

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2011080592

ORDER DENYING MOTION FOR  
STAY PUT

On August 15, 2011, Student filed a motion for stay put against the Garden Grove Unified School District. On August 22, 2011, the Office of Administrative Hearings (OAH) denied Student's motion, without prejudice, because Student failed to include a copy of his last agreed-upon and implemented educational program.

On August 25, 2011, Student filed a motion for stay put that included information requested in the August 22, 2011 order. The District did not submit a response.

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

Student's motion for stay put requests that Autism Partnership, a non-public agency (NPA), continue to provide Student with behavioral intervention services. Student asserts

that his last agreed-upon and implemented educational program is the April 27, 2011 IEP, as consented to by Parents on June 6, 2011. The April 27, 2011 IEP stated that an NPA with a contract with the special education local plan area (SELPA) would provide the behavioral intervention services. The June 6, 2011 letter stated that Parents consented to the IEP, conditioned upon Autism Partnership providing Student with behavioral intervention services.<sup>1</sup> While the District did not file a response to Student's motion for stay put, its August 25, 2011 response to Student's complaint corresponds to Student's motion for stay put as to the operative IEP and that Autism Partnership was to provide the behavioral intervention services. Further, the parties do not dispute that on July 15, 2011, Autism Partnership informed Parents that it would cease providing behavioral intervention services to Student.

While Parents request that Autism Partnership continue to provide behavioral intervention services, the District did not cause Autism Partnership to cease services as the District was willing to continue with Autism Partnership to provide behavioral intervention services pursuant to the SELPA contract. Student provides no factual or legal support that the District can force Autism Partnership to continue to provide Student with behavioral intervention services. Additionally, Student provides no factual support that the District was not willing to provide him with behavioral intervention services through a different NPA. Therefore, Student's motion for stay put to have Autism Partnership continue to provide Student with behavioral intervention services is denied.

#### ORDER

Student's motion for stay put is denied.

Dated: September 8, 2011

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> The June 6, 2011 letter had areas of disagreement as to the April 27, 2011 IEP that are not relevant to this motion for stay put.