

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CLAREMONT UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021120678

ORDER DENYING MOTION FOR STAY PUT WITHOUT
PREJUDICE

DECEMBER 28, 2021

On December 21, 2021, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, or OAH, naming Claremont Unified School District, that contained a motion for stay put. On December 22, 2021, Student filed a separate motion for stay put. OAH has received no response from Claremont. For the reasons stated below, the motion for stay put is denied, without prejudice.

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.)

DISCUSSION

Student’s complaint and motion alleges that Student’s last agreed upon IEP was dated April 8, 2020, and was generated by a prior school district called Alto Independent School District in Texas. That IEP offered a pre-kindergarten placement for the spring of 2020, which would fall within the 2019-20 school year, and a kindergarten placement for the 2020- 2021 school year. The IEP was not implemented by Alto due to Alto closing its doors in March 2020 due to the pandemic. Thereafter, during the pandemic, Student was homeschooled.

The circumstances of Student’s matriculation into Claremont Unified are not specified. It can be inferred that at some point, Student enrolled within Claremont, which placed him at his current placement at Vista Del Valle Elementary. Student’s motion for stay put seeks to remain there pending this due process proceeding.

Claremont convened a triennial IEP team meeting on December 6, 2021, resulting in Claremont offering a special day class placement at Condit Elementary that is scheduled to begin next Monday, January 3, 2022. Student requested mediation and this hearing, however no mediation has yet been scheduled.

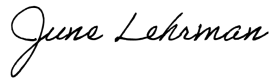
Student therefore requests to remain at Vista Del Valle Elementary while awaiting mediation or hearing. However, while that is alleged to have been Student’s last agreed upon and implemented placement, no information has been provided about what, if

any, IEP Claremont was implementing there. More information is needed concerning Student's prior placement at Alto, the details of his homeschooling during the pandemic, and the timing and circumstances of Student's enrollment into Claremont. When Student enrolled in Claremont, and what if any IEP Claremont was implementing during his placement at Vista Del Valle, are pertinent facts that are not presented in Student's motion.

ORDER

1. Student's motion for stay put is denied without prejudice.

IT IS SO ORDERED.

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

June Lehrman

Administrative Law Judge

Office of Administrative Hearings