

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013071130

ORDER GRANTING MOTION FOR
STAY PUT

On August 5, 2013, Student filed a motion for stay put. Student contends that Student’s current placement is at a nonpublic school (NPS) called Big Springs, including “counseling services that are embedded into his program at Big Springs.”

On August 8, 2013, District filed a response. In the response, the District states that the August 10, 2012 individualized education program (IEP) was the last agreed-upon and implemented IEP and constitutes stay put. The District concludes: “Thus, the District takes no position with regard to the pending Motion for Stay Put.”

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 pupil’s 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

The District does not dispute that Student has been attending Big Springs NPS. According to the exhibits attached to Student’s motion, the August 10, 2012 IEP lists Student’s current school as “Big Springs [NPS].”

Student's moving papers explain that events have led Student to question whether the District will honor that stay put placement. In its papers, the District does not dispute Student's concerns. Indeed, the District's equivocal response to this motion supports Student's concerns about whether the District considers Big Springs to be Student's stay put placement.

Student has made a sufficient showing that Big Springs NPS is Student's current educational placement. The District has done nothing to dispute that showing. Big Springs is the appropriate stay put for this matter.

ORDER

The Motion for Stay Put is granted. Pending the resolution of this due process case, Student shall remain in Student's current placement at Big Springs NPS, with Student's current services and accommodations, including the counseling services that are embedded into his program at Big Springs.

Dated: August 12, 2013

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings