

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 NO. 2010010403

ORDER GRANTING MOTION FOR  
STAY PUT

On January 8, 2010, Student filed a Motion to Determine Stay-Put Placement. On January 13, 2010, District filed a Non-Opposition. Therefore the motion is granted.

APPLICABLE LAW

Under federal and California special education 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); 34 C.F.R. § 300.518(a) (2006); Ed. Code, §§ 48915.5, 56505, subd. (d).) The purpose of “stay-put” is to maintain the status quo of the student’s educational program pending resolution of the due process hearing. (*Stacey G. v. Pasadena Independent School Dist.* (5th Cir. 1983) 695 F.2d 949, 953; *D. v. Ambach* (2d Cir. 1982) 694 F.2d 904, 906.) For purposes of stay-put, the current educational placement refers to the “operative placement actually functioning at the time the dispute first arises.” (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625-6.)

DISCUSSION

In this case the parties agree that a Settlement Agreement dated May 26, 2009 determines Student’s stay-put placement. A copy of the Settlement Agreement is attached to Student’s motion via parent’s declaration.

Paragraph 4 of the Settlement Agreement provides that Student’s stay-put placement shall be “up to 28 hours per week NPA/BII” (defined in the agreement as Behavior Intervention Implementation provided by a non-public agency certified by the California Department of Education who has a master contract with the District) and “up to 6 hours per month NPA/BID” (Behavior Implementation Development). The motion and non-opposition briefs agree that the NPA to be used here is the Lovaas Institute. These agreements are therefore adopted as the operative stay-put Order.

ORDER

Student's stay-put placement shall be up to 28 hours per week of Behavior Intervention Implementation and up to 6 hours per month Behavior Implementation Development, both to be provided by the Lovaas Institute.

IT IS SO ORDERED.

Dated: January 20, 2010

/s/

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JUNE R. LEHRMAN  
Administrative Law Judge  
Office of Administrative Hearings