

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CORONA-NORCO UNIFIED SCHOOL DISTRICT AND
VIRTUAL SCHOOL OF INNOVATION.
OAH CASE NUMBER 2021090231

ORDER DENYING MOTION FOR STAY PUT
WITHOUT PREJUDICE

SEPTEMBER 20, 2021

On September 8, 2021, Student filed a Request for Due Process Hearing, alleging that Student was enrolled in and regularly attending a Virtual School with all online classes. The Virtual School was a program within Corona-Norco Unified School District. On or before an individualized education program, or IEP, team meeting on September 3, 2021, Student was removed from and denied access to that Virtual School.

On September 9, 2021, Student filed a motion for stay put, alleging that her last special education placement was at the Virtual School of Innovation in the Corona-Norco Unified School District, consisting of 45 minutes of special education class time

Monday through Friday from 10:00 am to 10:45. Additionally, the motion alleged that Student was entitled to speech therapy sessions. The motion did not attach the last agreed upon and implemented IEP, nor did it specify the frequency and duration of speech therapy. Despite the fact that the motion was served on the Case Manager for Special Education for the Virtual School of Innovation, District did not respond to the motion.

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).)

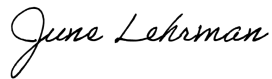
DISCUSSION

Here, it cannot be discerned what Student’s stay put placement and services were. The Motion does not attach a full copy of the last agreed upon and implemented IEP placement prior to the dispute arising. Although the motion states that Student attended the Virtual School of Innovation in the Corona-Norco Unified School District, for 45 minutes of special education class time Monday through Friday from 10:00 am to

10:45, it is not clear what placement and services the IEP called for. In addition, the frequency and duration of speech therapy called for in Student's last agreed upon and implemented IEP was not specified. For these reasons, the Motion is denied. The denial is without prejudice. Student may re-file the motion and include a full copy of the last agreed upon and implemented IEP, as additional documentary support for the motion.

ORDER

The motion for stay put is denied, without prejudice.

A handwritten signature in cursive script that reads "June Lehrman".

June Lehrman

Administrative Law Judge

Office of Administrative Hearings