

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CALIFORNIA VIRTUAL ACADEMIES.

OAH Case No. 2015091090

NOTICE AND ORDER DENYING
MOTION FOR STAY PUT

On September 23, 2015, Student filed a request for due process hearing (complaint) that included a reference to a request that stay put be granted . The complaint did not include any additional information regarding the request for Stay Put, and it is unclear if a stay put order is sought.

A special education student is entitled to remain in his or her current educational placement pending the completion of due process hearing procedures unless the parties agree otherwise. (20 U.S.C. § 1415(j); Ed. Code, §§ 56505, subd. (d), 48915.5.) Stay put operates automatically upon due process filing. (See *Casey K. v. St. Anne Community High School District No. 302* (7th Cir. 1998) 400 F.3d 508, 511.) 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 Board of Education* (6th Cir. 1990) 918 F.2d 618, 625.)

Stay put is automatic and an order is required only if there is a dispute as to stay put placement. The request for stay put does not indicate whether there is a dispute related to Student's placement, under what circumstances stay put should be ordered, or what documents provide the basis for the stay put placement. If a dispute exists as to Student's placement, then Student may re-file a motion for stay put including proper documentation about current placement and what the conditions of stay put should be. At a minimum, the last agreed-upon and implemented IEP should be provided. Any motion for stay put, if filed, should include proof that the motion was served on all the parties.

Based upon insufficient documentation for the stay put request at the current time, the motion for stay put is denied.

IT IS SO ORDERED.

Dated: September 29, 2015

/s/

BOB N. VARMA
Division Presiding Administrative Law Judge
Office of Administrative Hearings