

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100652

ORDER REQUIRING ADDITIONAL EVIDENCE
FOR STAY PUT MOTION

OCTOBER 28, 2021

On October 22, 2021, Student filed a request for due process hearing with the Office of Administrative Hearings, also called OAH, naming Temecula Valley Unified School District as respondent. That same day, Student filed a motion for stay put. On October 28, 2021, Student filed an "Addendum" to his motion for stay put. Neither the stay put motion nor the "addendum" was accompanied by evidence of Student's last agreed upon and implemented Individualized Education Program or IEP. To date, OAH has received no response to the stay put motion.

APPLICABLE LAW

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her "then-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." 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).)

For purposes of stay put, the current educational placement is typically the placement called for in the student's most recently implemented individualized education program. (Johnson v. Special Education Hearing Office (2002) 287 F. 3d 1176, 1180.)

Here, Student has not provided adequate evidence of his last agreed upon and of implemented IEP. Student is ordered to provide evidence of his last agreed upon and implemented IEP no later than Tuesday, November 2, 2021. Temecula must file any response to the evidence provided no later than Thursday, November 4, 2021.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings