

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013110247

ORDER GRANTING MOTION FOR
STAY PUT

On November 6, 2013, Student’s parent on behalf of Student (Student) filed a request for a due process hearing along with a motion for stay put. No response to that motion has been filed by the San Diego Unified School District (District).

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 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

According to Student’s moving papers, Student’s last agreed upon and implemented IEP called for Student to attend Pacific Beach Elementary School. Student’s due process hearing request alleges that, in its most recent IEP offer, the District is proposing to change Student’s placement to a more restrictive setting. Student is seeking stay put to remain at Pacific Beach Elementary School while this case is pending.

Student filed a copy of the last agreed upon and implemented IEP with the moving papers. That IEP shows Student’s school of attendance as Pacific Beach Elementary. The District has filed nothing to contradict Student’s moving papers.

ORDER

The District shall maintain Student in Student's last agreed upon and implemented IEP placement at Pacific Beach Elementary School while this due process proceeding is pending.

Dated: November 20, 2013

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings