

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

VALLEJO CITY UNIFIED SCHOOL
DISTRICT AND MARE ISLAND
TECHNOLOGY ACADEMY CHARTER
SCHOOL.

OAH CASE NO. 2009050129

ORDER DENYING MOTION FOR
STAY PUT

On April 30, 2009, the Office of Administrative Hearings received Student's motion for stay put. Neither the Vallejo City Unified School District (District) nor the Mare Island Technology Academy Charter School (Mare Island) filed an opposition to Student's motion for stay put.

APPLICABLE LAW

Under federal and California special education law, 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); 34 C.F.R. § 300.518(a) (2006); Ed. Code, §§ 48915.5, 56505, subd. (d).) The purpose of stay put is to maintain the status quo of the student's educational program pending resolution of the due process hearing. (*Stacey G. v. Pasadena Independent School Dist.* (5th Cir. 1983) 695 F.2d 949, 953; *D. v. Ambach* (2d Cir. 1982) 694 F.2d 904, 906.) For purposes of stay put, the current educational placement is typically the placement called for in the student's Individualized Educational 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.)

California Code of Regulations, title 5, section 3042, defines "educational placement" 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.

DISCUSSION

In Student's complaint, there is a request for stay put. However, the complaint does not allege that the District or Mare Island will not provide the educational program in Student's IEP. Therefore, Student has not established any disagreement over his educational program that warrants a stay put order.

ORDER

Student's motion for stay put is denied.

Dated: May 7, 2009

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings