

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CONEJO VALLEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011110882

ORDER DENYING MOTION FOR
STAY PUT

On November 24, 2011, Parents' advocate filed on Student's behalf a request for mediation and due process hearing, which alleged, among other things, that Student was suspended for disciplinary reasons from his then current placement beginning in the spring semester of the 2010-11 school year to the present. As the last item in the complaint, Student invoked Student's right to stay put at his last agreed upon placement, District's Newbury Park High School.

On November 30, 2011, Parents' advocate filed with OAH a copy of a November 29, 2011 email communication from District representative, Margaret Saleh, J.D., to the advocate stating that the District did not intend to contest Student's request for stay put. Moreover, Ms. Saleh stated in the email that Student would be permitted to re-enroll at Newbury Park High School on the next day. District did not file an opposition to the request for stay put or contest that the email was authentic.

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.)

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

Here, no dispute exists over Student's stay put. Student has established that District is not contesting his right to stay put, and has agreed to immediately re-enroll Student at Newbury Park High School, from which he was suspended in the spring of 2011. If a dispute arises as to implementation of stay put regarding that placement in the future, Student may file a second request for stay put. Any further motion for stay put should specifically provide evidence of the placement or services that are in dispute and provide evidence and/or declarations under penalty of perjury to support it. Because District is not contesting enrollment, the motion for stay put is denied.

IT IS SO ORDERED.

Dated: December 1, 2011

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings