

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014050674

ORDER DENYING MOTION FOR
STAY PUT

On May 19, 2014, Student filed a motion for stay put. No opposition from Los Angeles Unified School District (District) has been received.

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.)

However, if a student’s placement in a program was intended only to be a temporary placement, such placement does not provide the basis for a student’s “stay put” placement. (*Verhoeven v. Brunswick Sch. Comm.* (1st Cir. 1999) 207 F.3d 1, 7-8; *Leonard v. McKenzie* (D.C. Cir. 1989) 869 F.2d 1558, 1563-64.)

DISCUSSION AND ORDER

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 submitted one page from an undated IEP (presumably the May 13, 2013 IEP referenced in Student’s motion) that states in the “Notes” section that Student will receive behavior intervention services through May 14, 2014, but also that the need to continue the services would be determined through an assessment to be presented at Student’s next IEP. Student contends that the annual IEP team meeting was held on May 28,

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

2014, after Student's due process hearing request was filed, but that the behavior assessment will not be completed until the beginning of the 2014-2015 academic school year. The single page of the May 13, 2013 IEP that Student filed with the motion is not enough to show that Student is entitled to stay put for BII services because it is an optional, "additional discussion" page says that the services will end in May of 2014. If Student wants to show that the BII services were intended to continue, Student may want to consider filing a complete copy of the May 13, 2013 IEP, or copies of any more recent IEP's with a further stay put motion.

The motion for stay put is denied. Student may re-file it with complete copies of the IEP's at issue.

IT IS SO ORDERD

DATE: May 27, 2014

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings