BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

INGLEWOOD UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020011086

ORDER DENYING MOTION FOR STAY PUT

FEBRUARY 06, 2020

On January 30, 2020, Student filed a motion for stay put, seeking an order that the Elliott Institute, where she currently attends, should be Student's stay put placement. On February 4, 2020, Inglewood Unified School District filed a response to the motion, stating its general non-opposition to Student's request for placement at the Elliott Institute, and opposing the motion as moot.

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." For purposes of stay put, the current educational

placement is typically the last agreed upon and implemented individualized educational program, referred to as 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 special education student transfers to a new school district in the same academic year, the new district must adopt an interim program that approximates the student's old special education program, as closely as possible for 30 days until the old IEP is adopted or a new IEP is developed. (20 U.S.C. § 1414(d)(2)(C)(i)(1); 34 C.F.R. § 300.323(e); Ed. Code, § 56325, subd. (a)(1); see *Ms. S. ex rel. G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1134, 20 U.S.C. § 1414(d)(1)(B).)

DISCUSSION

Student asserts that her stay put should be the Elliott Institute, pursuant to a settlement agreement between Parent and Ingenium Wings Independent Study, Compton, her previous school district. She provided a copy of her last agreed upon and implemented IEP offered and implemented by Ingenium. The IEP dated June 14, 2019, as amended on July 31, 2019 subsequent to a settlement agreement, provided for placement at a nonpublic day school, specifically Marianne Frostig Center of Educational Therapy, or a comparable school including Spectrum-Long Beach Elementary, ECF-Kay Eras Center, Center for Learning Unlimited, or a mutually agreed upon nonpublic school.

A settlement agreement between Parent and Ingenium on November 22, 2019, provided that Parent could use a fixed fund of money provided by Ingenium to pay for

Student's tuition and educational services at the Elliott Institute or a comparable nonpublic school through the end of the 2019-2020 school year. Student has attended Elliott Institute since that time pursuant to the November 2019 amended settlement agreement.

Student transferred to Inglewood Unified in January 2020. Inglewood held an IEP meeting on January 16, 2020, and offered placement at The Help Group nonpublic school, pursuant to the June 14, 2019 IEP as amended in July 2019. Parent did not sign the IEP. She disagreed by email with the choice of schools and requested that Student's placement be at Elliott Institute. Inglewood Unified contends in its response to this motion that Parent never informed the January 16, 2020 IEP team that Student was attending Elliott Institute, nor did she provide Inglewood Unified with a copy of the November 2019 settlement agreement that provided for funding at Elliott Institute by Ingenium.

Here, Student's last agreed upon and implemented IEP provides for placement at a non-public school, specifically Marianne Frostig Center of Educational Therapy, or a comparable school including Spectrum-Long Beach Elementary, ECF-Kay Eras Center, Center for Learning Unlimited, or a mutually agreed upon nonpublic school. Student offered no evidence that the IEP was amended after the July 31, 2019 amendment, which changed Student's placement to the Elliott Institute. She also offered no evidence that the November 2019 settlement agreement provided that placement at Elliott Institute would be Student's stay put. In fact, the agreement specifically states that the fund would be available only until June 30, 2020.

Inglewood Unified has no objection to Student's placement at Elliott Institute. However, it opposes the stay put motion as moot because it is in the process of arranging for a contract with Elliott once the funding from Ingenium ends.

During the pendency of this action, or until Parent signs a new IEP which is implemented, Student's stay put is pursuant to the June 14, 2019 IEP as amended on July 31, 2019, which is the last agreed upon and implemented IEP. Therefore, the motion for stay put at the Elliott Institute is denied.

IT IS SO ORDERED.

DocuSigned by:
Adrienne L. Krikorian
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Adrienne L. Krikorian

Administrative Law Judge

Office of Administrative Hearings