BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. NATOMAS UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015120384 ORDER DENYING MOTION FOR STAY PUT

On December 17, 2015, Student filed a motion for stay put seeking an order reinstating Student's one-on-one aide support pending resolution of his Request for Due Process Hearing (complaint). On December 23, 2015, District filed an opposition on the ground that Student's non-public agency one-on-one aide service ended August 26, 2015, and was transitioned to District aide support at the beginning of the 2015 - 2016 school year. Student filed a reply brief on December 28, 2015.

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 filed a Request for Due Process Hearing on December 9, 2015, seeking a reinstatement of Student's one-on-one aide support, among other issues. Student's motion includes a declaration from Parent and a copy of various IEPs, including the stay put IEP of April 16, 2015. Student and District agree that the April 16, 2015 IEP constitutes the last agreed upon and implemented IEP. Neither party disputes that Student was to receive

337 minutes of non-public agency one-on-one aide support daily, with an end date of August 26, 2015, under the stay put IEP.

Student contends that, when signing the IEP, Parent did not understand that the 337 minutes of daily one-on-one aide services would end on August 26, 2015. Rather, she believed the services would continue at the same rate, but transition to District staff. Further, Student argues that his behaviors have increased since transitioning to his new placement and, therefore, he requires reinstatement of one-on-one aide services for 337 minutes daily.

The April 16, 2015 IEP clearly states that one-on-one non-public agency aide services would end August 26, 2015. First, the related services page explicitly provides an August 26, 2015, end date for the one-on-one aide service. Second, the related service comments section states, "Student assistant under contract with district to transition [Student] to new middle school environment during first two weeks of 2015-2016 school year." Third, the notes section of the IEP reiterates the August 26, 2015 end date of non-public agency one-on-one aide support and the transition of the non-public agency aide to District "aide support." The notes reference the non-public agency's recommendations for the change in aide service and reflect District and Parent participation in the discussion. Parent signed consent to all parts of the IEP and authorized implementation on April 22, 2015. Student's complaint was filed December 9, 2015, after the start of the 2015-16 school year and after Student's one-on-one aide service transitioned to District aide support.

The preservation of the status quo ensures that the student remain in the last placement that the parents and the district agreed to be appropriate. (*Verhoeven v. Brunswick Sch. Comm.* (1st Cir. 1999) 207 F.3d 1, 10.) The parties agreed that transition of aide service was appropriate at the time of the April 16, 2015 IEP team meeting. Reinstatement of aide services would change the status quo, not preserve it. Therefore, Student's motion for stay put placement is denied.

ORDER

Student's motion for stay put is denied.

IT IS SO ORDERED.

DATE: January 7, 2016

/s/

COLE DALTON
Administrative Law Judge
Office of Administrative Hearings