BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LAGUNA BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025040200

ORDER DENYING STUDENT'S EMERGENCY MOTION FOR INTERIM RELIEF

JUNE 19, 2025

On April 3, 2025, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Laguna Beach Unified School District. The Office or Administrative Hearings is referred to as OAH.

On April 29, 2025, Student filed a Motion for Stay Put, described as a "Formal Objection to Placement." On May 5, 2025, Laguna Beach opposed Student's requested change in placement. On May 7, 2025, OAH issued an Order denying Student's requested change in placement and indicating that Student's current placement at Port View is Student's "stay put" placement.

On June 5, 2025, Student filed an Emergency Motion for Interim Relief seeking once again to change Student's current placement at Port View nonpublic school to a home hospital program. On June 10, 2025, Laguna Beach filed an opposition to any change from the last agreed upon and implemented placement, called "stay put."

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education," and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

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, called 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).)

Student has requested that OAH intervene in the pending case to change Student's last agreed upon and implemented placement at Port View. Based on the foregoing applicable law, OAH lacks jurisdiction to change Student's placement while their case is pending before OAH. OAH has the limited authority to decide placement issues brought to hearing and to enforce "stay put" and keep a student in a "stay put" placement while a case is pending. However, OAH has no authority to change such a placement prior to issuing a written decision following the conclusion of a due process hearing. As such, Student's request is denied.

ORDER

Student's request entitled "Emergency Motion for Interim Relief" is denied. The matter shall proceed as scheduled.

IT IS SO ORDERED.

Ted Mann

Ted Mann
Administrative Law Judge
Office of Administrative Hearings