BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

COMMUNITY ROOTS ACADEMY AND

EL DORADO COUNTY CHARTER SELPA.

OAH CASE NUMBER 2025030789

ORDER GRANTING IN PART MOTION FOR STAY PUT

MARCH 26, 2025

On March 19, 2025, Student filed a motion for stay put. On March 24, 2025, Community Roots Academy filed a response to the motion. El Dorado County Charter SELPA did not file any response. On March 26, 2025, Student filed a reply.

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 Board*

of Educ. (6th Cir. 1990) 918 F.2d 618, 625, as informed by later federal definition of term "placement" in 34 C.F.R. § 300.116 (2006); see *N.W. ex rel. J.W. v. Boone County Board of Educ*. (6th Cir. 2014) 763 F.3d 611, 617.)

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 complains Community Roots Academy has improperly refused to allow Student to continue to attend the Community Roots Academy campus and insists Student attend a nonpublic school instead. Student wants to continue attending a general education program at Community Roots Academy.

Student asserts his last agreed-upon and implemented IEP is the February 10, 2025, amendment to the September 18, 2024, annual IEP. Community Roots Academy asserts the last agreed-upon and implemented IEP is the September 18, 2024, annual IEP. The copy of the IEP Student attached to his motion as Exhibit A is not authenticated by any declaration under penalty of perjury. It also does not contain any signatures of Parent relating to consent. Student did not independently establish that the February 10, 2025, amendment to the September 18, 2024, annual IEP is Student's last agreed-upon and implemented IEP.

However, Community Roots Academy, through its attorney's signature on the Notice of Representation and Response to Student's Motion for Stay Put, states it "understands its stay-put obligation toward Student" and "seeks an order confirming that [Community Roots Academy] will implement Student's stay-put placement and services as reflected above pursuant to the last consented to IEP dated

September 18, 2024." The placement of both the February 10, 2025, amendment and the September 18, 2024, annual IEPs was the general education program at Community Roots Academy. Therefore, the only dispute concerns which IEP's level of behavioral services would be implemented. Student's motion for stay put is granted in part, for implementation of the September 18, 2024, IEP. If a dispute exists regarding the level of behavioral services Community Roots Academy will implement during the pendency of this due process case, Student may file a request for stay put with more specificity as to the nature of the dispute and the terms of stay put, proving Parent consented to the February 10, 2025 amendment IEP and that it, rather than September 18, 2024 annual IEP, was the last agreed-upon and implemented IEP prior to the events of March 11 or 12, and 14, 2025.

ORDER

Community Roots Academy shall implement Student's stay-put placement and services as specified in the IEP dated September 18, 2024.

Kara Hatfield

Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings