

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT 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. District did not file a response. For the reasons discussed below, the motion is denied.

APPLICABLE LAW

A parent may request an impartial due process hearing within two years of the date parent knew or should have known about the alleged action that forms the basis of the complaint. (20 U.S.C. § 1415(f)(3)(C).) 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

Student’s motion for stay put was not supported by a copy of Student’s last agreed upon IEP, or any evidence, such as copies of correspondence, that establishes that the nonpublic agency services at issue were inappropriately withdrawn by District. To resolve the stay put motion requires examination of the language of the operative IEP, as well as any correspondence from the District or the NPA provider to Student. Therefore, Student’s motion must be denied, without prejudice to Student re-filing it with additional evidence.

ORDER

Student's motion is denied without prejudice. Student may re-file his motion, providing that it is supported by a declaration under penalty of perjury establishing the relevant facts and attaching a copy of Student's last agreed upon IEP and supporting evidence, such as correspondence.

IT IS SO ORDERED.

Dated: August 22, 2011

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings