

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN RAMON VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2014101002

ORDER DENYING MOTION FOR
STAY PUT

On October 23, 2014, Student filed a request for due process hearing (complaint) naming San Ramon Valley Unified School District, and a separate motion for stay put. OAH did not receive a response to the motion from San Ramon Valley. For the reasons discussed below, the motion is denied.

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.)

When a special education student transfers to a new school district in the same academic year, the new district must adopt an interim program that approximates the student’s old IEP as closely as possible for 30 days until the old IEP is adopted or a new IEP is developed. (20 U.S.C. § 1414(d)(2)(C)(i)(1); 34 C.F.R. § 300.323(e); Ed. Code, § 56325, subd. (a)(1); see *Ms. S. ex rel G v. Vashon Island Sch. Dist.* (9th Cir. 2003) 337 F.3d 1115, 1134.)

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

DISCUSSION

Student's complaint identifies Student's school of attendance as "SRSD" and his district of residence as "PUSD." Student alleges in his complaint that Parent is exercising Student's right to stay put at his current school placement in San Ramon Valley until the end of the year. Mother did not attach a copy of Student's last agreed upon and implemented individualized education program or offer a declaration under penalty of perjury establishing relevant facts supporting stay put at San Ramon Valley. The motion attaches a chain of email correspondence between Mother and school representatives. The emails establish that San Ramon Valley has notified Mother that it can no longer offer educational services and supports to Student because he resides within the Pleasanton Unified School District, which has recently attempted to convene an IEP meeting to develop an IEP for Student.

Student has not offered sufficient evidence to support a finding that his stay put should be at San Ramon Valley and therefore the motion for stay put is denied. Student may refile his motion with additional evidence providing, however, he must attach a copy of Student's last agreed upon and implemented IEP, supported by a declaration under penalty of perjury establishing the necessary facts, including in what district Student resides, whether he is attending school in another district on a valid and current inter-district placement agreement, and any other facts or documents that would establish what Student's stay put placement should be. Accordingly, the motion for stay put is denied.

IT IS SO ORDERED.

DATE: November 4, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings