

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012050685

ORDER DENYING MOTION FOR
STAY PUT

On May 17, 2012, Student filed a motion for stay put. Student’s motion was not supported by a declaration under penalty of perjury or reference to or a copy of her last agreed upon individualized education program (IEP). On May 23, 2012, District filed an opposition, which was supported by a declaration under penalty of perjury and an authenticated copy of Student’s last agreed upon IEP as amended.

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 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 AND ORDER

Student’s due process complaint raises a single issue, namely whether District has denied Student a free appropriate public education by failing to identify a service provider for district-funded mental health services beginning June 1, 2012. Student alleges that her individualized education program (IEP) provides for a transition from AB3632 mental health services to district-funded AB114 mental health services on June 1, 2012. Student also

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

alleges that, consistent with her IEP, she has received mental health services at her current placement, Hillside Learning Center. In that regard, Student's stay put motion seeks an order that Student's stay put shall include mental health services provided by Hillside Learning Center at District's expense from and after June 1, 2012. As noted above, Student's motion does not reference which IEP is at issue nor does she attach a copy identifying which service provider, if any is designated for that service.

However, District has pledged by sworn declaration to continue providing services within Student's current educational placement as called for in her December 9, 2011 IEP as amended by her May 7, 2012 IEP, copies of which District has attached. Student's IEP placement is a nonpublic school with multiple related services to be provided at either the NPS or a District service provider. In the case of counseling services, the IEP specifically states "District of Service, Service provider location" and does not identify Hillside Learning Center.

Student is entitled to remain in her 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. The December 9, 2011 IEP, as amended on May 7, 2012, makes clear that counseling services will be provided by "District of Service, Service provider location" which is Student's stay put. Accordingly, Student's stay put placement while this due process hearing request is pending shall be the placement and services set forth in the December 9, 2011 IEP, as amended on May 7, 2012, which District has stated they will implement.

To the extent Student contends that she is entitled to an order for a particular service provider for mental health services as of July of 2012, the motion is denied.

IT IS SO ORDERED.

Dated: May 23, 2012

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings