

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

VALLEY CHARTER SCHOOL, LOS  
ANGELES UNIFIED SCHOOL DISTRICT  
AND CALIFORNIA DEPARTMENT OF  
EDUCATION.

OAH CASE NO. 2010110533

ORDER DENYING MOTION FOR  
STAY PUT

On November 18, 2010, Student filed a motion for stay put. On November 24, 2010, Valley Charter School (VCS) filed an opposition. As discussed below, the motion for stay put is denied.

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.)

Settlement agreements are interpreted using the same rules that apply to interpretation of contracts. (*Vaillette v. Fireman's Fund Ins. Co.* (1993) 18 Cal.App.4th 680, 686, citing *Adams v. Johns-Manville Corp.* (9th Cir. 1989) 876 F.2d 702, 704.) “Ordinarily, the words of the document are to be given their plain meaning and understood in their common sense; the parties' expressed objective intent, not their unexpressed subjective intent, governs.” (Id. at p. 686.)

DISCUSSION

Student's motion contends that he is entitled to receive speech and language services from McRory Pediatric Services (McRory), his current nonpublic agency (NPA) provider. VCS contends that the last agreed upon IEP dated June 5, 2009, as modified by a Settlement

Agreement dated September 4, 2009, did not specify the particular NPA provider. VCS contends it is entitled to provide the services using a different NPA provider. In support of its opposition, VCS presented evidence that the Settlement Agreement provided for 120 minutes per week of speech and language services to be provided by “a contracted NPA.” No specific provider is referenced. Therefore, VCS contends, it has met its stay put obligations, so long as it provides NPA services in the frequency and duration specified in the Settlement Agreement. VCS also presented evidence that it has consented to continue to provide Student with speech and language services at the agreed frequency and duration, using a different NPA with which VCS has a contract.

The Settlement Agreement cannot be interpreted as requiring the services to be provided by McRory exclusively. Instead, the Settlement Agreement demonstrates that Student’s parent consented to the provision of services from an NPA provider. As of the date of the Motion, there is no evidence that VCS is not providing speech and language services from an NPA in the frequency and duration specified in the IEP as modified by the Settlement Agreement. Accordingly, because McRory is not specified in these documents, the Motion must be denied.

#### ORDER

The Motion for Stay Put is denied.

Dated: November 30, 2010

/s/

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JUNE R. LEHRMAN  
Administrative Law Judge  
Office of Administrative Hearings