

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

PALO ALTO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024060681

ORDER DENYING MOTION FOR STAY PUT

JUNE 27, 2024

On June 19, 2024, Student filed a motion for stay put. On June 24, 2024, Palo Alto Unified School District filed an opposition on the ground that it has implemented Student's operative IEP which directs Student be placed at a non-public school and have extended school year eligibility. Palo Alto argues Student disenrolled from the NPS placement in the operative IEP. Upon re-enrollment at Palo Alto, Student was placed in a classroom at Jane Lathrop Stanford Middle School as an interim placement until a new NPS placement could be arranged. Palo Alto argues the interim placement at the comprehensive middle school was not Student's placement for purposes of stay put.

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.)

However, if a student’s placement in a program was intended only to be a temporary placement, such placement does not become a student’s “stay put” placement. (*Verhoeven v. Brunswick School Committee* (1st Cir. 1999) 207 F.3d 1, 7-8; *Leonard by Leonard v. McKenzie* (D.C. Cir. 1989) 869 F.2d 1558, 1563-64.)

DISCUSSION

Here both parties agree the last agreed upon and operative individual education program, called IEP, is June 29, 2023, IEP. This IEP identified Achieve Kids Palo Alto, an NPS, as Student’s placement for the 2023-2024 school year. Parent disenrolled Student from Achieve Kids on April 17, 2024. Student reenrolled at Palo Alto on April 19, 2024.

Parent argues the interim placement of Student on May 6, 2024, in a special day class at Jane Lathrop Stanford Middle School became Student’s placement for stay put purposes. Parent provided the email from Assistant Superintendent for Education Services, Equity, and Student Affairs as evidence of his position. However, the email clearly states the placement is temporary in nature and is intended to allow Palo Alto to continue to implement Student’s IEP provisions while a new NPS placement is obtained.

Palo Alto does not dispute it has an obligation to implement Student's IEP while a new appropriate placement for Student is located. Palo Alto objects to the temporary placement provided to Student overriding Student's operative IEP. The temporary placement provided by Palo Alto does not override Student's operative IEP. Palo Alto must continue to implement all supports and services as agreed upon in Student's June 29, 2023, IEP.

ORDER

Student's stay put motion is denied.

IT IS SO ORDERED.



Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings