

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT AND WALNUT VALLEY
UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015030166

ORDER FOR SUPPLEMENTAL
BRIEFING ON MOTION FOR STAY
PUT

On July 17, 2015, Student filed a Motion for Stay Put, asserting that during the pendency of this proceeding that Student should be allowed to remain in her “current educational placement.” Student argues that her current placement constitutes placement at a non-public school for the 2015 extended school year and that either Walnut Valley or Sacramento City should be responsible for funding that placement.

On July 21, 2015, Sacramento City filed an opposition to the motion and on July 30, 2015, Walnut Valley filed its opposition to the motion.

Student provided a declaration from Student’s mother stating that during the 2014 extended school year Student was placed pursuant to her IEP at the non-public school, Sierra School. However, Student’s Motion for Stay Put did not include a copy of a signed and implemented individualized education program which placed Student at Sierra for the 2014 extended school year. Instead, Student provided an unsigned copy of Student’s November 4, 2013 IEP that offered Student 4800 minutes of specialized academic instruction in a separate classroom in a public integrated facility and speech and language services in a separate classroom at a public integrated facility for the 2014 extended school year.

Included with its opposition, Sacramento City provided a declaration from Becky Bryant, Director of Special Education and Special Education Local Plan Area for Sacramento City Unified School District. In her declaration, Ms. Bryant states that Student “has been attending Sierra School since the fall of 2013 pursuant to an IEP team decision” and with Parents’ consent. Although, she explains that the IEP documentation is unsigned due to a clerical error that resulted in the IEP’s signature page not being uploaded in the electronic document management system, Ms. Bryant did not specify the date of the IEP she is referencing.

The extended school year placement offered by the November 4, 2013 IEP appears inconstant with Student's assertion that Student attended a non-public school during the 2014 extended school year. Therefore, additional information is required before a ruling may be made on the pleadings. The necessary information is within the control of Sacramento City. Accordingly, Sacramento City shall provide additional briefing regarding the following issues:

1. Whether Ms. Bryant was referencing the November 4, 2013 IEP or a different IEP in her declaration.
2. Whether the intent of Student's November 4, 2013 IEP was to place Student at a non-public school for the ESY 2014 or at another type of placement.
3. Whether Student's November 4, 2013 IEP was implemented.
4. Whether there were any subsequent implemented IEPs or amendments to Student's November 4, 2013 IEP which placed Student at a non-public school for the 2014 extended school year.

ORDER

1. Within three business days of the issuance of this order, Sacramento City shall provide briefing regarding:
 - a. Whether Ms. Bryant was referencing the November 4, 2013 IEP or a different IEP in her declaration.
 - b. Whether the intent of Student's November 4, 2013 IEP was to place Student at a non-public school for the ESY 2014 or at another type of placement.
 - c. Whether Student's November 4, 2013 IEP was implemented.
 - d. Whether there were any subsequent implemented IEPs or amendments to Student's November 4, 2013 IEP which placed Student at a non-public school for the 2014 extended school year.

2. Sacramento City shall include sworn declarations and documentation supporting any factual assertions included in its briefing.

3. Student and Walnut Valley shall have three business days from the day Sacramento City files its supplemental brief to file any responsive documents.

IT IS SO ORDERED.

DATE: August 3, 2015

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings