

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

NORWALK – LA MIRADA UNIFIED
SCHOOL DISTRICT & LOS ANGELES
UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2010020956

ORDER GRANTING MOTION FOR
STAY PUT

On February 23, 2010 Student filed a due process hearing request naming Norwalk-LaMirada School District (District) as one of the respondents. Student lives in Compton with a responsible adult appointed by the Los Angeles County Superior Court, but currently attends a District middle school under an inter-district transfer. At the time of filing, Student was receiving services agreed to in an IEP dated January 12, 2010. Some of the issues in the due process hearing request concern whether District, or the district where the responsible adult resides, should be responsible for providing Student a FAPE going forward. On February 25, 2010, Student filed a motion for stay put. Student seeks an order that his placement while the due process hearing is pending remain in District under the terms of the January 12, 2010 IEP. The motion was not opposed. As discussed below, the motion is granted.

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 has demonstrated that he is currently attending a District program under an IEP dated January 12, 2010. District did not oppose the motion. Accordingly, Student's stay put placement while the due process hearing request is pending is at a District middle school under the terms of the January 12, 2010 IEP.¹

¹ This Order does not address any of Student's contentions about the applicability of Education Code sections 48853 and 48853.5.

ORDER

1. Student's Motion for Stay Put is granted.
2. While the due process hearing request is pending, Student's placement shall be under the terms of the January 12, 2010 IEP.

Dated: March 11, 2010

/s/

RICHARD T. BREEN
Administrative Law Judge
Office of Administrative Hearings