

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. 2010090221

ORDER DENYING MOTION FOR
STAY PUT

On September 8, 2010, Student filed with the Office of Administrative Hearings (OAH) a Request for Mediation and Due Process Hearing (Complaint) that named the Los Angeles Unified School District (District). Together with the Complaint, Student also filed a Motion for Stay Put (Motion). OAH did not receive any opposition to Student's Motion

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); 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 is eligible for special education services. During the 2009-2010 school year, Student was enrolled in the third grade at Palms Elementary School. At Student's June 8, 2010 IEP, District offered Student placement and services. On July 15, 2010, Parent signed Student's IEP, but did not consent to Student's placement and services. Parent sent District the IEP signature page with an attachment entitled, Appendix to the Due Process Form (Appendix). The Appendix contained a list of services Parent agreed with: (1) behavioral intervention services-360 monthly minutes; (2) behavior intervention implementation-1860

weekly minutes; (3) language and speech-60 weekly minutes; (4) occupational therapy-30 weekly minutes; (5) occupational therapy-600 yearly minutes; (6) SDP-SLD-750 weekly minutes; (7) instructional accommodations; and (8) ESY-behavioral support plan. The Appendix also contained a list of items that Parent disagreed with: (1) placement at Canfield Elementary School (Canfield); (2) occupational therapy- clinic-60 weekly minutes; and (3) NPA speech-Student needs NPA speech therapy.

Student's Complaint alleges that District's offer of placement and services at the June 8, 2010 IEP would not meet Student's needs because: Canfield is a hostile environment; and Student needs clinic based occupational therapy and NPA speech. Student proposes the following resolutions: Student remain at Palms; and continue to receive clinic based occupational therapy and NPA speech.

For purposes of stay put, the current educational placement is typically the placement called for in the student's IEP, which has been implemented prior to the dispute arising. Student disputes that District's June 8, 2010 IEP offer of placement and services would meet Student's unique needs. Pending the resolution of this dispute, Student requests stay put. However, Student's Motion fails to provide any facts about what was Student's last implemented IEP, when Student consented to District's IEP offer and District provided placement and services. Student failed to submit the last agreed upon and implemented IEP so no decision can be made regarding what constitutes stay put; therefore the Motion must be denied.

ORDER

Student's Motion for Stay Put is denied.

Dated: September 21, 2010

/s/

CLARA SLIFKIN
Administrative Law Judge
Office of Administrative Hearings