BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN MARCOS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022070065

ORDER DENYING SECOND MOTION FOR STAY PUT

AUGUST 01, 2022

On July 11, 2022, Student filed a motion for stay put. On July 13, 2022, San Marcos Unified School District filed an opposition arguing that Student did not meet his burden of proof. On July 21, 2022, the undersigned Administrative Law Judge, referred to as ALJ, denied Student's motion to dismiss without prejudice because Student failed to support his motion for stay put with a copy of his last agreed upon and implemented individualized education program, referred to as IEP, or a sworn statement supporting the allegations in his motion. The order admonished Student to support any new motion for stay put with the necessary evidence to support his request.

On July 22, 2022, Student filed a second motion for stay put. On July 27, 2022, San Marcos filed an opposition arguing that Student continued to fail to meet his burden of proof.

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 IEP placement prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

DISCUSSION

Student failed to support his second motion for stay put with the necessary evidence to support his request. In his motion Student alleges that his last agreed upon and implemented placement is an IEP dated December 14, 2021. Student attached to his second motion an incomplete IEP document dated March 15, 2022, amending an IEP of December 16, 2021. The document does not include signatures reflecting the IEP was agreed upon. Student failed to meet his burden of proof. Accordingly, Student's second motion for stay put is denied.

IT IS SO ORDERED.

Cararea Lucier

Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings