

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

SAN MATEO UNION HIGH SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011080087

ORDER DENYING MOTION FOR
STAY PUT

On August 2, 2011, the San Mateo Union High School District (District) filed a Due Process Hearing Request (complaint) against Student. On September 7, 2011, Student filed a motion for stay put. On September 12, 2011, the District filed an opposition on the ground that the District does not dispute Student's stay put program and has not sought to change Student's last agreed-upon and implemented educational program during the pendency of this action.

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.)

DISCUSSION

The parties do not dispute that Student's last agreed-upon and implemented educational program is portions of the December 14, 2010 IEP that placed her at the Edgewood School, a certified non-public school, for the remainder of the 2010-2011 school year and 2011 extended school year. Parent did not consent to the District's offer at either the December 14, 2010 or July 14, 2011 IEP team meeting for Student to attend a District high school for the 2011-2012 school year. Student did not establish that the District has ceased implementing the December 14, 2010 IEP for Student to attend the Edgewood School and the District agrees that the December 14, 2010 IEP is Student's play put placement. If

there is a dispute that exists as to that placement, Student may file a request for stay put with more specificity as to the nature of the dispute and the terms of stay put. Therefore, the motion for stay put is denied.

ORDER

Student's motion for stay put is denied.

Dated: September 13, 2011

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings