

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OCEANSIDE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015110951

ORDER DENYING MOTION FOR
STAY PUT

On November 25, 2015, Student filed a motion for stay put. On December 3, 2015, District filed an opposition.

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, 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, subd. (a).)

DISCUSSION

Parent seeks a stay put order requiring District to transport Student to an after school private daycare facility located out of District that provides pediatric health care and extracurricular activities. Student did not submit a copy of Student’s last agreed upon and implemented IEP, or any evidence that Student’s last agreed upon and implemented IEP provided for transportation to a daycare facility after school, and particularly out of District’s boundaries.

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

District submitted declarations under penalty of perjury of staff establishing that Student's last agreed upon and implemented IEP called for transportation from school-to-home, and that District transported Student to a daycare facility within District as a courtesy to Parent, but had no obligation to do so. District contends that it never drove Student to an out-of-District facility, and that such a location cannot be stay put. District also did not submit a copy of Student's last agreed upon and implemented IEP.

Student has offered no credible evidence that Student's last agreed upon and implemented IEP provided for transportation to an after school program located out of District's boundaries . Accordingly, Student's motion for stay put is denied.

IT IS SO ORDERED.

DATE: December 8, 2015

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings