

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

BELMONT-REDWOOD SHORES
ELEMENTARY SCHOOL DISTRICT.

OAH Case No. 2014100404

ORDER GRANTING MOTION FOR
STAY PUT

On October 9, 2014, Student filed a motion for stay put. No response has been filed by Belmont-Redwood Shores Elementary School District.

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, 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 attached a copy of the last implemented and agreed to IEP, the May 21, 2013 IEP Amendment. The amendment states in the “Offer of FAPE Services” that Student was to receive one 60 minute spec and language therapy services weekly by a Nonpublic Agency under contract with Belmont-Redwood Shores or the special education local planning

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

agency. (Page three of the May 21, 2013 Amendment.)² The motion also includes a declaration by Susan Foley, Student's attorney. Ms. Foley states that Student received stay put speech services as required by the May 21, 2013 IEP Amendment through the end of school year 2013-2014. At a conference of Ms. Foley; Jan Ellard, counsel for Belmont-Redwood Shores, and the special education director of Belmont-Redwood Shores on September 25, 2014, Ms. Foley was informed that Belmont-Redwood Shores would not continue Student's stay put speech services.

Student has demonstrated that his stay put services include one weekly individual speech therapy session of 60 minutes by a Nonpublic Agency under contract with Belmont-Redwood Shores or the special education local planning agency.

ORDER

Student's motion for stay put is GRANTED. Belmont-Redwood Shores shall provide Student with one 60 minute individual session of speech therapy per week by a Nonpublic Agency under contract with Belmont-Redwood Shores or the special education local planning agency.

DATE: October 28, 2014

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings

² In the notes section on page one, the IEP Amendment reads: "one group session of speech/language therapy in school setting; one session speech services with a district contractor."