

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA ROSA CITY SCHOOLS.

OAH CASE NO. 2012010070

ORDER DENYING MOTION FOR  
STAY PUT

On January 9, 2012, Student filed a motion for stay put, seeking an order for Student's one-on-one aide services to continue at 6.5 hours per day pending resolution of her Due Process Hearing Request (complaint). On January 11, 2012, the Santa Rosa City Schools (District) filed an opposition on the ground that the provision of a one-on-one aide was a temporary service.

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); 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.)

However, if a student's placement in a program was intended only to be a temporary placement, such placement does not provide the basis for a student's "stay put" placement. (*Verhoeven v. Brunswick Sch. Comm.* (1st Cir. 1999) 207 F.3d 1, 7-8; *Leonard v. McKenzie* (D.C. Cir. 1989) 869 F.2d 1558, 1563-64.)

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

Student's motion seeks stay put in Student's current general education placement with the services of a one-on-one aide for 6.5 hours per day pending resolution of her complaint. Student and District agree that the May 23, 2011 IEP, along with the October 20, 2011 IEP amendment, constitutes the last agreed-upon and implemented IEP. Student contends that although the IEP specifies that the enriched staffing of a one-on-one aide will be provided from November 1, 2011 through January 9, 2012, these dates do not alter the District's obligation to fund an extension of this service during the pendency of this dispute.

The October 20, 2011 IEP amendment clearly states that the provision of a one-on-one aide is a temporary service offered for a discreet 60-day period. The IEP amendment delineates three times, in three separate sections, the temporary nature of this related service: first, the special education services grid specifies the aide support is offered from 11/1/11 – 1/9/2012; second, the "Other Changes" section denotes the "1:1 support assistant" will provide instructional support for 60 days; and third, the team meeting notes state that District's representative has authorized classroom support assistant for Student for 60 days.

Student contends that January 9, 2012 is only an "anticipated" end date and that absent a current agreement that Student no longer requires an assistant, the service should continue as stay put. Student's argument is flawed. A plain reading of the October 20, 2011 IEP amendment indicates that Student and District expressly agreed that Student would receive the services of an aide for a 60-day period. While there is some evidence that the parties discussed further provision of aide support in January 2012, they did not reach an agreement on such services. There is nothing to indicate that the October 20, 2011 IEP amendment bound District to provide aide support after expiration of the 60-day agreed to period. Therefore, Student's motion for stay put placement is denied.

## ORDER

Student's motion for stay put is denied

Dated: January 13, 2012

/s/

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THERESA RAVANDI  
Administrative Law Judge  
Office of Administrative Hearings