

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEW HAVEN UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015070576

ORDER FOR SUPPLEMENTAL
BRIEFING ON MOTION FOR STAY
PUT

On August 3, 2015, Student filed a motion for stay put with the Office of Administrative Hearings which he served on New Haven Unified School District on July 28, 2015. On July 30, 2015, New Haven filed an opposition to Student's motion. Student seeks an order that his stay put placement should be his current home applied behavior analysis program and services pursuant to a settlement agreement signed July 31, 2014. Student attached a copy of the current individualized education program offer for the 2015-2016 school year dated May 13, 2015, to which Parent has not consented. Student did not provide a copy of his last agreed-upon and implemented IEP. New Haven contends that Student's last implemented and agreed-upon IEP is from January 11, 2013. New Haven alleges this IEP provides for a nonpublic school and that this constitutes Student's stay put placement.

Additional information is required before a ruling can be made on Student's motion. If it is determined that the settlement agreement does not constitute Student's stay put placement, it will be necessary to hear from Student as to his position of what constitutes his last agreed-upon and implemented IEP. Further, given that Student's last agreed-upon and implemented IEP may have provided for a preschool level placement and services, the parties will need to brief what effect, if any, Student's grade-level advancement may have had on the stay put placement and the offer of instructional hours and services. (*Van Scoy v. San Luis Coastal Unified Sch. Dist.* (C.D. Cal. 2005) 353 F.Supp.2d 1083, 1086 ["stay put" placement was advancement to next grade]; see also *Beth B. v. Van Clay* (N.D. Ill. 2000) 126 F. Supp.2d 532, 534; Fed.Reg., Vol. 64, No. 48, p. 12616, Comment on § 300.514 [discussing grade advancement for a child with a disability].)

ORDER

Within five days of this Order, the parties shall submit supplemental briefing, supported by declarations under penalty of perjury, specifying what constitutes Student's last agreed-upon and implemented IEP placement and address the effect, if any, of any grade-

level advancement on Student's stay put placement. Any additional attachments shall be authenticated. No reply briefs or other additional briefing will be considered.

DATE: August 10, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings