BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013051002 ORDER GRANTING MOTION FOR STAY PUT

On May 23, 2013, Parents on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (complaint) naming the Los Angeles Unified School District (District) as respondent. Also on May 23, 2013, Student filed a motion for stay put. On May 29, 2013, the District filed an opposition to the motion.

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 (IEP), 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.)

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.

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

DISCUSSION

Student, in his complaint, contends that the March 13, 2013 IEP has failed to provide him with a free appropriate public education (FAPE). Although Parent did not consent to the IEP, Parent consented for the District to implement the March 13, 2013 IEP. The District, in its opposition, agrees that the last agreed and implemented IEP is the March 13, 2013 IEP. There is no dispute that Student continues to be placed in MRM special day class (SDC) at Menlo Elementary School (Menlo). Student contends that the District has discontinued the mainstreaming portions of the IEP and speech and language therapy (SLT) and occupational therapy (OT) support services. Student presented the declaration of Student's parent, a letter from counsel dated April 26, 2013, to school administrators, and copies of the March 13, 2013 IEP.

The District disputes the assertion that it has failed to provide support services and mainstreaming as required by the March 13, 2013 IEP. The District supports its position by presenting a copy of the March 13, 2013 IEP and a declaration from an assistant principal at Menlo.

Because there is a dispute whether the IEP is being implemented, a stay put order is warranted.

ORDER

Student's motion for stay put is granted The District shall maintain placement at the Menlo Elementary School MRM SDC and provide the following support services:

(a) Individual OT services one time per week for 30 minutes including Extended School Year (ESY);

(b) Clinic based OT services one time per week for 30 minutes including ESY;

(c) Speech and language therapy twice per week for a total of 60 minutes;[2] and

(d) Student shall participate in the general education program for Art, Music, Computer Lab, field trips, special school events, and school assemblies.

[2] The March 13, 2013 IEP does not provide Speech and language therapy during the ESY.

Dated: May 30, 2013

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings