

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

PLUMAS UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2009100925

ORDER ON MOTION FOR STAY PUT

On October 16, 2009, Student filed a request for due process hearing. On November 12, 2009, Student filed a motion requesting a stay put order. However, Student's motion did not specify what placement Student contended was the proper "stay put" placement and was not accompanied by any exhibits. On November 13, 2009 the Plumas Unified School District (District) responded to the motion by providing evidence that the last agreed upon and implemented placement was at Greenville High School, pursuant to an IEP dated October 30, 2008. District stated that it was ready to implement the last agreed upon placement. Student filed a response on November 18, 2009 that alleged that in August of 2009, Student and District had been discussing new placement alternatives. Student's response was accompanied by two notes pages to an IEP team meeting held in 2009, neither of which demonstrated that the October 30, 2008 IEP had been superseded by some other agreed upon and implemented IEP. For the reasons set forth below, Student's stay put placement is at Greenville High School, pursuant to the terms of the October 30, 2008 IEP.

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.)

Here, Student did not produce evidence, either in support of the motion, or in response to the District, regarding what Student contends is the last agreed upon and implemented placement for purposes of stay put. The District produced evidence that Student's mother consented to the IEP dated October 30, 2008, which called for placement at Greenville High School. Absent other evidence to the contrary, the October 30, 2008 IEP is Student's stay put placement. The District has indicated in its response that they are prepared to serve Student under the terms of the October 30, 2008 IEP if Student wishes to

enroll while this due process hearing is pending. Accordingly, Student's request for stay put is granted at Greenville High School under the terms of the October 30, 2008 IEP.

ORDER

Student's stay put placement while this due process hearing request is pending is Greenville High School under the terms of the October 30, 2009 IEP.

Dated: November 23, 2009

/s/

RICHARD T. BREEN
Administrative Law Judge
Office of Administrative Hearings