BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024070616

ORDER DENYING MOTION FOR STAY PUT

AUGUST 5, 2024

On July 23, 2024, Student filed a motion for stay put. On July 25, 2024, San Diego Unified School District filed opposition to Student's motion for stay put.

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 contends it is undisputed that Student's last-agreed upon and implemented IEP is dated May 31, 2024. And, under the terms of this IEP, Student's stay put placement is New Bridge nonpublic school. San Diego contends that Student's last agreed upon IEP is dated February 26, 2024, which specifies Student's stay put placement is a nonpublic school. Additional, San Diego argues that changed circumstances requires OAH to order a comparable placement and not New Bridge nonpublic school as Student's stay put placement.

Here, Student neither attached the May 31, 2024 IEP, nor supported the motion for stay put with a declaration under penalty of perjury. Student also referred to a different named student in the motion for stay put. So, it is unclear if the May 31, 2024 IEP, relates to this matter. Without the May 2024 IEP, Student failed to provide sufficient evidence to support the request that the May 31, 2024 placement offer, is Student's stay put placement. Accordingly, Student's motion for stay put is denied without prejudice.

IT IS SO ORDERED.

Cynthia Fritz

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings