

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. 2009071055

ORDER GRANTING MOTION FOR
STAY PUT

On July 28, 2009, Valerie J. Gilpeer, attorney for Student (Student) filed a motion for stay put.

On July 31, 2009, Robert Cuen, attorney for the District (District), filed a statement of non-opposition to Student's motion.

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 IEP, which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

DISCUSSION

The District has stated in its non-opposition to Student's motion for stay put that Student's last agreed-upon and implemented educational services included placement in a general education setting pursuant to the December 16, 2008 Individual Education Plan (IEP). A general education placement was further agreed upon in the Informal Dispute Resolution Agreement executed April 1, 2009. The District also concurs with Student's papers which set forth that the inclusion support and adult assistance received as a result of the April 1, 2009 ADR agreement are not stay put and will not be provided pending resolution of this due process complaint.

ORDER

Student's motion for stay put is granted. Pending final resolution of Student's due process complaint, Student's placement shall continue in a general education 2nd grade program at Lankershim Elementary, Student's school of residence.

Dated: August 05, 2009

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings