

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SCOTTS VALLEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011070593

AMENDED
ORDER GRANTING MOTION FOR
STAY PUT

On July 19, 2011, Student filed a motion for stay put seeking a determination that the May 17, 2010 IEP as amended by the addendums of June 10, 2010, October 7, 2010 and October 18, 2010 constituted Student's stay put placement. On July 21, 2011 District filed an opposition to the motion. On July 22, 2011, District also filed a declaration of Fippin in support of the opposition. In its opposition, District sought to clarify that the above referenced IEP and addenda offered Applied Behavioral Analysis (ABA) services and supervision for the school year and extended school year only and not the entire summer. On July 25, 2011, the Office of Administrative Hearings (OAH) issued an order (July 25, 2011 order) granting Student's motion for stay put and setting forth the placement and services which constituted Student's "stay put" placement.

On August 2, 2011, District filed a motion for clarification of the July 25, 2011 order on the grounds that the order failed to incorporate changes to placement and services made in the October 7, 2010 and October 18, 2010 IEPs although the order referenced the amendments in the October 7, 2010 and October 18, 2010 IEPs and specified that that the referenced IEPs were part of the documents which constituted Student's "stay put" placement. Student did not file an opposition to the motion. Accordingly, the order is amended and clarified to accurately reflect the amendments made in the October 7, 2010 and October 18, 2010 IEPs as follows:

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)¹; Ed. Code, § 56505 subd. (d).) This is referred to as "stay put." For purposes of stay put, the current educational

¹ All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

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, the parties agree that the last agreed upon and implemented IEP is dated May 17, 2010. The parties also agree that the May 17, 2010 IEP was amended by addendums dated June 10, 2010, October 7, 2010, and October 18, 2011. These documents taken together constitute the stay put placement for Student. Specifically, Student’s stay put placement is as follows:

- (1) Placement in a special day class (SDC) at the Santa Cruz County Office of Education (SCOE) Chrysalis program for 180 minutes per day, four days per week (Monday through Friday);
- (2) Physical therapy (PT) twice per month for a total of 120 minutes;
- (3) Occupational therapy (OT) once a week for 30 minutes;
- (4) Speech and language therapy (LAS) four times per week for 15 minutes;
- (5) ABA 20 hours per week with 6 hours of supervision per month from ACES during the school year;
- (6) Specialized vision services for 60 minutes twice per month;
- (7) Transportation
- (8) Extended School Year for four weeks for 20 hours per week and 6 hours of supervision per month and transportation with all related services including PT, OT, LAS, ABA.

The IEP and addendum do not provide for continuous ABA services throughout the summer and Student’s motion does not specifically assert such a contention.

ORDER

Student's motion for Stay Put is granted. While the due process hearing request is pending, Student is entitled to receive the placement and services set forth in the May 17, 2010 IEP, as amended on June 10, 2010, October 7, 2010 and October 18, 2010, during the regular school year and ESY.

Dated: August 15, 2011

GLYNDA B. GOMEZ
Administrative Law Judge
Office of Administrative Hearings