

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015060799

ORDER DENYING MOTION FOR
STAY PUT

On June 15, 2015, Student filed a motion for stay put. On June 18, 2015, District filed a statement of non-opposition to the motion.

APPLICABLE LAW and DISCUSSION

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, 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.)

District has pledged in its non-opposition to continue providing services within Student’s current educational placement pending the outcome of the due process hearing. 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. Here, Student has not alleged whether a dispute exists as to Student’s placement and services while the dispute is pending; and District has pledged to continue to “provide the placement pursuant to the last agreed upon IEPs, pending the outcome of the due process hearing.” 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.

ORDER

Student's motion for stay put is denied without prejudice as being moot as District agrees to implement Student's last agreed upon and implemented educational program during the pendency of this matter.

DATE: June 22, 2015

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings