BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ALTA LOMA SCHOOL DISTRICT, ET AL.	OAH CASE NO. 2014010335 ORDER GRANTING MOTION FOR STAY PUT

On January 17, 2014, Student filed a motion for stay put. On January 22, 2014, the Alta Loma School District (District) and the other respondents filed an opposition to the motion. On January 23, 2014, Student filed a reply.

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.)

DISCUSSION

The key dispute in this case involves whether Student currently resides in the District and whether the District is required to provide Student with an education. Student contends that the District is required to educate Student. The District and other respondents disagree.

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

Student's motion for stay put requests that Student be permitted to remain in Student's placement in the District during the pendency of this due process case. The District opposes the request on the ground that Student no longer resides in the District.

Under these circumstances, the District must continue to provide Student with the last agreed-upon and implemented IEP placement and services while the current case is pending. Anything else would require a decision on the merits of this case. Such a decision must be made after an administrative hearing, not on a motion.

ORDER

The District shall continue to provide Student with educational services in accordance with Student's last agreed-upon and implemented IEP while this case is pending.

Dated: January 23, 2014

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings