

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

SAN DIEGO UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024060965

ORDER REQUIRING ADDITIONAL EVIDENCE FOR STAY PUT
DETERMINATION

JULY 10, 2024

On June 27, 2024, San Diego Unified School District filed a request for due process hearing naming Parents, on behalf of Student, as respondent. On July 2, 2024, Student filed a Motion for Stay Put. On July 8, 2024, San Diego filed an opposition to the Stay Put motion.

APPLICABLE LAW

Until due process hearing procedures are complete, a special education student is entitled to remain in his 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.” 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).) All elements of placement are included in the IEP.

Student’s motion seeks Stay Put, but does not provide evidence of the basis for the Stay Put order sought. Student did not identify or attach the last, signed and implemented IEP to her motion.

For purposes of stay put, the current educational placement is typically the placement called for in the student’s most recently implemented individualized education program. (Johnson v. Special Education Hearing Office (2002) 287 F. 3d 1176, 1180.) However, some exceptions apply to that rule. (Johnson, *supra*, 287 F. 3d at p. 1181; Ms. S. ex rel. G. v. Vashon Island School Dist. (9th Cir. 2003) 337 F.3d 1115, 1133 [rev’d on other grounds].) In this case, no IEP documents are attached to the Stay Put motion. Thus, there is no basis on which to determine what the most recently agreed and implemented IEP placement is, or whether exceptions apply.

Student is ordered to file a document entitled Stay Put Motion Evidence that attaches a copy of the most recent, signed and implemented IEP document, including any signed amendments to that IEP. Student is ordered to limit this filing to only the evidence requested. If the requested evidence is not filed, no action will be taken on the Stay Put motion. Parent is reminded that a copy of any evidence filed with OAH must be served on the attorney for Long Beach at the same time it is filed with OAH.

Following Student’s filing, Long Beach shall have three business days to file any

response to the additional evidence Student files. San Diego is directed to refrain from reiterating arguments it has already made in its opposition to Student's Stay Put motion.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings