BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020090308

ORDER DENYING MOTION FOR STAY PUT

NOVEMBER 18, 2020

On November 10, 2020, Student filed a motion for stay put. On November 16, 2020, Los Angeles Unified School District, called Los Angeles, filed opposition to Student's motion for Stay Put.

DISCUSSION

Student requests the Office of Administrative Hearings order Los Angeles to reinstate Student's last agreed to and implemented individual education program, called IEP, dated January 26, 2018. Los Angeles asserts that Student was exited from special education on February 25, 2019, with parental consent. Thus, despite Parent revoking consent to the February IEP in June 2019, Student is not entitled to stay put because he is no longer a special education Student.

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.)

The parties do not dispute the following facts:

- On February 19, 2019, the IEP team determined that Student was no longer eligible for special education and related services.
- On February 25, 2019, Parent consented to the February 19, 2019 IEP in its entirety which exited Student from special education.
- On June 3, 2019, Parent sent Los Angeles written notice revoking her consent to the February 2019 IEP which was received by Los Angeles on June 4, 2019.

In this motion, Student relies upon the proposition that Parent's revocation of consent to the February 25, 2019 IEP nullifies his exit from special education. Consequently, Student contends, he is eligible for stay put protection during the pendency of this proceeding based upon his last consented to and implemented IEP prior to the February 2019 IEP. Student, however, fails to provide any authority supporting his position.

Under the Individuals with Disabilities Education Act, called IDEA, consent to an IEP is voluntary. A parent may revoke consent to an IEP and to special education programs and services at any time. (34 C.F.R. § 300.300(b)(4) (2008).) The withdrawal of

consent by a parent relieves a school district of its duty to provide a free appropriate public education to the student pursuant to the IDEA. (34 C.F.R. § 300.300(b)(4)(iii)-(iv) (2008).) However, a revocation of consent does not negate an action that has occurred after the consent was given and before it was revoked. (34 C.F.R. § 300.9(c)(2) (2008).)

Thus, Parent's subsequent action of revoking consent to the February 2019 IEP three months after consent does not change the fact that it was consented to and implemented for approximately three months. Under the February 2019 IEP, Student was exited from special education and related services, and has not received any special education or related services for approximately 20 months. Consequently, at the time this dispute arose, Student was a general education student. In Student's motion, he cites as justification for stay put, the statutes and regulations related to students eligible and receiving special education and related services, and fails to provide any authority supporting his contention that this protection extends to students previously eligible for special education but exited through parental consent that was later revoked.

Accordingly, Student's motion for stay put is denied.

IT IS SO ORDERED.
Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings