BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT

v.

FONTANA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024100221

ORDER TO PRODUCE SUPPLEMENTAL EVIDENCE

DECEMBER 31, 2024

On October 4, 2024, Student filed a Request for Due Process with the Office of Administrative Hearing, called OAH, naming Fontana Unified School District as respondent. On December 20, 2024, Student filed a motion for stay put. On December 26, 2024, Fontana Unified filed an opposition to Student's motion to stay put. On December 30, 2024, Student filed a reply to Fontana Unified's opposition. On December 31, 2024, Fontana Unified filed a supplemental declaration in response to Student's reply to opposition.

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

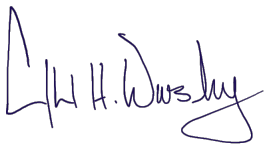
Student has failed to demonstrate what was the last agreed upon and implemented IEP placement prior to the dispute arising. Student's counsel declared that the IEP documents, attached to Student's motion as Exhibit A, were provided to counsel by Fontana Unified. Exhibit A consists of an IEP, dated November 2, 2023, and attached notes for an amendment IEP team meeting dated May 21, 2024. Exhibit A does not have a signature page, signed by Parent, consenting to the November 2, 2023, IEP. Exhibit A has a signature page for the May 21, 2024, amendment IEP meeting, signed by the attendees. But Parent did not sign the consent to the amendment.

Fontana Unified did not acknowledge or identify the last, agreed upon, and implemented IEP, in its opposition to the motion. Parent's declaration in reply to the opposition did not mention the IEP. Similarly, Fontana Unified's declaration in response to Student's reply to Fontana Unified's opposition did not identify Student's last agreed upon and implemented IEP placement prior to the filing of this matter.

Therefore, unless Student produces evidence establishing Student's last agreed-upon and implemented IEP, the motion for stay put will be denied.

ORDER

1. Student shall produce evidence, specifically a complete copy of Student's last agreed-upon and implemented IEP, by close of business, January 12, 2025.
2. If Student does not produce such evidence by January 12, 2025, Student's Motion for Stay Put shall be denied.



Clifford H. Woosley
Administrative Law Judge
Office of Administrative Hearings