments and responses." As discussed more fully below, San Dieguito failed to establish that its proposed computer aided software meets this requirement and that any deviation from it, such as

providing transcripts as study aides, constitutes methodology justifying the deviation for stay put purposes.

Brandin Realtime Captioning & Sign Language Service LLC's own contact defines CART services as a system used to translate classroom discussions instantly into English text. Captioning text may be presented to a student via a laptop computer, tablet or a monitor. Transcripts are usually prepared at the end of each class or day then emailed to the student by the evening. This is usually used as a study aid. The contract further requires the student or a staff member be responsible for the audio connection to the CART. San Dieguito's sur reply to Student's motion for Stay Put further argues the contracted CART services through Brandin Realtime Captioning are not required to be provided in real-time but are in-fact to be used as study aids. The services San Dieguito is providing is not consistent with Student's operative IEP.

Student demonstrated her previous consented to and implemented IEP provided live real-time CART transition services. For the purposes of Stay Put and this motion, Student is entitled to live real-time CART transcription services. This order makes no determination of the appropriateness of these services or whether Student is receiving a FAPE.

ORDER

1. Student's Motion for Stay Put is granted.

2. Student's stay put services include 1,440 weekly minutes of live CART transcription services.

IT IS SO ORDERED.

Tiffany Gilmartin

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings