

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAJON VALLEY UNION SCHOOL
DISTRICT.

OAH Case No. 2015030143

ORDER DENYING MOTION FOR
STAY PUT

Student filed a motion for stay put on February 27, 2015. On March 5, 2015, Cajon Valley Union High School District filed an opposition to the motion. Student filed a reply to District's opposition on March 6, 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.)

DISCUSSION

In his due process complaint as well as in his motion for stay put, Student acknowledges that neither he nor his parents presently live within District's boundaries. Student states that due to circumstances beyond the control of his family, they have had to move to a city located some distance from District, albeit in the same county. Student contends however, that the move is temporary. He therefore contends that his stay put is a placement at District because he and his parent apparently intend to return to live within District's boundaries at some unspecified time in the future.

Student failed to provide any citation to statute or case law that supports his contention that a school district where a child previously lived is responsible for providing a special education placement and services after the child and the child's parent have moved

into the boundaries of another district. Student also failed to provide any factual basis for asserting that he remains a resident of the District. Student does not contend that either of his parents presently lives within District's boundaries or even maintains an additional residence there available for them in which to live. There is no basis, therefore, for Student's assertion that his stay put is at a District school.

Additionally even if Student's residency had not changed and was not an issue in his motion, Student has failed to present any evidence of what his stay put placement and services would be. Student failed to attach a copy of his last agreed upon and implemented educational program, such as an IEP, to his motion. He also failed to describe in his motion exactly what his placement consists of in terms of programming, type of classroom, services, accommodations, or modifications to the curriculum, pursuant to the IEP Student contends should define his stay put. It is therefore impossible to determine what would constitute Student's stay put, even assuming he still resided within District's boundaries.

For these reasons, Student's motion for stay put is denied.

IT IS SO ORDERED.

DATE: March 9, 2015

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings