BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023020909

ORDER DENYING MOTION FOR STAY PUT

MARCH 8, 2023

On February 27, 2023, Student filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing, naming Los Angeles Unified School District. Also, on February 27, 2023, Student filed a motion for stay put. On March 2, 2023, Los Angeles filed an opposition.

Student and Los Angeles agree that the last agreed upon and implemented individualized education program, called an IEP, is dated May 26, 2022, and placed Student in an autism core special day class at Topeka Charter School for Advanced Studies. Student argues Los Angeles is no longer implementing Student's May 26, 2022 IEP, because it moved Student to a different class. Los Angeles argues it is implementing Student's IEP because the new classroom is also an autism core special day class.

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 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 is in second grade at Topeka Charter School for Advanced Studies. Student's May 26, 2022 IEP offered Student 830 minutes per week of special education services in an autism program. On February 22, 2023, Topeka sent Parents a letter informing them that on February 27, 2023, it was moving all second-grade students in the kindergarten to second grade autism core special day class to a different class with Laura Solorzano as their teacher. The letter did not provide any information about the new classroom, however, it did state that one of the aides in the kindergarten to second grade autism core special day class would transition with the second-grade students to the new classroom.

Student argues the May 26, 2022 IEP placed Student in the kindergarten to second grade autism core special day class with teacher Amanda Wright. Student argues Los Angeles is changing Student's placement by moving him to a different classroom with a teacher who is not a special education teacher and does not have an autism certification. Student supported his position with a sworn declaration and printouts of both Wright's and Solorzano's teaching credentials. Student requests

continued placement in Wright's kindergarten to second grade autism core special day class.

Los Angeles contends it complied with Student's May 26, 2022 IEP because all second-grade students in Wright's classroom moved to a different autism core special day class. Los Angeles contends it made the change to balance the number of students in both autism core special day classes. Los Angeles further contends on March 2, 2023, it assigned program specialist Maria Guadalupe Cervantes, who is a fully credentialed special education teacher with an autism credential, to Student's new autism core special day class. Los Angeles supported its position with sworn declarations from Topeka.

Student's argument that Los Angeles removed Student from the autism core special day class and assigned him a teacher who is not a special education teacher with an autism certification is based on the February 27, 2023 letter. The February 27 2023 letter does not inform Student that the new classroom will be an autism core special day class, and it does not provide for a autism credentialed special education teacher in the new classroom.

However, Los Angeles's opposition confirms there is no dispute by explaining Student's new classroom is an autism core special day class with a credentialed special education teacher who has an autism certification. Therefore, Student's motion for stay put is denied.

IT IS SO ORDERED.

Linda Dowd

Linda Dowd

Administrative Law Judge

Office of Administrative Hearings