

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. 2009110019

ORDER DENYING MOTION FOR
STAY PUT

On October 28, 2009, Student filed a request for due process hearing which included a request for stay put. The stay put request did not indicate if there was a dispute about the current placement. The District did not file an opposition.

APPLICABLE LAW AND DISCUSSION

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 does not allege whether there is a genuine dispute as to his current placement. Since Student has not alleged a dispute regarding his placement, a stay put order is not necessary. If a dispute exists, Student may re-file his request for stay put and include documentation about what he believes to be the appropriate placement. Accordingly, the request for stay is denied as there does not appear to be a dispute as to Student's current educational placement.

IT IS SO ORDERED.

Dated: November 10, 2009

/s/

RICHARD CLARK
Presiding Administrative Law Judge
Office of Administrative Hearings