BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

YOSEMITE UNIFIED SCHOOL DISTRICT, BASS LAKE JOINT UNION ELEMENTARY SCHOOL DISTRICT, AND MADERA-MARIPOSA SPECIAL EDUCATION LOCAL PLAN AREA.

OAH CASE NUMBER 2024060865

ORDER DENYING MOTION FOR STAY PUT

AUGUST 6, 2024

On June 25, 2024, Parent on behalf of Student filed a due process hearing request with the Office of Administrative Hearings, naming Yosemite Unified School District, Bass Lake Joint Union School District, and Madera-Mariposa Special Education Local Plan Area, referred to as Madera-Mariposa SELPA. On July 15, 2024, Parent on behalf of Student filed a motion for stay put. On July 18, 2024, Bass Lake Joint Union and Madera-Mariposa SELPA filed a joint opposition to the stay-put motion. On July 18, 2024, Yosemite Unified filed an opposition to the motion. Student filed a reply to the oppositions on July 19, 2024.

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 education program, called IEP, placement prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.) However, if a student's placement in a program was intended only to be a temporary placement, such placement does not become a student's stay-put placement. (*Verhoeven v. Brunswick School Committee* (1st Cir. 1999) 207 F.3d 1, 7-8; *Leonard by Leonard v. McKenzie* (D.C. Cir. 1989) 869 F.2d 1558, 1563-64.) 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).)

Courts have recognized, however, that the status quo cannot always be replicated exactly for purposes of stay put. (*Ms. S. ex rel. G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35, superseded by statute on other grounds, 20 U.S.C. § 1414(d)(1)(B).) When a student advances from grade to grade, the stay-put provision entitles the student to receive a placement that, as closely as possible, replicates the placement that existed at the time the dispute arose, taking into account the changed circumstances. (*R.F. Frankel v. Delano Union School District,* (E.D.Cal. 2016) 224 F.Supp.3d, 979, *citing, Van Scoy ex rel. Van Scoy v. San Luis Coastal Unified School Dist.* (C.D.Cal. 2005) 353 F.Supp.2d 1083, 1086.)

Student contends he is entitled to stay put at the last agreed upon placement which Student claims is a public school classroom within a reasonable distance from his

home. Student's motion included eight exhibits, consisting of IEPs dated June 22, 2022, September 28, 2022, May 31, 2023, and April 10, 2024. Also included were mileage calculations from Student's home to various schools, as well as emails between Parent and Bass Lake Joint Union in May and June 2023.

The pleadings establish the June 2, 2022 IEP, as amended on September 28, 2022, was the last-agreed-upon IEP. The June 2, 2022 IEP offered placement in the Madera County Superintendent of School's Emotional Disturbance program located at Coarsegold Elementary School for the 2022-2023 school year. Madera-Mariposa SELPA operated programs for students with an emotional disability. Coarsegold Elementary was less than 13 miles from Student's home. Parent provided written consent to the IEP on June 2, 2022.

Student was in seventh grade for the 2022-2023 school year. He attended the Emotional Disturbance program at Coarsegold Elementary from the start of the 2022-2023 school year.

Bass Lake Joint Union convened an IEP team meeting on September 28, 2022, to discuss Student's placement. The June 2, 2022 IEP was amended to offer a day treatment program at a new campus called Apollo. Apollo was about 46 miles from Student's home. Parents provided written consent to the IEP amendment on September 28, 2022.

Student's diagnostic placement at Apollo began on or about October 11, 2022. An IEP team meeting was scheduled for November 30, 2022, to review the diagnostic placement and determine whether Student should continue in that program. However, the pleadings did not include any documentation of an IEP team meeting held on November 30, 2022.

Student asserts that the travel distance to Apollo was detrimental to him. A one-way trip on the school bus took 65 minutes. Student did not have adult aide support on the bus.

Student claims he remained at Apollo through May 19, 2023. For eighth grade, Student returned to the Emotional Disturbance program at Coarsegold Elementary for the 2023-2024 school year.

Bass Lake Joint Union convened an IEP team meeting on April 10, 2024, to develop Student's IEP for his transition to high school with Yosemite Unified. The IEP team determined Student continued to require a program designed to support students with an emotional disability. The April 10, 2024 IEP offered placement at the Emotional Disturbance program at Madera South High School, 48.2 miles from Student's home. Parent did not consent to the April 10, 2024 IEP. Student will begin ninth grade with Yosemite Unified for the 2024-2025 school year.

Student does not identify a specific educational setting as stay put. Rather, Student argues his stay-put placement consists of a classroom on a public school campus located within a reasonable distance from the home. Student contends the program at Madera South is not a reasonable distance and seeks a comparable placement closer to his home. Bass Lake Joint Union, Madera-Mariposa SELPA, and Yosemite Unified argue that Student's stay-put placement is a placement for high school students with emotional disabilities operated by Madera-Mariposa SELPA, which is the program at Madera South.

Student's last-agreed-upon IEP offers an Emotional Disturbance program operated by Madera-Mariposa SELPA. Student's last program was the Emotional Disturbance program operated by Madera-Mariposa SELPA for students through eighth

grade. Student will advance to ninth grade for the 2024-2025 school year, so the program at Coarsegold Elementary is no longer an option for him. Therefore, Student's stay-put placement is the closest Madera-Mariposa SELPA Emotional Disturbance program from Student's home, tailored to support high school students with an emotional disability. Accordingly, to the extent Madera South is the closest program designed to support students with an emotional disability, Student's motion for stay put for an alternative placement is denied.

ORDER

1. Student's motion for stay put is denied.
2. Student's stay-put placement is a Madera-Mariposa SELPA program uniquely designed to serve high school students with an emotional disability, that is located as close as possible to Student's home.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings