

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

DEL MAR UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2021120128

ORDER GRANTING MOTION FOR STAY PUT

DECEMBER 9, 2021

On December 3, 2021, Student filed a request for a due process hearing and a motion for stay put. Del Mar Union School District did not respond to Student's motion.

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 last agreed upon and implemented individualized educational program, called IEP, placement 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

Student's last consented to and implemented IEP is the December 11, 2020 IEP that was amended on May 26, 2021. The December 11, 2020 IEP offered Student 1740 minutes per year of speech and language services and 900 minutes per year of occupational therapy. The May 26, 2021 amendment IEP did not alter the amount or duration of services. Student's IEP team met again on November 12, 2021. The November 12, 2021 IEP discontinued Student's services as Del Mar determined Student no longer qualified for special education services. Parents disagreed with Del Mar's decision and did not consent to the November 12, 2021 IEP. The November 12, 2021 IEP states Student's services will be discontinued within 10 days regardless of parental consent. Del Mar sent a prior written notice on November 22, 2021, stating it would discontinue Student's special education services on November 23, 2021.

Although Student did not state if Del Mar has discontinued Student's speech and language or occupational therapy services, both the November 12, 2021 IEP team meeting notes and November 22, 2022 prior written notice letter make it clear that Del Mar intended to discontinue Student's special education services. Therefore, Student's motion for stay put is granted.

ORDER

1. Student's motion for stay put is granted.
2. Del Mar is to continue to implement Student's December 11, 2020 IEP as amended on May 26, 2021, and continue to provide Student with 1740 minutes per year of speech and language services and 900 minutes per year of occupational therapy.

Linda Johnson

Linda Johnson

Administrative Law Judge

Office of Administrative Hearings