

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011050660

v.

ROCKLIN UNIFIED SCHOOL DISTRICT,

ROCKLIN UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2010030240

v.

PARENT ON BEHALF OF STUDENT.

ORDER DENYING MOTION FOR STAY
PUT

On May 10, 2011, District t filed a motion for stay put. On May 17, 2011, Student filed his own motion for stay put and opposition to District’s motion for stay put.

APPLICABLE LAW

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.)

In California, “specific educational placement” is defined as “that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs,” as specified in the IEP. (Cal. Code Regs., tit. 5, § 3042.)

DISCUSSION

Here, Student’s last agreed upon and implemented placement was at Cobblestone School pursuant to the IEP of September 22, 2010. As such, it would constitute the stay put

placement for Student. However, neither party has requested placement at Cobblestone School. Instead, by way of its motion, District seeks to offer or negotiate a compromise placement at Parker Whitney School. Similarly, Student does not seek the stay put placement. Instead, by Student's motion, he seeks placement at Parker Whitney School. The parties are free to agree to a placement at Parker Whitney School as a stay put placement since both parties appear amenable to such placement. (See 20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); 56505, subd. (d).) However, the ALJ cannot order Parker Whitney as the stay put placement for Student because it is not the last agreed upon and implemented placement.

ORDER

1. District's Motion for Stay Put is denied.
2. Student's Motion for Stay Put is denied.

Dated: May 24, 2011

/s/

GLYNDA B. GOMEZ
Administrative Law Judge
Office of Administrative Hearings