

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT and GREEN DOT PUBLIC
SCHOOLS OF LOS ANGELES.

OAH CASE NO. 2015041131

ORDER GRANTING MOTION FOR
STAY PUT

On April 20, 2015, Student filed a request for due process hearing and motion for stay put. The motion seeks an order that Student's stay put placement be at Washington Preparatory High School, with the supports and services identified in the March 5, 2014 individualized education program, the last agreed upon and implemented placement. No opposition 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, 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.)

Courts have recognized, however, that because of changing circumstances, the status quo cannot always be replicated exactly for purposes of stay put. (*Ms. S ex rel. G. v. Vashon Island Sch. Dist.* (9th Cir. 2003) 337 F.3d 1115, 1133-35.) Progression to the next grade maintains the status quo for purposes of stay put. (*Van Scoy v. San Luis Coastal Unified*

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

Sch. Dist. (C.D. Cal. 2005) 353 F.Supp.2d 1083, 1086 [“stay put” placement was advancement to next grade]; see also *Beth B. v. Van Clay* (N.D. Ill. 2000) 126 F. Supp.2d 532, 534; Fed.Reg., Vol. 64, No. 48, p. 12616, Comment on § 300.514 [discussing grade advancement for a child with a disability.].)

DISCUSSION

Student is entitled to remain in his last agreed upon and implemented placement while a dispute is pending. Student attached a copy of the last agreed upon and implemented IEP of March 5, 2014, including the signature page reflecting parent’s agreement to the placement and services offered by District.

As part of Student’s complaint, and motion, Student alleges that District unilaterally changed his placement, from general education with related services at Washington Preparatory High School to a special day class at Duke Ellington Continuation High School, including a three hour reduction in Student’s school day and an elimination of all related services. According to Student, the change in placement was made without prior written notice to parent and without holding Student’s annual IEP.

The purpose of stay put is to prevent school districts from unilaterally denying placement to a student while the parties are litigating the very issue of placement. (*Honig v. Doe* (1988) 484 U.S. 305, 327 [108 S.Ct. 592, 98 L.Ed.2d 686].) The motion for stay put is granted.

ORDER

Student’s motion for stay put is granted. Student’s stay put shall be as provided in the March 5, 2014 IEP, with the exception that District may advance Student from grade to grade during the pendency of this matter.

DATE: May 05, 2015

/s/

COLE DALTON
Administrative Law Judge
Office of Administrative Hearings