

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

TORRANCE UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2009090555

ORDER GRANTING MOTION FOR  
STAY PUT

On September 14, 2009, Student filed with the Office of Administrative Hearings (OAH) a Request for Due Process (complaint) naming Torrance Unified School District (Torrance). The complaint incorporated a request for stay put. The District did not file an opposition.

APPLICABLE LAW

A special education student is entitled to remain in his or her current educational placement pending the completion of due process hearing procedures unless the parties agree otherwise. (20 U.S.C. § 1415(j); Ed. Code, §§ 56505, subd. (d), 48915.5.) Stay put operates automatically upon due process filing. (See *Casey K. v. St. Anne Community High School District No. 302* (7th Cir. 1998) 400 F.3d 508, 511.) 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 Board of Education* (6th Cir. 1990) 918 F.2d 618, 625.) California Code of Regulations, title 5, section 3042, defines "educational placement" 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.

DISCUSSION

Stay put is automatic, and an order is required only if there is a dispute as to stay put placement. In his complaint, Student requests stay put placement in the same preschool special day class (SDC) serving students from age three to five that he previously attended. He alleges that the District has offered him placement in SDC serving students with special needs from kindergarten through second grade, and further claims that the District will not permit him to return to his previous educational placement. Student will attain the age of five years in the near future.

The request for stay put does not include a copy of the last agreed-to and implemented IEP that established the requested stay put placement. OAH cannot order a stay put placement if it does not have detailed information about Student's previous program and services. Accordingly, Student's request for stay put is denied. Student may re-file a motion for stay put with proper documentation, including at a minimum, the last agreed-to and implemented IEP. Any motion for stay put, if filed, should include proof that the motion was served on all the parties.

#### ORDER

Based upon insufficient documentation for the stay put request at the current time, the motion for stay put is denied.

Dated: September 24, 2009

/s/

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REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings