

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

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 opposition. 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.

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 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

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

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 Ludlow elementary school 2hours per day, 2 days per week;
- (2) Physical therapy (PT) once a week for 60 minutes;
- (3) Occupational therapy (OT) once a week for 30 minutes;
- (4) Speech and language therapy (LAS) twice per week for 20 minutes;
- (5) ABA 20 hours per week with 6 hours of supervision per month from ACES during the school year;
- (6) Transportation
- (7) Extended School Year for four weeks with all related services including PT, OT, LAS, ABA for 20 hours per week and 6 hours of supervision per month and transportation.

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: July 25, 2011

/s/

GLYNDA B. GOMEZ
Administrative Law Judge
Office of Administrative Hearings