

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FULLERTON ELEMENTARY SCHOOL  
DISTRICT.

OAH CASE NO. 2010120918

ORDER DENYING STUDENT'S  
MOTION FOR STAY PUT

On December 22, 2010, Student filed a Request for Due Process Hearing (complaint) naming Fullerton Elementary School District (District) as respondent. Student also filed a motion for stay put on December 22, 2010, contending that Student's last agreed upon and implemented IEP was dated October 27, 2009. Student alleges that the October 27, 2009 IEP provided speech therapy and behavior services from non-public agencies (NPA). At his annual IEP meeting convened on October 15, 2010, and continued on October 29, 2010 and December 16, 2010, District offered to change Student's providers from non-public agencies to District employees. Parents declined to consent. Student's motion seeks an order requiring the District to maintain services through NPAs until the completion of due process procedures.

District filed no opposition.

APPLICABLE LAW AND DISCUSSION

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.)

Here, Student attached no copy of the October 27, 2009 IEP, which he contends is the last agreed upon and implemented IEP. Instead, Student attached a copy of his April 3, 2009 IEP, as well as signature pages from his October 27, 2008 IEP, claiming that these documents accurately reflect the speech and behavior services provided in the subsequent October 27, 2009 IEP. This is not persuasive. Before OAH can issue a ruling in this matter, Student must provide a copy of the relevant IEP (i.e., October 27, 2009 IEP).

ORDER

Student's motion for stay put is denied without prejudice to Student re-filing it with the relevant IEP as an exhibit.

Dated: December 29, 2010

/s/

---

CARLA L.GARRETT  
Administrative Law Judge  
Office of Administrative Hearings