

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CORONADO UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2012090283

ORDER GRANTING IN PART
MOTION FOR STAY PUT

On September 7, 2012, the Coronado Unified School District (District) filed a motion for stay put with the Office of Administrative Hearings (OAH) that requested an order that its August 21, 2012 interim offer of services and placement, as modified on August 23, 2012 is Student's stay put placement. Student 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)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.)

When a special education student transfers to a new school district in the same academic year, the new district must adopt an interim program that approximates the student's old IEP as closely as possible for 30 days until the old IEP is adopted or a new IEP is developed. (20 U.S.C. § 1414(d)(2)(C)(i)(1); 34 C.F.R. § 300.323(e); Ed. Code, § 56325,

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

subd. (a)(1); see *Ms. S. ex rel G v. Vashon Island Sch. Dist.* (9th Cir. 2003) 337 F.3d 1115, 1134.)

DISCUSSION

The District asserts that its August 21, 2012, 30 day interim offer of services and placement, as modified on August 23, 2012, as closely as possible replicates Student's last agreed-upon and implemented educational program when she moved into the District. The District made a 30 day interim offer so it could assess Student and then make an IEP offer. Parents never consented to the District's 30 day interim offer.

Student moved into the District in August 2012. Student had resided in Florida and received special education services through the Hillsborough County Public Schools (Hillsborough). The District contacted Hillsborough about Student's last agreed-upon and implement educational program. Hillsborough informed the District that Student's last agreed-upon and implemented educational program was her October 26, 2011 IEP as Student left the District before Hillsborough could implement her December 14, 2011 IEP, which modified the October 26, 2011 IEP. The October 26, 2011 IEP placed Student in Hillsborough's home-hospital program and provided Student with specialized academic instruction, speech and language services, occupational therapy, physical therapy direct services and consultation. Hillsborough service providers provided these services to Student at her home.

The District's August 21, 2012, 30 day interim offer provided Student with an educational program that as closely matched Student's October 26, 2011 IEP as the District agreed to provide the services listed above by District providers in Student's home. On August 23, 2012, Parents and District agreed to modify the District's 30 day interim offer by having the District provide the services at its transition classroom at the District office. Parents never provided written consent to the District's offer, and the District has not provided Student with special education services at either her home or a District location.

The District established that the special education services in its August 21, 2012, 30 day interim offer as closely as possible replicated Hillsborough's October 26, 2012 IEP. As to the August 23, 2012, 30 day interim educational offer with the services provided at a District location, Parents never provided written consent and Student's last agreed-upon and implemented educational program with Hillsborough was a home program. Therefore, the District's August 21, 2012, 30 day interim offer with specialized academic instruction, speech and language services, occupational therapy, physical therapy direct services and consultation through District providers at Student's home is Student's stay put program.

ORDER

The District's motion for stay put is granted in part as the District's August 21, 2012, 30 day interim educational offer as closely as possible replicates Student's last agreed-upon educational program, her October 26, 2011 IEP with Hillsborough.²

Dated: September 21, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

² Nothing in this Order requires Student to avail herself of stay-put placement and services. This Order defines what the District's obligation is as to stay-put placement and services, should Student desire to avail herself of stay-put placement and services.