

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. 2015111073

ORDER DENYING STUDENT'S
MOTION FOR STAY PUT

On November 30, 2015, Student filed a motion for stay put, supported by a declaration under penalty of perjury from Parent. On December 3, District filed an opposition. For the reasons discussed below, the motion is denied.

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, 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

Student’s motion for stay put seeks an order compelling District to provide transportation to an after-school program located outside of District boundaries so Parents can continue to work.

The motion includes a copy of an August 2015 amendment to Student’s 2014 IEP. However, the motion does not attach a complete copy of Student’s last agreed upon and implemented IEP, which establishes the basis of stay put. The amendment notes a dispute between Parent and District over transportation outside of District boundaries. It is not

persuasive evidence establishing that the transportation Parent is seeking as stay put was part of the last agreed upon and implemented IEP. District opposes the motion on the ground that Student is improperly seeking the relief sought in its complaint as stay put without supporting evidence that it is properly the status quo.

Student's motion is denied without prejudice. If Student desires to file a new motion for stay put, it must be supported by a complete and properly authenticated copy of Student's last agreed upon and implemented IEP.

IT IS SO ORDERED.

DATE: December 8, 2015

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings