

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 2024070941

ORDER GRANTING MOTION FOR STAY PUT

SEPTEMBER 20, 2024

On September 12, 2024, Student filed a motion for stay put. Los Angeles Unified School District did not respond to Student's motion.

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 education 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 G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35, superseded by statute on other grounds; 20 U.S.C. § 1414(d)(1)(B).)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, taking into account 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.* (C.D.Cal. 2005) 353 F.Supp.2d 1083, 1086.)

During the 2023-2024 school year, Student’s placement was a special day class at Ramona Elementary School. Student’s last agreed upon and consented to IEP was the March 13, 2023, IEP that offered 1,350 minutes weekly in a special day class with 1,350 minutes weekly of behavior intervention implementation, 320 minutes monthly of language and speech, 30 minutes weekly of occupational therapy, and 60 minutes monthly of recreational therapy. The notes section of the IEP indicate Student participated in the literacy intervention at Ramona Elementary, but that is not a service listed in the IEP.

Los Angeles Unified held Student’s annual IEP team meeting on March 18, 2024. Student was transitioning to middle school for the 2024-2025 school year and Los Angeles Unified proposed a general education setting with no behavior intervention implementation. Los Angeles Unified offered 850 minutes monthly of resource support

services, 900 minutes yearly of language and speech, 60 minutes monthly of occupational therapy, and 50 minutes monthly of recreational therapy. The notes section of the IEP indicate Student participated in the literacy intervention at Ramona Elementary and would continue to participate in literacy intervention at the middle school, but it would be in lieu of resource support services. Parent did not consent to the change of placement or reduction of services.

Student supported his motion with a declaration from Parent, Student's class schedule from middle school, and both the March 2023 and March 2024 IEPs. Student alleged he is not placed in any special education classes, which his class schedule confirms. Student also alleged he is not receiving any of his related services.

Here, circumstances have changed because Student matriculated from elementary school to middle school on a different campus. However, Los Angeles Unified did not respond to Student's motion with any argument as to how Student's March 13, 2023, IEP could not be implemented at the middle school.

Therefore, Student's motion for stay put is granted. Los Angeles Unified shall implement the March 13, 2023, IEP as closely as possible, to replicate the placement that existed at the time the dispute arose, taking into account the changed circumstances.

ORDER

1. Student's stay put request is granted.
2. Stay put shall be the services and placement stated in the March 13, 2023, IEP, as closely as possible, specifically:
 - a. 1,350 minutes weekly in a special day class,
 - b. 1,350 minutes weekly of behavior intervention implementation,
 - c. 320 minutes monthly of language and speech,

- d. 30 minutes weekly of occupational therapy, and
- e. 60 minutes monthly of recreational therapy.

Linda Dowd

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Administrative Law Judge

Office of Administrative Hearings