

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014010624

ORDER DENYING MOTION FOR
STAY PUT WITHOUT PREJUDICE

On January 18, 2014, Student filed a motion for stay put. The Office of Administrative Hearings (OAH) did not receive a response from Los Angeles Unified School District (District). For the reasons discussed below, the motion is denied without prejudice to Parent re-filing the motion if it is supported by appropriate evidence.

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.

DISCUSSION

Student's motion for stay put requests that Student continue to receive speech and language and occupational therapy services allegedly identified in his June 10, 2013 IEP. Student asserts that District confirmed those services, including "compensatory services," on "November 17."

Student may be entitled to stay put based upon the program and services in his last agreed upon and implemented IEP. However, Student did not establish whether the June 10, 2013 is the last agreed upon and implemented IEP, or provide a copy of any IEP or other agreement with District upon which OAH can determine what his stay put should be.

Accordingly, the motion is denied without prejudice to Student's right to re-file the motion, providing it is accompanied by a declaration under penalty of perjury from Parent or another witness establishing the facts upon which the motion is based, and an accurate copy of Student's last agreed upon and implemented IEP or other agreement upon which Student bases the right to stay put.

IT IS SO ORDERED.

Dated: January 24, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings