

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012040042

ORDER DENYING MOTION FOR
STAY PUT

On April 2, 2012, Student filed a motion for stay put with the Office of Administrative Hearings (OAH) against the Riverside Unified School District (District), asserting that the District is seeking to unilaterally change his last agreed upon and implemented educational placement from Woodcrest Elementary School (Woodcrest), his present school, to Mark Twain Elementary School (Mark Twain). On April 5, 2012, the District filed an opposition on the grounds that the parties' settlement agreement permits the District to change Student's educational placement. On April 8, 2012, Student filed 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)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.

The interpretation of settlement agreements is based on familiar and well-established principles of contract law. (*Miller v. Fairchild Indus.* (9th Cir. 1986) 797 F.2d 727, 733; see also *Jeff D. v. Andrus* (9th Cir. 1990) 899 F.2d 753, 759.) If a written agreement is not equivocal or ambiguous, “the writing or writings will constitute the contract of the parties, and one party is not permitted to escape from its obligations by showing that he did not intend to do what his words bound him to do.” (*Brant v. California Dairies, Inc.* (1935) 4 Cal.2d 128, 134; see also 1 Witkin, Summary of Cal. Law, Contracts, § 89 [“Ordinarily, one who accepts or signs an instrument, which on its fact is a contract, is deemed to assent to all its terms”]; cf. *Skrbina v. Fleming Co., Inc.* (1996) 45 Cal.App.4th 1353, 1368 [releases must be “clear, explicit and comprehensible in each of their essential details”].) By entering into a settlement agreement, each party agrees to “extinguish those legal rights it sought to enforce through litigation in exchange for rights secured by the contract.” (*Village of Kaktovik v. Watt* (D.C.Cir. 1982) 689 F.2d 222, 230.) In addition, parties may waive claims that, at the time of the settlement agreement, are unknown to them. (Civ. Code, § 1542.)

DISCUSSION

Student asserts that the District cannot change Student’s placement to Mark Twain because his last agreed upon and implemented educational placement is Woodcrest, and that Parents voided the parties’ Informal Dispute Resolution (IDR) agreement that permitted the District to change Student’s placement to Mark Twain. The District asserts that the parties agreed in a prior settlement agreement that Student’s stay put program would be the District’s upcoming IEP offer of services and placement.

Based on the evidence in the parties’ briefs, the parties’ September 29, 2011 settlement agreement in OAH Case No. 2011081130 provided that Student would remain at Woodcrest through March 9, 2012, and that the District would convene Student’s annual IEP team meeting before February 24, 2012. At this annual IEP team meeting, the District would make an offer of services and placement. The settlement agreement further provided that if the parties could not agree at this annual IEP team meeting that the District’s offer of services and placement would be Student’s stay put educational program.

The District could not hold the annual IEP team meeting before February 24, 2012, due to the unavailability of Student’s advocate, and therefore the parties’ agreed to postpone the annual IEP team meeting to March 9, 2012. At the March 9, 2012 IEP team meeting, the District offered Mark Twain to begin as Student’s placement on March 16, 2012. Parents did not consent to the District’s offer and requested an IDR meeting. The District agreed to the IDR meeting and that Student could remain at Woodcrest during this process. At the March 15, 2012 IDR meeting, Parents agreed that Student would attend Woodcrest through March 30, 2012 and transfer to Mark Twain effective April 9, 2012. The IDR agreement provides that Parents had three business days after the execution of the IDR agreement to void the agreement. Parents, through their advocate, attempted to void the IDR agreement on March 26, 2012. Student, in his due process complaint, challenges the enforceability of the settlement agreement and IDR agreement.

OAH does not have the authority to void or modify the parties' previous agreements. (*Y.G. v. Riverside Unified Sch. Dist.* (C.D. Cal. 2011) 2011 WL 791331, *5.) Therefore, OAH must interpret the settlement agreement and IDR agreement to determine Student's stay put educational program. The language of the settlement agreement is clear that Student's stay put educational program was the offer the District would make at the annual IEP team meeting. While the District did not make an offer before February 24, 2011, as envisioned by the settlement agreement, this is because Parents wanted to postpone the IEP team meeting to a later date when their advocate could attend. The subsequent IDR agreement has no bearing on what constitutes Student's stay put educational program, except for the start date at Mark Twain, because the operative documents as to what constitutes Student's stay put educational program are the settlement agreement and the March 9, 2012 IEP. Therefore, the District's March 9, 2012 IEP is Student's stay put educational program pursuant to the settlement agreement and thus Student's motion for stay put to remain at Woodcrest is denied.

ORDER

Student's motion for stay put is denied.

Dated: April 9, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings