

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2012070257

ORDER GRANTING MOTION FOR
STAY PUT

On August 26, 2012, Student filed a motion for stay put with the Office of Administrative Hearings (OAH) against the San Mateo Union High School District (District). The District did not file 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.)

DISCUSSION

Student contends that his last agreed upon and implemented education program is his October 16, 2009 IEP with his prior school, the San Mateo-Foster City School District

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

(SMFCSD), which provided that SMFCSD would fund Student's placement at Stanbridge Academy, a non-public school. The October 16, 2009 IEP states on page 10 that SMFCSD would fund Student's placement at Stanbridge.

The District, through its failure to file a response, provided no opposition to Student's assertion that the District is responsible for continued funding of Stanbridge. Therefore, Student's motion for stay put is granted as his last agreed-upon and implemented educational program is Stanbridge Academy, funded by the District.

ORDER

Student's motion for stay put is granted, and his last agreed-upon and implemented educational program is his October 16, 2009 IEP, with a District-funded placement at Stanbridge Academy.

Dated: September 12, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings