

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CHINO VALLEY UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2015090818

ORDER DENYING MOTION FOR  
STAY PUT

On September 18, 2015, Student filed a motion for stay put. On September 22, 2015, District filed a statement of non-opposition to the motion with a clarification.

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); 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.)

However, if a student’s placement in a program was intended only to be a temporary placement, such placement does not provide the basis for a student’s “stay put” placement. (*Verhoeven v. Brunswick Sch. Comm.* (1st Cir. 1999) 207 F.3d 1, 7-8; *Leonard v. McKenzie* (D.C. Cir. 1989) 869 F.2d 1558, 1563-64.)

DISCUSSION AND ORDER

Student failed to submit a sworn declaration with a copy of the last agreed upon and implemented IEP, and instead submitted the declaration of Student’s guardian summarizing IEP contents to include 17 weekly 15-minute sessions of language and speech services per year. District, in its non-opposition, filed the sworn declaration of its special education director, which authenticated Student’s last agreed upon and implemented IEP of April 23, 2014, as amended on June 4, 2014 and September 11, 2015.

As clarified by District in its non-opposition, the IEP clearly indicates that 15-minute sessions of individual speech therapy were to be added to Student’s three weekly 45-minute

sessions of language and speech therapy as “compensatory time,” and were limited to 17 sessions for a total of 225 minutes. Therefore, these 15-minute sessions were intended to be temporary, and do not provide a basis for “stay put.” District has agreed to continue providing compensatory services, until a total of 225 minutes is reached, pending this dispute.

Petitioner’s motion for stay put is denied because Student’s stay put request does not comport with the most recent and implemented IEP. However, District has pledged by sworn declaration to continue providing services within Student’s current educational placement.

IT IS SO ORDERED.

DATE: September 23, 2015

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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings