

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022020518

ORDER GRANTING MOTION FOR STAY PUT

FEBRUARY 23, 2022

On February 15, 2022, Student filed a motion for stay put. No opposition has been filed by Long Beach Unified School District.

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, or 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).)

Here, according to the sworn declaration of Parent that identified and authenticated Student's IEPs, Student was placed at a nonpublic school residential treatment center by Long Beach pursuant to his IEP dated September 23, 2021, as amended on November 8, 2021. The IEP stated that Student requires a residential treatment center setting 100 percent of the time and he does not participate in general education. Per the terms of that IEP, this placement was to end December 6, 2021, and in November 2021, the residential treatment center gave notice that it would be discharging Student in December 2021. That discharge date was subsequently extended to February 22, 2022. Student's December 6, 2021 IEP, as amended on January 11, 2022 and consented to by Parent, states that Long Beach is seeking to place Student in a new residential treatment center.

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Parent's declaration states that Long Beach has provided referrals to 50 programs since the November 2021 IEP team meeting. Student is violent, has sexualized behaviors, and experiences both suicidal and homicidal ideation. However, most residential treatment centers require a student to be 12 years old, and because Student is 11 years old, no other residential treatment center has agreed to accept him.

Student is entitled to stay put placement in a nonpublic school residential treatment center. Student's request for an order that Long Beach locate, contract with,

and place Student in a nonpublic school residential treatment center upon Student's discharge from his current nonpublic school residential treatment center, in accordance with his last agreed upon and implemented IEP, is granted.

IT IS SO ORDERED.

Alexa Hohensee

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Administrative Law Judge

Office of Administrative Hearings