BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LARKSPUR-CORTE MADERA SCHOOL DISTRICT AND TAMALPAIS UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2022060676

ORDER DENYING MOTION FOR STAY PUT

JULY 05, 2022

On June 22, 2022, Student filed a motion for stay put requesting the Office of Administrative Hearings, referred to as OAH, to order Tamalpais Union High School District to fund Student's placement at Telos Academy, a residential treatment center. On June 27, 2022, Tamalpais filed an opposition on the grounds that Parents unilaterally placed Student at Telos Academy and that it is not Student's current educational placement pursuant to an Individualized Education Program, referred to as IEP.

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

Student's last agreed upon placement was from his IEP dated November 18, 2020, in Larkspur-Corte Madera School District, an elementary school district. Student attended Hall Middle School within Larkspur-Corte Madera. On April 26, 2021, Tamalpais convened a transition IEP team meeting for Student and offered a placement within the high school district, including 234 minutes per week of specialized academic instruction. Parents did not consent.

On June 14, 2021, Parents unilaterally placed Student in Elements Wilderness Therapy Program, followed by a unilateral placement at Telos Academy on September 16, 2021. Neither Larkspur-Corte Madera nor Tamalpais agreed to place Student in a residential treatment center pursuant to an IEP. Furthermore, Student's placement in Telos Academy was never implemented by Tamalpais or any other local

educational agency. As such, Student's unilateral placement at Telos Academy is not his current educational placement under the IDEA. Accordingly, Student's motion for stay put is denied.

IT IS SO ORDERED.

Cararea Lucier

Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings