

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STANISLAUS UNION ELEMENTARY
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011050527

ORDER DETERMINING STAY PUT

On June 10, 2011, Peter W. Sturges, attorney for the Stanislaus Union Elementary School District (District), filed motion for stay put. The Office of Administrative Hearings (OAH) did not receive a response from Student. On June 28, 2011, OAH issued an order requesting supplemental documentation from the parties. On June 30, 2011, District filed a declaration under oath by Regina Hedin in support of its motion for stay put. OAH did not receive a response from Student to the June 28, 2011 order.

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); Ed. Code, § 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 January 26, 2011, an IEP team meeting for Student was held by the Hughson Unified School District (Hughson). Student was offered placement in a special day class (SDC) specifically designated for children with Autistic Spectrum Disorders, run by the

Stanislaus County Office of Education (County), at the M. Robert Adkinson Elementary School District (Adkinson). Adkinson is located within the Ceres Unified School District (Ceres). District, Hughson and Ceres are all school districts located within County's geographical boundaries. Parent accepted the January 26, 2011 IEP and Student attended the Adkinson SDC.

The evidence and declaration submitted by District establish that at some point after giving consent to the January 26, 2011 IEP, Parents and Student moved into the educational jurisdiction of District. Parent has not consented to a new IEP since the January 26, 2011 IEP. However, District has implemented the January 26, 2011 IEP from Hughson and Student has continued to attend the County's SDC at Adkinson. Student has presented no evidence to establish that the SDC at Adkinson is not the last agreed upon and implemented placement. Accordingly, Student's stay put placement, should Student desire public education during the pendency of this dispute, is the SDC at Adkinson.

ORDER

1. Student's stay put placement is the SDC at Adkinson.
2. Should Student desire to avail himself of public education during the pendency of this dispute, Student's placement shall be the SDC at Adkinson.

Dated: July 13, 2011

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings