

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CALIFORNIA SCHOOL FOR THE DEAF.

OAH Case No. 2015110371

ORDER DENYING MOTION FOR
STAY PUT

On November 4, 2015, Student filed a motion for stay put. Student did not file a declaration authenticating facts in support of her motion and did not attach a copy of the last agreed upon and implemented individualized education program. District has not filed an opposition.

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, subd. (a).)

DISCUSSION AND ORDER

Student is entitled to remain in her 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 has not demonstrated with credible evidence whether a dispute exists as to Student’s placement and services while the dispute is pending. If a dispute exists as to that placement, Student may file a request for stay put with more

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

specificity as to the nature of the dispute over stay put, and the location, frequency and duration of special education and services in place at the time the dispute arose. Student shall attach a copy of Student's last agreed upon and implemented individualized education program and a statement under penalty of perjury authenticating the facts upon which Student relies in support of the motion.

The motion for stay put is denied without prejudice to Student's right to file a motion for stay put providing it is supported by the evidence described above.

IT IS SO ORDERED.

DATE: November 12, 2015

/s/

COLE DALTON
Administrative Law Judge
Office of Administrative Hearings