BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

VACAVILLE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024050916

ORDER DENYING MOTION FOR STAY PUT

JUNE 14, 2024

On May 23, 2024, Student filed a request for due process hearing, complaint, with the Office of Administrative Hearings, OAH, naming Vacaville Unified School District.

On June 5, 2024, Student filed a motion for stay put. On June 7, 2024, Vacaville filed an opposition on the ground that Student could not demonstrate stay put as Student did not attach a copy of the last agreed upon and implemented IEP to Student's motion. Vacaville also argues that stay put should be progression to an adult transition program after Student's receipt of a certificate of completion.

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 G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35, superseded by statute on other grounds, 20 U.S.C. § 1414(d)(1)(B).)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, 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.)

Here, Student's last agreed upon and implemented placement cannot be determined as Student has not produced an IEP demonstrating such placement.

Accordingly, Student's motion for stay put is denied without prejudice. Nothing prevents Student from filing another motion for stay put in this case.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton

Administrative Law Judge

Office of Administrative Hearings