BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

MONROVIA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019051063

ORDER DENYING MOTION FOR STAY PUT

On August 27, 2019, Student filed a motion for stay put requesting an order from the Office of Administrative Hearings compelling Monrovia Unified School District to remove Student from a study skills class. The Office of Administrative Hearings will be referred to as OAH. Monrovia Unified School District will be referred to as Monrovia.

Student contends that Monrovia unilaterally and improperly placed Student in a study skills class with disabled children. Student also contends that his last agreed upon individualized education program placed Student in all general education classes and did not offer a study skills class with disabled children. Individualized education program will be referred to as IEP.

On September 3, 2019, Monrovia filed an opposition on the ground that Student's stay put motion was moot. Monrovia's opposition was supported by a declaration under the penalty of perjury from principal Kirk McGinnis that it was not aware that Parents objected to Student's enrollment in the study skills class. Mr.

McGinnis also represented that upon receiving Student's stay put motion, Monrovia removed Student from the study skills class.

On September 4, 2019, Student replied to Monrovia's opposition and requested that OAH bar Monrovia from enrolling Student in a study skills class to prevent Monrovia from changing its position and re-enrolling Student in the study skills class in the future. Neither party disputes that the October 2017 was the last consented IEP.

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, 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).)

DISCUSSION

Monrovia provided a sworn declaration from Mr. McGinnis representing that it removed Student from the study skills class as requested in the stay put motion. Student already received the only relief requested in its motion—that Student be removed from the study skills class. Therefore, a dispute no longer exists between the

parties as to Student's enrollment in the studies skills class. Should Monrovia re-enroll Student in the study skills class without parental consent, then Student may refile its motion for OAH's determination. The motion for stay put is denied.

Student's stay put motion is denied without prejudice.

IT IS SO ORDERED.

DocuSigned by:
Sabrina Kong
6159FBB6742E44F...

DATED: September 5, 2019

Sabrina Kong
Administrative Law Judge
Office of Administrative Hearings