

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

PASADENA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009060771

ORDER DENYING MOTION FOR
STAY PUT

On June 12, 2009, Student filed a request for due process hearing and motion for stay put. District did not file an opposition to the stay put motion. As discussed below, Student's stay put motion must be denied because Student failed to demonstrate that the June 3, 2008 IEP was the last agreed upon placement for purposes of stay put.

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 IEP, which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.) However, if a student is scheduled to advance to a new grade, the student is entitled to a placement that as closely as possible replicates the placement at the time the dispute arose, taking into account the changed circumstance of progression to a new grade. (*Van Scoy v. San Luis Coastal Unified Sch. Dist.* (C.D. Cal. 2005) 353 F.Supp.2d 1083, 1086.)

Here, Student's motion seeks an order that Student is entitled to stay put under the terms of a June 3, 2008 IEP. However, the IEP documents included in Student's motion demonstrate that Student's parent did not consent to the placement and related services either on June 3, 2008 or at a subsequent IEP team meeting on December 4, 2008. To the contrary, the IEP documents show that as of December 4, 2008, Student's parent has only agreed to the goals. Accordingly, because Student has failed to show that the June 3, 2008 IEP is the last agreed upon placement, the stay put motion must be denied.

IT IS SO ORDERED.

Dated: June 18, 2009

/s/

RICHARD T. BREEN
Administrative Law Judge
Office of Administrative Hearings