

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

VISTA UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011120408

ORDER DENYING MOTION FOR  
STAY PUT

On December 14, 2011, Parent on behalf of Student filed a request for stay put, concurrently with filing his request for due process hearing (complaint). No opposition has been filed to Student's request for stay put.

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

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. Here, Student has not alleged whether a dispute exists as to Student's placement and services while the dispute is pending. If there is a dispute that exists as to that placement, Student may file a request for stay put with more specificity as to the nature of the dispute and the terms of stay put. The motion for stay put is denied.

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

ORDER

Student's request for stay put is denied without prejudice. Student may resubmit his request with more information as to the actual and specific denial of stay put.

Dated: December 19, 2011

/s/

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JUDITH PASEWARK  
Administrative Law Judge  
Office of Administrative Hearings