BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

TWIN RIVERS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025020958

ORDER DENYING MOTION FOR STAY PUT

MARCH 10, 2025

On February 28, 2025, Student filed a motion for stay put. Student's motion was supported by a declaration by Parent under penalty of perjury attaching a copy of Student's last agreed upon, with exceptions, individualized education program amendment, referred to as IEP, dated January 17, 2025.

On March 4, 2025, Twin Rivers Unified School District filed an opposition. Twin Rivers' opposition was supported by a declaration by Jason Stricker, Executive Director for Special Education/SELPA for Twin Rivers, under penalty of perjury. Twin Rivers acknowledged in its opposition that the January 17, 2025 IEP is Student's last agreed upon IEP.

On March 5, 2025, Student filed a reply to Twin Rivers' opposition.

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 Sch. 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).)

The "current educational placement" for the purpose of stay put may also include services administered by the same nonpublic agency if the most recently implemented IEP required the school district to provide the services with a specific nonpublic agency. (*Joshua A. v. Rocklin Unified Sch. Dist.* (E.D. Cal. August 20, 2007, No. CV 07-01057 LEW(KJMx)) 2007 WL 2389868, ** 2-4, affd. *Joshua A. v. Rocklin Unified Sch. Dist.* (9th Cir. 2009) 559 F.3d 1036 (*Joshua A.*).)

DISCUSSION

Student contends that his current educational placement includes intensive individual services for 1548 minutes per week. The intensive individual services are one-to-one aide services. Student further contends that based on a positive relationship with his current aide, Ms. Maldonado, stay put includes maintaining Ms. Maldonado as his aide. Student states this placement is required by a January 17, 2025 IEP

Amendment to Student's March 6, 2024 IEP, which Parent signed on February 26, 2025. Ms. Maldonado is expected to start a new position at another school. Student contends that the change in the current one-to-one aide will be disruptive to Student's progress and constitutes a change in the current educational placement.

Twin Rivers does not dispute Student's contention regarding the number of minutes or that intensive individual services is a one-to-one aide. Rather, Twin Rivers contends that Student's one-to-one aide, Ms. Maldonado, is not part of Student's IEP and therefore, not Student's stay put placement. Twin Rivers states the parties' October 17, 2024 settlement agreement does not specify a particular person who would serve as Student's one-to-one diagnostic aide, nor does the January 17, 2025 IEP specify a particular person or agency who would serve as Student's one-to-one aide. Moreover, during the January 17, 2025, IEP meeting, Twin Rivers informed Parent that it could not guarantee that Student's current diagnostic aide, Ms. Maldonado, would continue to serve as his aide given staffing needs and employment decisions of the staff.

Twin Rivers further asserts that on January 15, 2025, Ms. Maldonado applied for and subsequently accepted a position as a Twin Rivers' employee at another Twin Rivers' school. Twin Rivers represents that Ms. Maldonado was not reassigned but applied for and accepted a new position on her own accord. Twin Rivers asserts that it has identified another qualified individual, from the same nonpublic agency that provided Ms. Maldonado, to serve as Student's new one-to-one aide. This individual has already been directed to "shadow" Ms. Maldonado, so that they will become familiar with the Student.

Student contends in his reply that Ms. Maldonado did not choose a different position, is willing to continue to work with Student, and should be part of Student's stay put placement to prevent disruption while Student begins to mainstream.

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

Student's reliance on *Joshua A. v. Rocklin Unified Sch. Dist.* to support his position is unpersuasive. (559 F.3d 1036, 1040 (9th Cir. 2009).) In this case, a particular nonpublic agency was named as the provider of services in a student's IEP, so the nonpublic agency was part of the student's stay put placement. In contrast, here, Student's operative IEP does not specify that a specific agency or individual will serve as Student's aide. Further, Twin Rivers does not dispute it will continue providing Student a one-to-one aide and has represented that it will be providing Student with a new aide from the same nonpublic agency that provided Ms. Maldonado. Regardless, *Joshua A* does not support Student's position that Twin Rivers must retain the same individual to serve as his aide.

Here, Student did not establish that Ms. Maldonado was offered as part of Student's IEP. For stay put purposes, Student is entitled to intensive individual services for 1548 minutes per week, 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 Ms. Maldonado 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, and the IDEA requires only that the service provider be able to meet the student's needs]; *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