

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009040254

ORDER DENYING MOTION FOR
STAY PUT

On April 7, 2009, attorney Miho Murai, on behalf of Student, filed a Due Process Hearing Request (complaint) against the Los Angeles Unified School District (District). Included with the complaint was a motion for stay put. The District has not filed a response to Student's motion for stay put.

APPLICABLE LAW

Under federal and California special education law, a special education student is entitled to remain in his or her current educational placement pending the completion of due process hearing procedures unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); Ed. Code, §§ 48915.5, 56505, subd. (d).) The purpose of stay put is to maintain the status quo of the student's educational program pending resolution of the due process hearing. (*Stacey G. v. Pasadena Independent School Dist.* (5th Cir. 1983) 695 F.2d 949, 953; *D. v. Ambach* (2d Cir. 1982) 694 F.2d 904, 906.) For purposes of stay put, the current educational placement is typically the placement called for in the student's Individualized Educational 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.)

California Code of Regulations, title 5, section 3042, defines "educational placement" 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.

DISCUSSION

Student requests that as stay put that the District continue to implement his current educational program and to provide the related services and behavior support plan. Student

contends that his present educational program is the May 8, 2008, IEP, as amended by the October 8, 2008, December 12, 2008, and February 19, 2009, IEPs.

However, it is not clear if the parties amended the May 8, 2009, IEP at any subsequent IEP meeting. In addition, Student's motion does not state whether Student's parents consented to any portion of the October 8, 2008, December 12, 2008, and February 19, 2009, IEPs. Therefore, it is not possible to determine which IEP is the last agreed-upon IEP.

Additionally, Student does not describe which designated instruction and related services from Student's last agreed-upon and implemented educational program that the District is presently not providing, and for which Student requires stay put.

Therefore, Student has not established that the last agreed-upon and implement educational program is the May 8, 2008, IEP, as amended by the October 8, 2008, December 12, 2008, and February 19, 2009, IEPs, and he has no specified the services for which stay put is required.

ORDER

Student's Motion for Stay is denied.

Dated: April 20, 2009

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings