BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017011078
v.	ORDER DENYING MOTION FOR STAY PUT
RAMONA UNIFIED SCHOOL DISTRICT.	

On March 9, 2017, Student filed a motion for stay put. On March 15, 2017, District filed an opposition on the ground that Student's requested stay put is not part of Student's individualized education program.

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.)

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).)

However, if a student's placement in a program was intended only to be a temporary placement, such placement does not provide the basis for a student's "stay put" placement. (*Verhoeven v. Brunswick School Committee* (1st Cir. 1999) 207 F.3d 1, 7-8; *Leonard by Leonard v. McKenzie* (D.C. Cir. 1989) 869 F.2d 1558, 1563-64.)

DISCUSSION

Student is requesting an order of stay put for the services of one-to-one nursing support throughout the school day and on the bus. Student admits in his motion that (1) the requested one-to-one nursing service is not part of Student's current IEP and (2) District

unilaterally began providing one-to-one nursing services to Student in October 2016, and continues to provide such services. A declaration from District's nurse, Jackie Stiles, indicates she spoke with Student's mother on or about October 24, 2016, and informed her, that as of October 25, 2016, District would assign a licensed vocational nurse to Student as a one-to-one aide on a temporary basis pending completion of Student's triennial assessment. District presented Student with an assessment plan on March 2, 2017. Both parties have acknowledged that the issue of whether Student requires one-to-one nursing services is an issue in Student's complaint, and Student has requested one-to-one nursing services as a remedy.

Neither party has alleged that Student's placement or related services have been changed or terminated in any manner. Nor has one-to-one nursing services ever been part of Student's agreed upon educational programs. Student contends that District's response to his complaint indicates District disagreement with Student's allegations regarding the need for one-to-one nursing services, therefore District must be ordered to provide Student's requested remedies prior to hearing. Student's request for a one-to-one nurse amounts to a request for summary judgment pending hearing. Additionally, Student's request for stay put is moot, as District has indicated in a sworn declaration that it is currently providing one-to-one aide services to Student on a temporary basis, and will continue to do so pending Student's triennial assessment. Accordingly, Petitioner's motion for stay put is denied

ORDER

Student's request for stay put is denied.

DATE: March 21, 2017

DocuSigned by:
Judith Pasewark
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JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings