

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LYNWOOD UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2016030002

ORDER GRANTING MOTION FOR
STAY PUT

On April 7, 2016, Student filed a Motion for Stay Put. On April 15, 2016, Student filed an Amended Motion for Stay Put, adding additional exhibits. District did not oppose Student's motion.

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); 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, subd. (a) (2006).)

DISCUSSION

Student's September 27, 2013 IEP offered Student placement in a general education class, with specialized academic instruction from a resource specialist teacher for 300 minutes a week, and 60 minutes a week (consisting of two thirty minute sessions) of group language and speech services. Parent consented to this IEP. The identical placement and related services were offered to Student in the April 30, 2015 IEP, to which Parent also consented.

The February 2, 2016 IEP proposed to exit Student from special education and offered Student 180 minutes a week of consultation and collaboration with a resource

specialist teacher during February and March, 2016, and extended school year in a special day class or the bridge program. Parent did not consent to the offer of FAPE contained in the February 2, 2016 IEP.

On February 25, 2016, Student filed the pending Request for Due Process Hearing, challenging the District's proposal to exit Student from special education and for denying Student a FAPE by failing to offer her related services she claims are necessary to meet her unique educational needs. The hearing is set for May 24 – 26, 2016. Student is entitled to continue to receive the last agreed upon placement and related services while the dispute between Student and District is pending.

ORDER

District is ordered to maintain Student's last agreed upon and implemented placement in a general education setting and related services consisting of specialized academic instruction from a resource specialist teacher for 300 minutes a week, and 60 minutes a week (consisting of two thirty minute sessions) of group language and speech services, until a decision is rendered by an administrative law judge following the hearing on Student's pending request for due process.

IT IS SO ORDERED.

DATE: April 28, 2016

DocuSigned by:

Christine Arden

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CHRISTINE ARDEN

Administrative Law Judge

Office of Administrative Hearings