

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

CORONADO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013020663

ORDER GRANTING MOTION FOR
STAY PUT

On February 19, 2013, Student filed a motion for stay put. District has neither responded nor filed an opposition to motion.

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.)

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

DISCUSSION

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. In his complaint, Student alleges that a dispute over placement currently exists, as District has stopped implementing his last agreed upon and implemented placement as provided in the IEP dated February 12, 2013.

Based on the information provided by the Student in support of the motion, Student's last agreed upon and implemented placement is contained in the February 12, 2013 IEP. District has not disputed this fact. Therefore, based on the available record, Student is entitled to remain in the placement and services provided for in his last agreed upon and implemented IEP dated February 12, 2013 while the request for due process hearing is pending. Accordingly, Student's motion for stay put is granted.

ORDER

Student's motion for stay put is granted. Student shall continue to receive the specific educational placement and services as contained in the February 12, 2013 IEP during the pendency of this dispute.

Dated: February 26, 2013

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings