BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. GARDEN GROVE UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016040019 ORDER DENYING MOTION FOR STAY PUT

On August 19, 2016, Parent on behalf of Student filed with the Office of Administrative Hearings a motion for stay put against Garden Grove Unified School District, asserting that Student's last agreed upon placement was at Garden Grove High School. On August 22, 2016, District filed an opposition based on several grounds, including that Student had naturally matriculated to its adult transition program.

APPLICABLE LAW AND DISCUSSION

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 placement called for in the student's individualized education program, which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

Here, Student is an eighteen-year-old young woman who has assigned her educational right to her mother. Student filed the instant matter on March 29, 2016. The sole issue included in this matter is whether District is required to fund an independent educational evaluation in the area of vision processing.

Student previously received special education and related services from District. However, on April 2, 2016, Student revoked her consent to special education and was placed in general education.

Student completed the 2015-2016 school year as a credit deficient senior. As a result, District offered Student placement at its adult transition program, a general education program provided to pupils who, like Student, have completed the regular four years of high school but who have not earned enough credits for a diploma or a certificate of completion.

District maintains an adult transition program for general education students and a separate special day class adult transition program. District offered Student its general education adult transition program, the same program it offers similarly situated general education students who have matriculated out of high school.

Student's motion for stay put requests for Student to remain at Garden Grove High School, ostensibly as a fifth-year senior. Student fails to explain how a Decision regarding District's obligation to fund an independent vision processing assessment would impact her educational placement, thereby requiring grade retention until such an order is issued.

More importantly, District is not required to retain Student during the pendency of the due process hearing to meet its stay put obligations. Courts have recognized that, because of changing circumstances, 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).) Progression to the next grade maintains the status quo for purposes of stay put. (*Van Scoy ex rel. Van Scoy v. San Luis Coastal Unified School Dist.* (C.D. Cal. 2005) 353 F.Supp.2d 1083, 1086 ["stay put" placement was advancement to next grade]; see also *Beth B. v. Van Clay* (N.D. Ill. 2000) 126 F.Supp.2d 532, 534; Fed.Reg., Vol. 64, No. 48, p. 12616, Comment on § 300.514 [discussing grade advancement for a child with a disability.].) Here, the natural progression for Student is to matriculate to the general education, adult transition program. Consequently, Student's request for stay put is denied.

ORDER

Student's motion for stay put is denied.

DATE: August 23, 2016

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Paul H. Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings