BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024120859

ORDER GRANTING MOTION FOR STAY PUT

DECEMBER 31, 2024

On December 23, 2024, Student filed a motion for stay put seeking an order for continued implementation of Communication Access Realtime Transcription, called CART services. CART is a word-for-word transcription service in which a trained stenographer provides real-time captioning that appears on a computer monitor.

On December 26, 2024, San Dieguito Union High School District filed an opposition to the motion, on the ground that CART was an instructional methodology within the discretion of the school district, and therefore that stay put did not apply to it. Student filed a reply on December 26, 2024, providing additional facts and argument, and copies of the individualized education program, or IEP, team meeting documents on which Student relies.

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).)

Student is eligible for special education under the categories of hard-of-hearing and specific learning disability. Student was enrolled in the JCS Mountain Oaks Charter School, located in the El Dorado County Charter Special Education Local Plan Area, or SELPA, during the 2023-2024 school year. JCS held IEP team meetings for Student on January 26, 2024, and February 9, 2024. The IEP provided "CART transcription services for the school day M-Th, 8:00 am to 2:00 pm except for 30 minutes at lunch." The IEP allocated 1,440 weekly minutes for CART from January 26, 2024, through January 24, 2025. According to the IEP, Student "used CART in order to access everything that is said in the educational environment." The IEP was agreed to and implemented.

In August 2024, Student transferred into San Dieguito for the 2024-2025 school year. San Dieguito is located within the North Coastal Consortium SELPA. San Dieguito convened an IEP team meeting on or around September 4, 2024, at which it did not offer CART live transcriptionist services for Student. Instead, San Dieguito offered to provide transcription using a computerized artificial intelligence program instead of

CART. Parents disagreed with the cessation of CART, stating "[Student] needs to have CART with a live transcriptionist as she has had for the past few years" and "the [artificial intelligence] technology being used is not effective for [Student] and confuses her."

Student filed a request for due process hearing on December 23, 2024, and this motion resulted. The motion for stay put is granted.

When a student transfers school districts within a state during a school year, the new district must provide a "comparable" program. (34 C.F.R. §§ 300.323(a), (e), and (f) (2006).) Case law clarifies that the same provisions apply when, as Student did here, a student transfers to a new district within a state between school years. (*R.F. by Frankel v. Delano Union School District*, 224 F. Supp. 3d 979, 987-989 (E.D.Cal. 2016).)

The IDEA provides for the maintenance of the current educational placement "during the pendency of any proceedings conducted pursuant to this section." (20 U.S.C. § 1415.) Federal regulations implementing this statute make it explicit that the right to the maintenance of the current educational placement exists "during the pendency of any administrative or judicial proceeding regarding a due process complaint notice." (34 C.F.R § 300.518.) California law is in accord, providing that the pupil's right to remain in his or her present placement exists "during the pendency of the hearing proceedings." (Ed. Code, § 56505, subd. (d).)

CART is a related service that is specifically called for by the last agreed upon and implemented IEP and it is therefore part of Student's stay put placement and services. San Dieguito's contention that it provided "comparable" services, and that CART was merely a discretionary methodology, is not persuasive in light of the explicit wording of the last agreed upon IEP.

ORDER

1. Student's Motion for Stay Put is granted.

2. Student's stay put services include 1,440 weekly minutes CART transcription services for the school day Monday through Thursday, 8:00 am to 2:00 pm except for 30 minutes at lunch.

June Lehrman

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Administrative Law Judge

Office of Administrative Hearings