

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

AJA TERMINE, by and through her  
Guardian ad Litem Karen  
Termine; KAREN TERMINE, an  
individual,

*Plaintiffs-Appellants,*

v.

WILLIAM S. HART UNION HIGH  
SCHOOL DISTRICT; WESTMARK  
SCHOOL,

*Defendants-Appellees.*

No. 02-56638

D.C. No.

CV-02-01114-SVW

Central District of

California,

Los Angeles

ORDER

Appeal from the United States District Court  
for the Central District of California  
Stephen V. Wilson, District Judge, Presiding

Argued and Submitted  
December 2, 2003—Pasadena, California

Filed January 9, 2004

Before: Betty B. Fletcher, Jerome Farris, and  
Kim McLane Wardlaw, Circuit Judges.

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**COUNSEL**

Steven Wyner, Manhattan Beach, California, and Marcy J.K.  
Tiffany, Rancho Palos Verdes, California, for the appellants.

Barrett K. Green and Steven A. Groode, Littler Mendelson,  
Los Angeles, California, for the appellees.

**ORDER**

In this appeal appellants seek reversal of the district court's decision denying a "stay-put" order that would require the Hart School District to keep Aja Termine in Westmark, a private school where she was placed by the Glendale School District, the district in which she previously lived.

Before the district court issued its opinion regarding the stay-put placement, the SEHO<sup>1</sup> hearing officer for the Hart School District conducted a full due process hearing and issued his opinion. The SEHO officer took oral and documentary evidence. On July 3, 2002, he issued an opinion determining whether the Hart School District had provided Aja with a free and appropriate public education ("FAPE") between October 3, 2001 and July 3, 2002.

The appellants have unnecessarily procedurally complicated the issues in this case. The isolated issue of whether Aja was entitled to have Westmark designated as her stay-put placement is closely related to the appropriateness of Hart's proposed interim placement and whether Hart provided Aja with FAPE. Under these circumstances, the stay-put issue should not be considered in isolation. Further, the SEHO considered the stay-put issue as part of the due process hearing. The SEHO has developed a factual record, and its record presumably includes facts that will allow a determination as to whether it was "possible" for Hart to implement Aja's previous individualized educational placement "in full." *See Ms. S. ex rel G. v. Vashon Island Sch. Dist.*, 337 F.3d 1115, 1134 (9th Cir. 2003). That record is not before us, and it would be inappropriate for us to determine the stay-put placement issue in this case without it.<sup>2</sup>

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<sup>1</sup>The California Special Education Hearing Office ("SEHO") is an administrative body that adjudicates disputes regarding the proper placement of disabled students by public school districts.

<sup>2</sup>Although we cannot expand the record on appeal, the IDEA allows the district court to "hear additional evidence at the request of a party." 20 U.S.C. § 1415(i)(2)(B)(ii).

All critical issues have been raised and decided in the SEHO due process proceeding. The parties have appealed to the district court. For prudential reasons, we direct that the district court vacate its opinion that is the subject of this appeal.

REMANDED with instruction.

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