BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

PIEDMONT UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025030840

ORDER DENYING MOTION FOR STAY PUT

MARCH 26, 2025

On March 20, 2025, Student filed a motion for stay put. On March 25, 2025, Piedmont Unified School filed an opposition, opposing stay put of the last-agreed upon and implemented individualized educational program, called IEP, placement because Student is currently placed in an interim alternative educational setting, called IAES, for disciplinary reasons.

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 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).)

When a child violates the student conduct code and school personnel seek a placement change exceeding ten school days, the local educational agency, the parent, and the relevant IEP team members shall determine if the conduct was a manifestation of the child's disability. A child's parent may appeal the manifestation determination and request an expedited due process hearing. In such cases, the State or local education agency shall arrange for an expedited hearing. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c).)

The expedited hearing shall occur within 20 school days of the hearing request. (Id.) (20 U.S.C. § 1415(k); 34 C.F.R. § 300.532).) While the appeal is pending, the child shall remain in the interim alternative educational setting pending the hearing officer's decision or until the alternate placement expires after 45 school days, whichever is first, unless the parent and the local education agency agree otherwise. (Ed. Code, § 56505, subd. (d); see 20 U.S.C. §1415(k)(4)(A) & 34 C.F.R. §§ 300.532, 300.533.)

School personnel may remove a student to an alternate placement for not more than 45 school days even if the behavior is a manifestation of the student's disability if the student:

- carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency;

- knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency; or
- has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency.

(20 U.S.C. § 1415(k)(1)(G); See also 34 C.F.R. §§ 300.530(j).)

Student is eligible for special education services with an IEP dated October 30, 2024, consented to by Parent on November 5, 2024. The October 30, 2024 IEP placed Student on a comprehensive high school campus with specialized academic instruction and post-secondary transition services.

Student was suspended from school on January 29, 2025, for allegedly possessing and selling a controlled substance while at school. Piedmont Unified held a manifestation determination review meeting on February 14, 2025, where Piedmont Unified determined Student's conduct was not a manifestation of his disability. Piedmont Unified placed Student in an alternate placement, consisting of independent study with specialized academic instruction delivered virtually. Student's expulsion hearing is scheduled for March 28, 2025.

On March 20, 2025, Student filed a due process hearing request appealing, along with raising non-expedited claims, the determination made at the February 14, 2025 manifestation determination review meeting. OAH set the matter for expedited and non-expedited hearings. The expedited hearing is scheduled to begin on April 22, 2025. The non-expedited hearing is scheduled for May 6, 7, and 8, 2025.

Student's stay put motion seeks his return to the last-agreed upon placement pending the resolution of Student's expedited and non-expedited claims. Student is currently placed in an alternate placement, where Piedmont Unified is permitted to place Student based on his alleged conduct, regardless of whether Student's conduct in question was a manifestation of his disability. Student's alternate placement remains in effect for 45 school days from February 14, 2025, or until a decision on Student's expedited claims is rendered by OAH, whichever occurs first. Accordingly, Student's stay put motion is denied in part while Student is in a 45-school day alternate placement or pending the resolution of the expedited claims, whichever occurs first.

As to Student's stay put program at Piedmont Unified following the resolution of Student's expedited claims, Student may renew the stay put request, if necessary, at that time.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings