

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 2024070371

ORDER GRANTING MOTION FOR STAY PUT

JULY 29, 2024

On July 10, 2024, Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Los Angeles Unified School District. On July 12, 2024, Student filed a motion for stay put. On July 17, 2024, Los Angeles filed non-opposition to 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).)

Courts have recognized, however, that the status quo cannot always be replicated exactly for purposes of stay put. (*Ms. S. ex rel. G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35, superseded by statute on other grounds, 20 U.S.C. § 1414(d)(1)(B).) When a student advances from grade to grade, the stay-put provision entitles the student to receive a placement that, as closely as possible, replicates the placement that existed at the time the dispute arose, considering the changed circumstances. (*R.F. Frankel v. Delano Union School District*, (E.D. Cal 2016) 224 F. Supp. 3d, 979, *citing*, *Van Scoy ex rel. Van Scoy v. San Luis Coastal Unified School Dist.* (*Van Scoy*) (C.D. Cal. 2005) 353 F.Supp.2d 1083, 1086.)

DISCUSSION

Student established that the last consented to IEP is dated May 13, 2024. It offered Student placement at a nonpublic school/residential treatment center, specifically, an “ERICS Residential” facility called “Change Academy-Calo,” with additional related services and supports. On June 12, 2024, Change Academy-Calo discharged Student.

In June 2024, Los Angeles offered Student a general education classroom placement at a public high school. Guardians rejected the IEP offer and filed the instant

action and subsequently the stay put motion. Student requests a comparable stay put placement to the one offered in the May 13, 2024 IEP.

Los Angeles does not oppose the stay put motion but maintains that it has not been able to find a nonpublic school or residential treatment center that can will accept Student. It contends that it is continuing to seek possible nonpublic school or residential treatment centers as placements for Student. However, this does not establish that no stay put dispute exists.

Student is currently not placed, as Student disagreed with Los Angeles' recent IEP offer. Additionally, Los Angeles has not presented evidence to explain why it has not found a comparable placement for Student except that Student has not been accepted to any of the placements it has explored. Student requested Los Angeles place Student a Vive Center, a temporary stabilization support facility, but failed to offer any evidence why this placement is comparable to her IEP placement. Accordingly, a stay put dispute exists between the parties.

Cases in which the courts have found a changed circumstance generally involve situations where maintaining the status quo is illogical such as when a student matriculates to the next grade, unreasonable as with a school closure, or outside of the local education agency's control such as when a non-public school refuses to keep a student. The parties presented evidence that such is the case here. Student's residential treatment facility discharged her which was beyond Los Angeles' control. As such, Change Academy-Calo is no longer available to the Student as a placement. If status quo cannot be maintained for stay put purposes, *Van Scoy* requires that a school district provide a placement that "as closely as possible, replicates the placement that existed at the time the dispute arose." Accordingly, Student's stay put motion is granted.

Los Angeles is required to provide placement as closely as possible that replicates the placement as stated in the May 13, 2024 IEP offer. Nothing in this order prevents Student from asserting that the specific placement offered is not comparable to his last agreed upon and implemented placement, as stated in the May 13, 2024 IEP, for stay put purposes.

ORDER

1. Student's motion for stay put is granted.
2. Los Angeles is directed to expeditiously provide Student a placement at a nonpublic school/residential treatment facility and services that closely as possible replicate the placement as stated in the May 13, 2024 IEP.



Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings