

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OXNARD UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2011010041

ORDER GRANTING MOTION FOR
STAY PUT

On January 4, 2011, Student filed a request for due process hearing (complaint) and a separate motion for stay put. The District has not filed a response to either the complaint or the stay-put motion.

In her complaint, Student contends that the District's October 26, 2010 proposed Individual Education Program (IEP) fails to offer her a free appropriate public education (FAPE). Student moves to continue the implementation of the June 1, 2010 IEP, the last agreed upon IEP.

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

On June 1, 2010, Student's IEP team convened. The IEP team comprised personnel from Student's then current school district, Pleasant Valley School District (PVSD); her nonpublic school (NPS), Summit View; the District where she would attend commencing with school year 2010-2011; and her parents. After reviewing and discussing a triennial

evaluation conducted by PVSD, the IEP team proposed that Student continue to be placed at Summit View, and receive designated instruction and services of speech and language therapy twice per week at 30 minutes per session from a nonpublic agency (NPA), one counseling session for 60 minutes weekly, 1,200 minutes of speech and language consultation/collaboration from the NPA speech provider, and transportation.

On October 26, 2010, the District IEP team proposed a new IEP where Student would no longer be placed at Summit View commencing after December 31, 2010 with a reduction of services.

ORDER

The District is ordered to maintain Student's placement at Summit View and designated instruction and services consistent with the June 1, 2010 IEP, which is the last agreed upon and implemented IEP.

Dated: January 10, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings