

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DOWNEY UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014040514

ORDER DENYING MOTION FOR
STAY PUT

On May 19, 2014, Student filed a motion for stay put. Student's motion contends that at the June 18, 2013, individualized education placement (IEP) meeting, District agreed to provide speech language services and resource support, and specifically agreed these would consist of LiPS and Seeing Stars curriculum, methodology and instruction, to be provided by staff with training in Lindamood Bell programming, of which LiPS and Seeing Stars are a proprietary part. The motion therefore seeks an order that Student's stay put placement and services shall consist of LiPS and Seeing Stars programming through an individual who has undergone Lindamood Bell training in these programs, speech language consultation by a Lindamood Bell trained individual to teach school staff the Lindamood Bell interventions, and ESY services with a specific individual to provide the Lindamood Bell services. On May 23, 2014, District filed an opposition, arguing that it never agreed upon, nor actually implemented such services, but only speech and resource support services in general. On May 23, 2014, Student filed a reply. On May 28, 2014, District filed further opposition. As discussed below, the motion is denied.

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

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

an individual with exceptional needs,” as specified in the IEP. (Cal. Code Regs., tit. 5, § 3042.)

DISCUSSION

Here Student’s last agreed upon and implemented IEP was dated June 18, 2013. The IEP offered a general education placement with resource support in reading and writing four days per week for 45 minutes per session, and speech language consultation services of 30 minutes per month “for strategies/training to support learning needs of student.” During extended school year, speech language services were offered in the amount of three weekly sessions of 30 minutes each.

The notes of the meeting indicate that Mother wanted a comprehensive program with strategies that were cognitively-based. District’s speech therapist proposed to help Student with building auditory memory and phonics skills/ short term memory. The IEP document did not provide further clarification of what precise resource support or speech language services were agreed upon at that time.

Contrary to Student’s motion, subsequent progress reports, IEP meeting notes and documents also do not provide a clear indication that the parties agreed as Student contends.

Student’s motion for stay put contends that the intent of the IEP team at the June 18, 2013 meeting was clear, and was confirmed during later progress reports and IEP meetings in October and November. Specifically, Student contends that the specific content of the speech language services and RSP support was to be LiPS and Seeing Stars curriculum, methodology and instruction, to be provided by staff with training in Lindamood Bell programming. The evidence, however, does not support Student’s contention. Therefore the motion for stay put is denied.

ORDER

The motion for stay put is denied.

DATE: May 28, 2014

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings