BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: DESERT SANDS UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013020687 ORDER DENYING MOTION FOR STAY PUT

On March 19, 2013, Student filed a motion for stay put. On March 22, 2013, Desert Sands Unified School District (District) filed an opposition on the grounds that there is no dispute regarding stay put because District is implementing Student's agreed to stay put placement.

APPLICABLE LAW AND DISCUSSION

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.)

Student is entitled to remain in his 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. District has pledged by sworn declaration to continue providing services within Student's current educational placement. Accordingly, Petitioner's motion for stay put is denied. 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.

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

ORDER

Student's motion for stay put is denied.

IT IS SO ORDERED.

Dated: March 25, 2013

/s/
MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings