

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SOUTH SAN FRANCISCO UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2013020869

ORDER DENYING MOTION FOR
STAY PUT

On February 25, 2013, Student filed a motion for stay put. To date, no response from the South San Francisco Unified School District (District) has been received.

APPLICABLE LAW AND DISCUSSION

Until due process hearing procedures are complete, a special education student is entitled to remain in her or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); 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.)

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. 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.

ORDER

Student's motion for a stay put order is denied without prejudice.

IT IS SO ORDERED

Dated: March 1, 2013

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings