

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

CALIFORNIA DEPARTMENT OF  
EDUCATION ,

OAH CASE NO. 2012030888

PARENT ON BEHALF OF STUDENT,

v.

PLUMAS UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011120543

ORDER DENYING MOTION FOR STAY  
PUT

On April 25, 2012, Student filed a motion for stay put against the California Department of Education (CDE) and Plumas Unified School District (District) that requested that Student stay put placement be the California School for the Deaf because CDE and the District failed to ensure Student's assessments. On April 26, 2012, CDE filed an opposition on the ground that the California School for the Deaf has never been Student's last agreed upon and implemented educational program. 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)<sup>1</sup>; 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.)

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

## DISCUSSION

Student failed to set forth any facts or law that his last agreed upon and implemented educational program was for him to attend the California School for the Deaf. The arguments brought forth in the motion for stay put are arguments for hearing as to the appropriate remedy if Student prevails at hearing after establishing that CDE and the District denied him a free appropriate public education. Accordingly, Student did not establish that his stay put placement is the California School for the Deaf.

## ORDER

Student's motion for stay put is denied.

Dated: April 27, 2012

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings