

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA BARBARA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2015020828

ORDER DENYING MOTION FOR
STAY PUT

On February 18, 2015, Student filed a motion for stay put, seeking that Student be moved from her current residential treatment program in Kansas (Lake Mary) to a program closer to Parent in California.

On February 23, 2015, Santa Barbara Unified School District filed opposition.

On February 24, 2015, Student filed a reply. On February 24, 2015, District filed a response to Student's reply reiterating that District does not propose to change Student's program.

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.)

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

DISCUSSION AND ORDER

Student's motion is not supported by a sworn declaration and does not include a copy of the last agreed upon and implemented IEP. Student is not seeking to maintain Student's current placement, which her moving papers and reply concede is at Lake Mary, but to change her placement to a location more convenient to Parent.

On the other hand, District's opposition is supported by the sworn declaration of its special education director. The director states that the last agreed upon and implemented IEP is dated March 12, 2014, as amended, and calls for placement and services at Lake Mary, which placement and services the District will not change pending a decision on Student's due process hearing request.

District has pledged by sworn declaration to continue providing services within Student's current educational placement at Lake Mary. Accordingly, Petitioner's motion for stay put is denied.

IT IS SO ORDERED.

DATE: February 24, 2015

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings