

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 2024060890

ORDER GRANTING MOTION FOR STAY PUT

JULY 5, 2024

On June 24, 2024, Parent, on behalf of Student, filed a Request for Due Process Hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Los Angeles Unified School District as respondent. On June 28, 2024, Student filed a motion for stay put. On July 3, 2024, Los Angeles filed a statement that the district did not oppose Student's Motion for 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.) 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).)

Student seeks:

"a Stay Put Order ... ordering the respondent Los Angeles Unified School District to continue the dedicated, specially assigned one-to-one aide consistent with the terms of the Settlement Agreement of July 20, 2023 and the IEP of November 9, 2023."

Los Angeles stated it did not oppose the motion.

While stay put is available for services in the last consented to and implemented IEP, the November 9, 2023 IEP statement regarding the one-to-one aide services is not clear on its face. Aide services are discussed only in the notes section. Student offers no legal authority supporting the assertion that stay put is available to enforce the terms of a settlement agreement.

However, the statute authorizing stay put specifically includes a provision allowing the parties to agree to stay put being something other than the "then current educational placement of the child..." (20 U.S.C. § 1415(j) [... during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement ...])

The extent the November 9, 2024 IEP provides for a one-to-one aide is a question of fact that will need to be determined at hearing. However, pursuant to Los Angeles' statement of non-opposition, Student's request for stay put as to Student's one-to-one aide services is granted during the pendency of these proceedings.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings