BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

VALLEY CENTER-PAUMA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022050673

ORDER DENYING MOTION FOR STAY PUT AT THE COOK EDUCATIONAL CENTER

On May 18, 2022, Student filed a request for due process hearing with the Office of Administrative Hearings, called OAH, naming Valley Center-Pauma Unified School District as respondent. That same day, Student filed a motion for Stay Put. On May 23, 2022, Valley Center-Pauma filed an opposition to the Stay Put motion.

APPLICABLE LAW

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." 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).) The Ninth Circuit Court of Appeal has interpreted "current educational placement" to mean the placement set in the child's last implemented IEP, noting that, "while the Stay Put statute uses the term educational placement instead of IEP, the purpose of an IEP is to embody the services and educational placement or placements that are planned for the child." (*E.E. by and through Hutchinson-Escobedo v. Norris School District,* (9th Cir. 2021) 4 F. 4th. 866, 871, citations omitted.)

Student and Valley Center-Pauma both agree that the last agreed upon and implemented IEP is the February 25, 2021 IEP. Student is currently in this placement. However, Student seeks an order mandating that Stay Put is the Cook Educational Center, which is Student's desired high school placement. Student has never attended this school. OAH lacks legal authority to Order Stay Put in a school Student may attend in the future. (*E.E. v. Norris School District, supra,* 4 F. 4th at p. 872.) Student's motion for Stay Put in the Cook Educational Center is denied.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings