BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ROCKLIN UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022080372

ORDER GRANTING MOTION FOR STAY PUT

AUGUST 18, 2022

On August 15, 2022, Student filed a motion for stay put. On August 17, 2022, District filed an opposition.

Student's motion does not attach a copy of what Student contends is the last agreed upon and implemented individualized education program, called IEP. However, Student separately filed with OAH, concurrent with the stay put motion, a document entitled "Supplemental Review/Amendment" dated April 25, 2022, which includes a copy of the January 28, 2022 IEP. Parents signed consent to the IEP and amendment. Rocklin's opposition also does not attach a copy of the last agreed upon IEP but asserts the last agreed upon IEP is the January 28, 2022 IEP as amended on April 25, 2022. Accordingly, for purposes of this Motion and Order, the January 28, 2022 IEP as amended on April 25, 2022 is the last agreed upon and implemented IEP.

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).)

Courts have recognized, however, that 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 G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35, superseded by statute on other grounds, 20 U.S.C. § 1414(d)(1)(B).) For example, when a student advances from grade to grade, the stay-put provision entitles the student to receive a placement that, as closely as possible, replicates the placement that existed at the time the dispute arose, taking into account the changed circumstances. (*R.F. Frankel v. Delano Union School District,* (E.D. Cal 2016) 224 F. Supp. 3d, 979, *citing, Van Scoy ex rel. Van Scoy v. San Luis Coastal Unified School Dist.* (C.D. Cal. 2005) 353 F.Supp.2d 1083, 1086.)

Here, Student is in a post-secondary adult transition program. Student's January 28, 2022 IEP, as amended on April 25, 2022, identified Student's placement as a public day school in a regular class, with 60 percent of the time outside of general education and 40 percent of the time in general education. The IEP identified Rocklin High as the school of attendance and where all instruction and services were to be delivered. The April 25, 2022 IEP amendment did not address placement but instead only addressed

the number of minutes of specialized academic instruction Student would receive, which is not at issue here.

Student contends that Rocklin changed Student's placement in the 2022-2023 school year by assigning Student to a different location from Rocklin High and a different teacher from the 2021-2022 placement. Student seeks stay put asserting that the change of location and teacher was a "change of placement".

Student's January 28, 2022 IEP as amended did not specifically require that a particular teacher must instruct Student. A change of a specific teacher or personnel does not constitute a change of placement for purposes of stay put.

However, the January 28, 2022 IEP specifically identifies Rocklin High as the school of attendance on page 20 of the IEP, and on the services pages for location of services. Although Rocklin argues that changing the location of placement and services is not a change of placement, Rocklin has cited to no California law or explained any authenticated facts that support the necessity to change Student's school site as identified on the IEP for Student's 2022-2023 school year which would support Rocklin's position on stay put.

A hearing officer must decide at hearing after evidence has been heard whether or not the new location with a different teacher was a "change of placement" without parental consent, resulting in a denial of a free appropriate public education. However, Student's stay put is the placement and services at Rocklin High as identified in the last agreed upon and implemented IEP dated January 28, 2022, as amended on April 25, 2022.

The stay put motion is granted.

IT IS SO ORDERED.

Adrienne L. Krikorian

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Administrative Law Judge

Office of Administrative Hearings