BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023100821

ORDER DENYING MOTION FOR STAY PUT

NOVEMBER 9, 2023

On October 23, 2023, Student filed a request for due process hearing with the Office of Administrative Hearings, referred to as OAH, naming Sacramento City Unified School District.

On October 24, 2023, Student filed a motion for stay put. On October 27, 2023, Sacramento City filed a reply brief to clarify that it did not change Student's placement from the last agreed upon and implemented individualized education program of February 2, 2023, as amended October 19, 2023.

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).)

Here, Student alleges that Sacramento City changed Student's placement by suspending him. Student contends the June 1, 2023 IEP constitutes his stay put placement. Student did not attach a complete copy of the June 1, 2023 IEP, making it impossible to determine what services and supports Sacramento City offered, let alone whether that IEP constitutes Student's stay put placement.

Sacramento City alleges Student's suspension lasted two days, which did not constitute a change of placement. Moreover, Sacramento City provided a sworn declaration from the director of the special education local plan area at Sacramento City, Giovanni Linares, attesting that the February 2, 2023 annual IEP, as amended on October 19, 2023, constitutes Student's last agreed upon and implemented IEP before Student was suspended for two days on October 20, 2023. Linares also attests that Parent consented to a June 1, 2023 IEP amendment, on June 19, 2023, but denies that amendment IEP made any changes to Student's annual IEP.

The administrator of teaching and learning for George Washington Carver School of Arts and Science, within Sacramento City, Jill Weber, attested that Sacramento City added an accommodation at the October 19, 2023 amendment meeting, but did not

change Student's placement. Weber added that Parent consented to the IEP amendment on October 20, 2023.

Linares' and Weber's declarations support Sacrament City's allegations regarding Student's annual IEP and amendments. Sacramento City pledges that Student's program and services will continue in Student's current educational placement, general education with resource specialist program consultation, and the additional supports and services offered in Student's February 2, 2023 annual IEP, as amended on October 19, 2023.

Here, Student has not demonstrated that a dispute exists. If a dispute exists, Student may file a request for stay put with more specificity as to the nature of the dispute and the terms of stay put.

Student's motion for stay put is denied.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton
Administrative Law Judge
Office of Administrative Hearings