

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 2024090258

ORDER REQUIRING ADDITIONAL EVIDENCE TO
DETERMINE STAY PUT

SEPTEMBER 19, 2024

On September 5, 2024, Student filed a request for due process hearing, naming Los Angeles Unified School District as respondent. That same day, Student filed a motion for stay put. OAH received no opposition to the 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.

This case 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 his 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 documents are attached to the Stay Put motion establishing what was included in the last, consented to IEP. Nor has Student provided any alternative evidence of his last agreed upon and implemented IEP placement and services. Statements made in a request for due process hearing are not evidence.

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. No further argument accompanying the evidence is necessary. This document must be filed by September 26, 2024.

Any response from Los Angeles regarding the evidence shall be filed no later than three business days after receipt of Student’s evidence, and shall not exceed five pages, including the caption page. The page limit does not include any attached

documents that Los Angeles argues is part of the most recent, signed and implemented IEP or amends that IEP. Los Angeles shall not duplicate the evidence filed by Student. All arguments shall be limited to the issue of Stay Put only.

If Student fails to file additional evidence by September 26, 2024, the stay put motion will be denied.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings