

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WASHINGTON UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011060485

ORDER GRANTING MOTION FOR
STAY PUT

On July 15, 2011, Student filed a motion for stay put. On July 20, 2011, District filed an opposition. For the reasons discussed below, the motion is granted.

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)¹; 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 AND ORDER

Student’s motion seeks stay put at Student’s last placement, Bryte Elementary School (Bryte), identified as his school of residence in his last agreed upon and implemented IEP, which was the January 26, 2011 IEP, as amended on February 22, 2011. District seeks to change Student’s placement to an autism class at Greengate Elementary School (Greengate).

¹ All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

The appropriateness of District's offer to change placement from Bryte to another District school is one of the issues in Student's due process complaint.

District argues that a change in the physical location where services are provided does not constitute a change in placement for purposes of stay put. District also argues that the last agreed upon and implemented IEP does not specify the location of placement, and that changing Student's placement to Greengate would not substantively change Student's educational program specified in the IEP, and would be stay put.

District's arguments are not persuasive. The appropriateness of District's proposed change from Bryte to another location is one of the issues in this case, and requires evidentiary findings by the hearing officer. Equally important, District acknowledges that, although Student's January 26, 2011 IEP, as amended, did not specify Bryte as the school of attendance, District implemented Student's IEP for the remainder of the 2010-11 school year by placing Student at Bryte. Therefore, continued placement at Bryte with the services offered in the last agreed upon and implemented IEP maintains the status quo and is stay put. Student's motion is granted.

IT IS SO ORDERED.

Dated: July 22, 2011

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings