

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010110231

ORDER GRANTING STUDENT'S
MOTION FOR STAY PUT

On November 2, 2010, Student filed a request for due process (complaint), naming the Oakland Unified School District (District) as respondent. Student also filed a motion for stay put on November 2, 2010, contending that Student's last agreed upon and implemented IEP was dated September 11, 2009, which provided the following placement and services: (1) placement in general education classes for 99 percent of Student's school day; (2) two weekly 30 minute sessions of pull-out resource support services (RSP); (3) three weekly 30 minute sessions of push-in RSP services; and (4) transportation services. Student alleges that, on October 29, 2009, District exited Student from special education without parental consent, and unilaterally suspended Student's services. Student's motion seeks reinstatement of the suspended services until the completion of due process hearing procedures.

District filed no opposition.

On November 15, 2010, the Office of Administrative Hearings (OAH) denied Student's motion for stay put, and directed Student to file proof of the existence of the September 11, 2009 IEP, or any other documentation evidencing the last agreed upon and implemented IEP. On November 18, 2010, Student submitted a copy of the September 11, 2009 IEP.

APPLICABLE LAW AND DISCUSSION

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); 56505, subd. (d).) This is referred to as "stay put." For purposes of stay put, the current educational placement is typically the placement called for in the student's individualized education program (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's last agreed upon and implemented IEP was September 11, 2009. As such, Student is entitled to the placement and services set forth in the September 11, 2009 IEP. Accordingly, Student's motion for stay put is granted.

ORDER

Student's motion for stay put is granted, and District must provide the placement and services set forth in Student's September 11, 2009 IEP while the due process dispute is pending. Specifically, District must provide the following:

- (1) placement for Student in general education classes for 99 percent of Student's school day;
- (2) two weekly 30 minute sessions of pull-out RSP services;
- (3) three weekly 30 minute sessions of push-in RSP services; and
- (4) transportation services.

IT IS SO ORDERED.

Dated: November 22, 2010

/s/

CARLA L. GARRETT
Administrative Law Judge
Office of Administrative Hearings