

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011030599

ORDER DENYING MOTION FOR
STAY PUT

On March 15, 2011, Student filed an opposition to District's motion to vacate expedited status of case. The opposition included an amended complaint with a request for stay put. On March 16, 2011, OAH issued orders granting the District's motion and denying Student leave to file an amended complaint. Student's request for a stay put order is hereby deemed to be a motion for stay put. To date, the District has not filed a response to the stay put request.

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 fails to demonstrate what is the last implemented IEP prior to the dispute, or what placement and services it includes. Student's motion is DENIED without prejudice. Student may bring a new motion for stay put.

IT IS SO ORDERED.

Dated: March 16, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings