

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO-FOSTER CITY SCHOOL
DISTRICT.

OAH CASE NO. 2011080043

ORDER GRANTING RENEWED
MOTION FOR STAY PUT IN PART
AND DENYING IN PART

On October 3, 2011, Student filed a Renewed Motion for Stay Put. On October 3, 2011, District filed an opposition. As discussed below, the motion is granted in part and denied in part.

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

Pursuant to Student’s last agreed upon IEP, dated October 16, 2009, and consented to by parent’s signature on January 12, 2010, Student’s last agreed upon placement was Stanbridge Academy, a private day school certified by the California Department of Education. The IEP specified that the placement was pursuant to a Settlement Agreement (SA) dated June 17, 2009. The SA provided that District would partially fund Student’s tuition at Stanbridge, specifically that District was to “reimburse Mother 50% of full Stanbridge Academy tuition . . . in an amount not to exceed \$14,000.”

Student's Renewed Motion for Stay Put seeks a continuation of the current placement and related services at Stanbridge, and tuition reimbursement, per this last agreed upon IEP and the SA. To that extent the motion is granted.

However, Student's Motion also seeks tuition reimbursement of one-half, but without the \$14,000 cap for which the SA provides. To that extent, the motion is denied. It is clear that the IEP implements the terms of the SA, pursuant to which 50% of tuition is required to be reimbursed "in an amount not to exceed \$14,000."

ORDER

1. Student's Stay Put placement shall be Stanbridge Academy.
2. District shall reimburse Mother 50% of full Stanbridge Academy tuition, in an amount not to exceed \$14,000.

Dated: October 07, 2011

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings