

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

OXNARD UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021080884

ORDER DENYING MOTION FOR STAY PUT

SEPTEMBER 7, 2021

On August 31, 2021, Student filed a motion for stay put. On September 3, 2021, Oxnard Union High School District filed an opposition on the ground that it is fully implementing Student's May 26, 2021 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.)

Student contends that when he arrived for his first day of the 2021-2022 school year at his new school district, Oxnard did not provide the many detailed and complex supports in Student's May 26, 2021 IEP from his elementary school district. Student's motion for stay put is supported by the sworn declaration of Parent.

The sworn declaration of Oxnard's program specialist establishes that despite earlier outreach to Parent, Parent did not enroll Student in Oxnard until the day before the first day of school. Because of the many services and specific schedule requirements in the IEP, it took Oxnard several days to get the program in Student's May 26, 2021 IEP up and running. Home hospital instruction is expected to be in place by September 13, 2021. Oxnard's declaration establishes that Student's program and services will continue in Student's current educational placement.

Here, Student has not alleged that a dispute exists, and Oxnard established that it is in the process of implementing Student's May 26, 2021 IEP from the prior school district. If a dispute exists or Oxnard does not implement Student's IEP as promised, Student may file a request for stay put with more specificity as to the nature of the dispute and the terms of stay put. The motion for stay put is denied.

IT IS SO ORDERED.

Alexa Hohensee

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Administrative Law Judge

Office of Administrative Hearings