BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. DEL MAR UNION SCHOOL DISTRICT.	OAH Case No. 2018060307 ORDER GRANTING MOTION FOR STAY PUT

On June 5, 2018, Student filed a request for due process (complaint) with the Office of Administrative Hearings naming Del Mar Union School District. On June 13, 2018, Student filed a motion for stay put. District did not respond.

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).)

DISCUSSION

Student is entitled to remain in his last agreed upon and implemented placement while a dispute is pending and an order for stay put is generally not required unless a dispute over placement exists. Here, Student's issue for hearing is a disagreement with District's determination in the May 22, 2018 IEP that Student no longer requires extended school year. Student's motion for stay put alleges District is refusing to provide the extended school year services in his last agreed upon and implemented IEP, January 23, 2017, which Student included with his motion. The January 2017 IEP includes extended school year services. Although District did not respond to Student's motion for stay put, in its response to

Student's complaint District disagrees that Student requires extended school year and denies the requested relief of stay put with regard to extended school year. District has not provided any evidence that the extended school year services listed in Student's January 23, 2017 IEP do not constitute stay put as while Parent consented to regular school portion of May 2018 IEP, Parent expressly did not consent to the termination of extended school year services. Accordingly, Student's motion for stay put is granted.

ORDER

Student's motion for stay put is granted. Until due process hearing procedures are complete, Student is entitled to the extended school year services listed in the January 23, 2017 IEP.

DATE: June 26, 2018

DocuSigned by:
Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings