

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRESNO UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011110895

ORDER DENYING MOTION FOR  
STAY PUT

On November 29, 2011, Student filed a Request for Expedited Due Process Hearing (complaint) challenging the November 14, 2011 manifestation determination decision of the Fresno Unified District (District). Student also included a motion for stay put within his complaint, contending that Student must be allowed to return at his school of residence, Centennial Elementary School (Centennial), pursuant to Student's last agreed upon and implemented IEP of March 21, 2011. On December 5, 2011, District filed a response to Student's complaint acknowledging that the March 21, 2011 IEP was Student's last agreed upon and implemented IEP. District's response also included a declaration signed under penalty of perjury, stating that District advised Student's parents in a letter dated December 4, 2011 that Student could return to Centennial during the pendency of the present expedited due process hearing.

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, District has pledged by sworn declaration to continue providing services within Student's current educational placement (i.e., Centennial). Because Student's last agreed-upon placement is being implemented, there is no stay put dispute. Accordingly, Student's motion for stay put is denied.

IT IS SO ORDERED.

Dated: December 06, 2011

/s/

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CARLA L GARRETT  
Administrative Law Judge  
Office of Administrative Hearings