

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012060013

ORDER DENYING MOTION FOR
STAY PUT

On May 29, 2012, Student filed a request for stay put as part of his Request for Mediation and Due Process Hearing (complaint). District did not file a response to the motion. For the reasons discussed below, the motion is denied without prejudice to Student's right to re-file the motion if supported by appropriate evidence.

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.)

Student's complaint alleges that he is in Kindergarten at 135th Street School within the District, and that at his last IEP team meeting District recommended a change of placement to a special day class at 186th Street School. Parent disagreed with the proposed change of placement.

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

As discussed above, the last agreed upon IEP defines the terms of Student's stay put. Student's motion does not identify when his last agreed upon IEP was held, or what the agreed-upon placement was in that IEP. Therefore, the motion is denied. However, Student may re-file his motion for stay put, providing that he attaches a copy of his last agreed upon IEP as an exhibit.

IT IS SO ORDERED.

Dated: June 4, 2012

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings