

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024090036

ORDER DENYING MOTION FOR STAY PUT

SEPTEMBER 18, 2024

On August 30, 2024, Student filed a request for due process hearing, complaint, with the Office of Administrative Hearings, OAH, naming San Dieguito Union High School District.

On September 9, 2024, Student filed a motion for stay put seeking continuance of educationally related mental health services counseling provided by his prior school district, Ramona Unified School District. On September 11, 2024, San Dieguito filed an opposition to the motion, on the grounds that Student's individualized education program, IEP, did not include educationally related mental health services counseling.

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 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).)

When a special education student transfers to a new school district in the same academic year, the new district must adopt an interim program that approximates the student’s old special education program, as closely as possible for 30 days until the old IEP is adopted or a new IEP is developed. (20 U.S.C. § 1414(d)(2)(C)(i)(1); 34 C.F.R. § 300.323(e); Ed. Code, § 56325, subd. (a)(1); see *Ms. S. ex rel. G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1134, 20 U.S.C. § 1414(d)(1)(B).)

The parties do not dispute that Student’s December 22, 2022, IEP, as amended and consented to on February 10, 2023, constituted the last agreed upon and implemented IEP of Student, before enrolling in San Dieguito. Student’s stay put IEP offered the following services:

- Specialized academic instruction for 360 minutes, daily, in a nonpublic school.
- Occupational therapy for 900 minutes, yearly.
- Speech and language for 900 minutes, yearly.
- Counseling and guidance for 900 minutes, yearly, group and 900 minutes, yearly, individual.

- College awareness for 60 minutes, yearly.

The service page of the stay put IEP states that the IEP team determined that the appropriate educational setting is a combination of specialized academic instruction and related services in speech and language, occupational therapy, and counseling services within the nonpublic day school setting. The IEP does not reference educationally related mental health services counseling. None of the goals were tied to educationally related mental health services counseling.

Mother submitted a declaration in support of the motion for stay put. Mother alleges that Student received educationally related mental health counseling services through contracts between Ramona and Vista Hill Learning Assistance Center North Inland. Mother's declaration and an attached letter from Vista Hill indicate that Student received individual counseling services under contract with Ramona from March 17, 2022, through June 14, 2022, and from October 27, 2022, through December 4, 2023. Mother alleges that as of October 20, 2022, Ramona's prior special education director agreed to include the individual counseling services in Student's IEP. Ramona did not amend the IEP to include educationally related mental health services counseling.

Student moved out of Ramona's jurisdictional boundaries in October or November 2023. Student transferred into San Dieguito on November 1, 2023. On November 1, 2023, San Dieguito offered Student an interim IEP, offering the same type, frequency, and duration of services, at a nonpublic school, as had been offered in Student's stay put IEP.

On February 21, 2024, San Dieguito held a transition, reevaluation, and plan review IEP team meeting. During the meeting, as reflected by meeting notes, Mother stated that Student received educationally related mental health services therapy from

an outside therapist, outside the school day. She requested that San Dieguito provide the same type of service.

None of the documentation supporting either Student's motion or San Dieguito's opposition supports the position that Ramona provided Student with educationally related mental health services counseling or therapy as part of his regular school program. Neither does the documentation support the proposition that Ramona agreed to add the service into the IEP as a related service.

Accordingly, Student's motion for stay put as to adding educationally related mental health services either as part of his IEP or as a service provided outside of the regular school day, is denied.

IT IS SO ORDERED.

*Cole Dalton*

Cole Dalton

Administrative Law Judge

Office of Administrative Hearings