

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012040848

ORDER GRANTING MOTION FOR  
STAY PUT

On April 20, 2012, Parent on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a due process request (complaint) and motion for stay put. The Oakland Unified School District (District) has not filed an opposition.

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)<sup>1</sup>; Ed. Code, § 56505 subd. (d).) This is referred to as “stay put.” For purposes of stay put, the current educational placement is typically the placement called for in the student's individualized education program (IEP), which has been implemented 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.)

DISCUSSION

Student’s last agreed upon IEP placed her in a residential treatment center (RTC), True Life Center/Journey High School (TLC) in Sebastopol, California. In her motion, Student states that “TLC has indicated that Student is aging out of their program and their residents may no longer be in Student’s peer group.” Student requests that OAH issue a stay

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<sup>1</sup> All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

put order requiring the District to continue Student's placement at TLC; or in the event that TLC will no longer permit Student to continue at TLC, the District be required to place Student at an RTC in Idaho, Innercept, which Student's mother has identified as being appropriate to meet her unique needs. In support of Student's continued need to be placed at an RTC, Student attaches to the motion a joint declaration of Paula Solomon, Ph.D., clinical director at TLC; Scot Mistutura, a TLC social worker; and Pamela Culver, Psy.D., a TLC therapist.

ORDER

1. Student's motion for stay put is granted as to continued placement at True Life Center/Journey High School.

2. In the event that Student is asked to leave True Life Center/Journey High School, the District will hold an IEP meeting to place Student in a residential treatment center which provides similar services as provided by True Life Center/Journey High School.

Dated: May 7, 2012

/s/

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ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings