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 2024050949

ORDER DENYING MOTION FOR STAY PUT

JUNE 28, 2024

On June 19, 2024, Student filed a motion for stay put. On June 24, 2024, Los Angeles Unified School District, called Los Angeles, filed a partial opposition, contenting Student's stay put placement for the 2024 extended school year was not in dispute, and the stay put placement requested by Student under a prior settlement agreement was expressly agreed not to be stay put by that agreement beyond the 2024 extended school year.

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, or IEP, placement prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

If a student's placement in a program was intended only to be a temporary placement, such placement does not become a student's stay put placement. (*Verhoeven v. Brunswick School Committee* (1st Cir. 1999) 207 F.3d 1, 7-8; *Leonard by Leonard v. McKenzie* (D.C.Cir. 1989) 869 F.2d 1558, 1563-64.)

Student contends he has attended his current private school for many years and did so for the 2023-2024 school year as part of a July 18, 2023 settlement agreement with Los Angeles. That agreement also places Student at the private school through the 2024 extended school year. Student contends the private school provides him with an appropriate program, but the placement and services offered by Los Angeles in the May 21, 2024 IEP for the 2024-2025 school year did not offer Student a free appropriate public education, or FAPE. Student filed a due process hearing request asserting Los Angeles denied him a FAPE for the 2024-2025 school year and 2025 extended school year and seeks an order that the private school placement is stay put pending a decision on that claim. Student's motion is supported by the sworn declaration of Student's attorney and a copy of the July 18, 2023 settlement agreement.

Los Angeles's partial opposition, supported by the sworn declaration of its Director of Due Process, Special Education Department, states that Los Angeles will continue funding Student's placement at the private school through the 2024 extended school year as required by the settlement agreement. However, Los Angeles notes Student expressly agreed in the July 18, 2023, settlement agreement that the private school was not stay put in the event of a dispute and stay put would be placement in a non-public school instead.

The July 18, 2023 settlement agreement between Student and Los Angeles required Los Angeles to fund Student's placement at a private school for the 2023-2024 school year and the 2024 extended school year. At Paragraph 8, the settlement agreement expressly states:

> The Parties agree that the placement and the services and reimbursement(s) set forth herein above are part of a settlement of disputed claims and issues and shall not be considered "stay put" under state and federal special education laws. Should a dispute arise at Student's next annual IEP team meeting, stay put shall be a nonpublic school that is certified by the California Department of Education.

No dispute exists for extended school year 2024. As for the 2024-2025 school year and 2025 extended school year, Student is not entitled to remain in his current educational placement in a private school as stay put, regardless of Student's familiarity with the program or its alleged appropriateness, because the parties agreed otherwise. In addition, Student's placement at the private school was expressly limited to the 2023 -2024 regular school year and 2024 extended school year by the settlement agreement and was temporary. The motion for stay put is denied.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings