

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LINCOLN UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012080271

ORDER DENYING MOTION FOR
STAY PUT

On August 9, 2012, Student filed a motion for stay put. On August 14, 2012, the Lincoln Unified School District (District) filed an opposition on the ground that District has agreed to implement Student's last agreed upon and implemented individualized education program (IEP) for the 2012-2013 school year.

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.)

DISCUSSION

Student filed for due process, contending that he was unlawfully dis-enrolled from District's Lincoln High School because he is homeless, in violation of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11301, et seq.). His stay-put motion seeks only an order for re-enrollment, without identification of the IEP to be enforced, or the services to be provided pursuant to that IEP.

Student is entitled to remain in his last agreed upon and implemented placement while a dispute is pending and an order for stay put is generally not required unless a dispute over placement exists. District has submitted the declaration of its counsel stating that Student's father, subsequent to the filing of Student's due process hearing request, complied with the registration requirements of the McKinney-Vento Act; that Student has been re-enrolled; and

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

that District will continue implementing the last agreed upon IEP at the start of the 2012-2013 school year, thereby eliminating any dispute over Student's entitlement to enrollment in the District.

Student has not alleged whether a dispute exists as to Student's placement (beyond enrollment) or services while the dispute is pending. If there is a dispute that exists as to that placement, Student may file a request for stay put with more specificity as to the nature of the dispute and the terms of stay put. The motion for stay put is denied.

IT IS SO ORDERED.

Dated: August 15, 2012

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings