

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100339

ORDER GRANTING MOTION FOR STAY PUT

OCTOBER 19, 2021

On October 12, 2021, Student filed a request for due process hearing and a motion for stay put seeking an order for Stay Put through extended school year for the summer of 2022. On October 18, 2021, Los Angeles Unified School District filed an opposition to the Stay Put motion, stating it opposed stay put beyond December 31, 2021.

APPLICABLE LAW

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her current individualized 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 placement prior to the dispute arising. (*N.E. by and through C.E. and P.E. v. Seattle School District* (9th Cir. 2016) 842 F. 3d 1093, 1096; *L.M. ex rel. Sam M. v. Capistrano Unified School District*, (9th Cir. 2009) 556 F. 3d. 900, 902.)

DISCUSSION

Student asserted and Los Angeles acknowledged that Student's last agreed upon and implemented placement was at Widney Career Preparatory and Transition Center in the special education classroom for the visually impaired.

The parties do not dispute Student's current eligibility or Student's continued placement through December 31, 2021. The dispute exists only as to Student's entitlement to stay put beyond that date. The question of Student's entitlement to Stay Put at some future date, is not ripe for determination.

Student will turn 22 on November 8, 2021. In California, Students who turn 22 years of age during the months of October, November, or December are entitled to continue to receive special education and related services through December 31 of that fiscal year unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year. (Ed Code § 56026 (c)(4)(C).) Pursuant to state and federal law, Student is currently entitled to Stay Put.

Essentially, the parties are seeking an advisory opinion regarding whether or not Student will be entitled to stay put as of January 1, 2022. OAH does not issue advisory opinions. Generally, students are entitled to stay put until the due process procedures are complete. This matter is currently scheduled for hearing in early December. Accordingly, the threshold hold question regarding whether there will be a pending dispute at that time cannot be established currently. Therefore, the question of Student's

potential right to stay put in the future is not ripe for determination. "The ripeness doctrine prevents courts from deciding theoretical or abstract questions that do not yet have a concrete impact on the parties. (*Patricia H. v. Berkeley Unified School Dist.* (N.D. Cal. 1993) 830 F. Supp. 1288, 1298.)

As of today, both sides agree Student is entitled to Stay Put. He is currently eligible for special education and related services and both sides agree that his last agreed upon and implemented placement is at the Widney Center. OAH determines Student's stay put placement at the time a motion for stay put is made. OAH does not determine if or when that entitlement expires at some future date.

ORDER

1. Student's Motion for Stay Put is Granted.
2. Student's Stay Put placement is in the special education program for the visually impaired at the Widney Career Preparatory and Transition Center.

IT IS SO ORDERED.

Penelope S. Pahl

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Administrative Law Judge

Office of Administrative Hearings