

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2011100298

REVISED ORDER GRANTING  
MOTION FOR STAY PUT

On October 10, 2011, Parents on behalf of Student (Student) filed a Due Process Hearing Request (complaint) and a Motion for stay put. The complaint involves the June 17, 2011 IEP. The District has not filed an opposition to Student's 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)<sup>1</sup>; 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 (IEP), 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

Here, Student has alleged that the parties entered into a settlement agreement on May 27, 2010, which obligated the District to provide as stay put in the event the parties entered into a dispute that Student would receive BII and BID services from a Non-Public Agency, the Lovass Institute. A copy of the settlement agreement was attached to the motion as an exhibit. Also attached to the motion was a copy of the last agreed-upon IEP (dated

---

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

December 9, 2010) which stated: “If a dispute arises regarding BII/BID services, as ‘stay put’ [Student] will receive 24 hours per week of BII services and 6 hours per month of BID services provided by a District contracted Non-Public Agency (NPA). The NPA providing services of BII and BID will be Lovaas Institute.” The IEP also states that in the event the Lovaas Institute is unable or unwilling to provide such services, the District shall identify another NPA provider to provide the BII and BID services to Student.

In his motion, Student requests that OAH issue an order requiring that the District provide BII and BID services per the last implemented IEP which was dated December 9, 2010.

Since the last implemented IEP calls for BII and BID services from the Lovaas Institute, Student’s motion for stay put is granted.

#### ORDER

Student’s motion for stay put is GRANTED and the District shall provide Student BII services of 24 hours per week and BID services of six hours per month by the Lovaas Institute, or if the Lovaas Institute is unable to provide such services, the District shall identify another NPA provider to provide the services. Such services shall be provided at Student’s current school of attendance or at his home.

Dated: October 24, 2011

/s/

---

ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings