

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TAMALPAIS UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2014041122

ORDER GRANTING MOTION FOR
STAY PUT

On April 23, 2014, Student filed a motion for stay put concurrently with his request for due process (complaint) in which he named Tamalpais Union High School District (District). The motion was accompanied by a declaration under penalty of perjury and an authenticated copy of Student's April 2014 individualized education program (IEP). The Office of Administrative Hearings did not receive a response from District to the stay put 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); 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 AND ORDER

Student has established by way of credible evidence, which District did not contest, that his last agreed upon and implemented IEP was dated June 11, 2013, which provided for placement, services and supports in a residential treatment center (RTC) in Florida. Student also established that the IEP team agreed that, in August 2013, the location of the RTC changed, without a written IEP amendment, from Florida to Texas, where the latter

accommodated students who were over eighteen years old. Student currently attends the Texas RTC.

Although Student did not offer a copy of the June 11, 2013 IEP as evidence to this motion, District did not oppose the motion or Student's claim that his stay put should be the RTC placement and supports and services provided for in the June 11, 2013 IEP.¹ Accordingly, for the duration of this due process matter, Student's stay put shall be placement in a RTC, with goals, services and supports as set forth in Student's June 11, 2013 IEP.

IT IS SO ORDERED.

DATE: April 29, 2014

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings

¹ Student offered a copy of an April 2014 IEP that was not signed, and is the subject of Student's due process complaint. The 2014 IEP is not relevant to the determination of stay put because no evidence was offered that it was signed and implemented. Therefore, it was not considered in determining what the terms of Student's stay put should be.