BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN RAMON VALLEY UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2014101002 ORDER DENYING MOTION FOR STAY PUT

On October 23, 2014, Student filed a request for due process hearing (complaint) naming San Ramon Valley Unified School District, and a separate motion for stay put. On November 4, 2014, Student's motion for stay put was denied without prejudice to Student filing another motion with specific information included. On November 5, 2014, Student's complaint was dismissed as insufficient, but with leave to amend. Also on November 5, 2014, Student filed another complaint naming San Ramon Valley, and filed a separate motion for stay put. San Ramon Valley filed its opposition to the November 5, 2014 motion for stay put on November 18, 2014.

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.)

When a special education student transfers to a new school district in the same academic year, the new district must adopt an interim program that approximates the

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

student's old IEP as closely as possible for 30 days until the old IEP is adopted or a new IEP is developed. (20 U.S.C. § 1414(d)(2)(C)(i)(1); 34 C.F.R. § 300.323(e); Ed. Code, § 56325, subd. (a)(1); see *Ms. S. ex rel G v. Vashon Island Sch. Dist*. (9th Cir. 2003) 337 F.3d 1115, 1134.)

DISCUSSION

Student's November 5, 2014 complaint identifies Student's address as the same as on the October 23, 2014 complaint, but this time Student has omitted the prior identification of "PUSD" as Student's district of residence. Student's amended complaint again alleges that Parent is exercising Student's right to stay put at his current school placement in San Ramon Valley until the end of the year, but has added information about Student's residence with Parent being temporary while an investigation of Student's group home, a Regional Center placement, is being conducted due to allegations of physical abuse of Student.

Although requested by OAH in the November 5, 2014 order denying Student's October 23, 2014 motion for stay put, with the current motion, Student did not attach a copy of Student's last agreed upon and implemented IEP, supported by a declaration under penalty of perjury establishing the necessary facts supporting stay put at San Ramon Valley. Student would prefer to continue attending school in San Ramon Valley because he doesn't expect to be living within PUSD for very long and hopes to return to his previous group home or another group home within San Ramon Valley, but Student has not offered any evidence or legal authority to support an order requiring San Ramon Valley to continue providing Student special education and related services when he is not living within that school district.

Student has not offered sufficient evidence or legal authority to support a finding that he is entitled to remain at San Ramon Valley during the pendency of Student's complaint and therefore, the motion for stay put is denied.

IT IS SO ORDERED.

DATE: November 18, 2014

/s/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings