BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

DAVIS JOINT UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020060198

ORDER GRANTING MOTION FOR STAY PUT

SEPTEMBER 28, 2020

On September 14, 2020, Student filed a motion for stay put. The Office of Administrative Hearings, referred to as OAH, denied the stay put motion on September 18, 2020, on the ground that Student did not offer sufficient proof that Davis Joint Unified School District implemented his March 15, 2018 IEP. On September 21, 2020, Student filed an "amended" motion for stay put supported by a sworn declaration by Parent, and copies of Student's March 15, 2018 individualized education program, referred to as IEP, and his March 23, 2017 IEP. Parent's declaration referred to "Exhibit 4" but no such exhibit was included in the Motion. Davis Joint Unified filed an opposition on September 24, 2020, supported by a sworn declaration.

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 asserts, and Davis Joint Unified agrees, that his March 23, 2017 IEP is the last agreed upon IEP regarding speech and language services, only. Student also asserts, and Davis Joint Unified does not disagree, that his March 15, 2018 IEP is the last agreed upon and implemented IEP with respect to placement, and one to one aide support.

Student contends Davis Joint Unified increased Student's specialized academic instruction from 480 minutes per week to 720 minutes per week in his September 20, 2018 IEP. However, Parent did not establish that any part of the September 20, 2018 IEP should be considered Student's last agreed upon and implemented placement or services. Neither party included an authenticated copy of September 20, 2018 IEP. No dispute exists that Parent did not sign that IEP, even though the parties agree that Davis Joint Unified has been providing Student more than 480 minutes of specialized academic instruction per week since fall 2018.

Student's stay put is his March 15, 2018 IEP, except for speech and language services, which shall be stay put based on the March 23, 2017 IEP. These shall remain stay put placement and services during the pendency of this action unless or until Student's IEP is amended, signed by Parent, and Davis Joint Unified implements the amended and signed IEP.

IT IS SO ORDERED.

DocuSigned by:
Adrienne L. Krikorian
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Adrienne L. Krikorian

Administrative Law Judge

Office of Administrative Hearings