

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. 2012060261

ORDER DENYING MOTION FOR
STAY PUT WITHOUT PREJUDICE

On June 5, 2012, Student filed a motion for stay put. District did not file an opposition. For the reasons discussed below, Student’s motion for stay put is denied without prejudice to her right to re-file the motion if supported by sufficient authenticated 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.)

DISCUSSION

Student’s request for stay put status was incorporated in her complaint, and will be treated as a motion for stay put. Student seeks stay put placement for the 2012 extended school year (ESY) and for the 2012-13 school year at Webster Middle School.

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

Student did not support the request with a declaration under penalty of perjury identifying relevant facts or a copy of the last signed and implemented IEP. Although Student attached a copy of her February 29, 2012 IEP to the complaint, Parent did not consent to any portion of that IEP, in which District offered placement at McBride Special Education Center.

Student's complaint references a "previous" IEP dated November 16, 2011. However, she did not attach a copy of that IEP or indicate whether that was the last signed and implemented IEP. The February 29, 2012 IEP identifies her school of attendance as the Webster Middle School, from which one can infer that it was her last agreed upon placement. However, Student has offered no evidence that her last signed IEP offered her ESY for purposes of stay put. Moreover, Student has offered no evidence of what related services are subject to stay put status, if any.

Accordingly, Student's request for stay put is denied without prejudice to her filing a new motion for stay put. If she does so, she must attach a complete copy of the last signed IEP and if necessary, provide a declaration under penalty of perjury that helps establish what her current placement and services are.

IT IS SO ORDERED.

Dated: June 11, 2012

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings