

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 2021100706

ORDER GRANTING MOTION FOR STAY PUT

NOVEMBER 1, 2021

On October 25, 2021, Student filed a request for due process hearing naming Los Angeles Unified School District as respondent. That same day, Student also filed a motion for stay put. On October 29, 2021, Los Angeles filed an opposition to the motion. Student filed a reply to Los Angeles' opposition and proposed order on November 1, 2021. The October 29, 2021 "notice of intent to reply" from Student and "response to Student's motion to reply" from Los Angeles were neither reviewed nor considered.

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

Student seeks an order that services and placement in the June 3, 2021 IEP, which Parent consented to except for the proposed change of location, constitutes stay put. Both sides agree the June 3, 2021 IEP was the last agreed upon and implemented IEP when this dispute arose, with the exception that Student continued to attend Eagle Rock High School pending resolution of the placement dispute. Student also seeks an order designating compensatory occupational therapy services described in the October 29, 2020 IEP be included as stay put. Los Angeles objects to the October 29, 2020 compensatory occupational therapy services being designated as stay put.

Student’s motion for stay put is granted. Stay Put in this case includes all placement, services and accommodations described in the June 3, 2021 IEP except that Student will continue to attend Eagle Rock High School per Parent’s objection to the proposed change to instructional setting, pending resolution of the request for due process. Student has provided no authority that services identified as compensatory education constitute stay put. Furthermore, the June 3, 2021 IEP that both sides identify

as the last agreed upon and implemented IEP does not include any mention of the compensatory occupational therapy services. Therefore, the request that the compensatory occupational therapy services identified in the October 29, 2020 IEP be included as stay put, is denied.

IT IS SO ORDERED.

Penelope S. Pahl

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Administrative Law Judge

Office of Administrative Hearings