

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.
OAH CASE NUMBER 2020080323

ORDER GRANTING MOTION FOR STAY PUT

AUGUST 24, 2020

On August 13, 2020, Student filed a motion for stay put. Student seeks an order that Los Angeles Unified School District maintain his last agreed upon and implemented placement at Smart Start Nonpublic School. Los Angeles Unified has not filed an opposition.

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 seeks an order for stay put at Smart Start, a nonpublic school, pursuant to the last agreed upon and implemented IEP dated October 25, 2019. Student's stay put motion is supported by sworn declarations of his counsel and Parent, and authenticated copies of the signed October 2019 IEP and the June 25, 2020 IEP, which Parent signed with exception on August 13, 2020. Los Angeles has not opposed Student's stay put motion.

The October 25, 2019 IEP provided a nonpublic school placement at Smart Start for 1570 minutes per week, with 30 minutes weekly of both speech and occupational therapy services, a behavior intervention plan, and extended school year services. Parent consented to this IEP. Student attended Smart Start for the 2019-2020 school year.

Los Angeles Unified sought to change Student's placement and program through its June 25, 2020 IEP. For the 2020-2021 school year, the June 2020 IEP offered placement in a special day program for 1350 minutes per week on a general education site, specifically, Overland Avenue Elementary School, with behavior intervention implementation and behavior intervention development services. The June 2020 IEP continued to offer a behavior intervention plan, weekly speech and occupational

therapy, and extended school year services. On August 13, 2020, Parent signed the June 2020 IEP with exception, indicating agreement with all components of the IEP except the instructional setting and placement at Overland Elementary.

The October 25, 2019 IEP with nonpublic school placement at Smart Start is the last agreed upon and implemented program, and constitutes Student's stay put placement pending resolution of this due process matter.

ORDER

1. Student's motion for stay put is GRANTED.
2. Student's stay put educational program is the October 2019 IEP with placement at Smart Start pending resolution of this due process matter.

IT IS SO ORDERED.

Theresa Ravandi

Administrative Law Judge

Office of Administrative Hearings