

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011100043

ORDER GRANTING MOTION FOR
STAY PUT

On September 29, 2011, Student filed a motion for stay put. Sacramento City Unified School District (District) did not respond to the motion.

On October 10, 2011, the undersigned Administrative Law Judge (ALJ) issued an order denying Student's Motion for Stay Put (first motion) because insufficient evidence was submitted.

On October 12, 2011, Student filed a motion for reconsideration. District filed no response to the motion. On October 14, 2011, the undersigned ALJ granted reconsideration and ordered the parties to provide a sworn declaration to identify Student's last agreed upon and implemented individualized education program (IEP) within five business days.

On October 24, 2011, District provided a declaration from Rebecca Bryant, Director of Special Education and Special Education Local Plan Area Administrator. Student filed no response.

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 IEP, which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

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

DISCUSSION

District has pledged by sworn declaration that the March 23, 2011 IEP is the last agreed upon and implemented IEP for Student. Student is entitled to remain in his last agreed upon and implemented placement, which includes the location of placement and all designated instructional services while a dispute is pending.

ORDER

1. Student shall remain in her placement detailed in March 23, 2011 IEP during the dispute.
2. Student's motion for stay put is granted.

Dated: November 1, 2011

/s/

MICHAEL G. BARTH
Administrative Law Judge
Office of Administrative Hearings