

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

POWAY UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015090044

ORDER GRANTING MOTION FOR  
STAY PUT

On August 28, 2015, Poway Unified School District filed a motion to determine Student's stay put placement. Student has not responded to the 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); 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.)

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. District has asserted that there is such a dispute, and that Student now "disagree[s] with the appropriateness" of the placement. As Student has not filed an opposition to the motion, it is impossible to ascertain the nature of the dispute. However, District has asked for clarification of the stay-put placement, and established that Student's last agreed upon and implemented educational program is his March 15, April 29, May 7, and June 7, 2013 IEP.

ORDER

Student's stay-put placement is that which was specified in his last agreed-to and implemented IEP, dated March 15, April 29, May 7, and June 7, 2013: the critical skills special day class at Sundance Elementary School, with instruction, supports and services as detailed in the IEP.

IT IS SO ORDERED.

DATE: September 15, 2015

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CHRIS BUTCHKO  
Administrative Law Judge  
Office of Administrative Hearings