BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. FONTANA UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018080404 ORDER GRANTING MOTION FOR STAY PUT

On August 20, 2018, Student filed a motion for stay put. On August 23, 2018, District filed an opposition. As discussed below, the motion is granted.

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.)

DISCUSSION

Student's February 26, 2018, individualized education program placed him in an autism-specific special day class at Summit High School for the 2017-2018 school year, which was his 12th grade year. Insofar as that year's placement and services are concerned, Parents consented, and the IEP was implemented.

Fontana Unified School District, in that IEP, contemplated that Student would graduate at the end of 12th grade, and that he would transition after graduation to an adult functional skills transitional program at Fontana High School. Parents, however, in their consent to the IEP, specified that they did not consent to that post high-school future placement. Thus, in the IEP and Parents' partial consent, the parties agreed to the 12th grade placement, but not as to what would occur thereafter.

There is also a factual dispute as to whether Student did in fact graduate and receive a certificate of completion at the conclusion of the 12th grade. Fontana presents a declaration attesting that Student graduated on May 24, 2018. Parents' complaint, on the other hand, alleges: "it is very clear that … [it] is not accurate," that Student received a certificate of completion. The complaint states, as an Issue to be resolved at hearing: "Whether a student with a disability can be deemed to have completed high school, without being issued a certificate of completion or a high school diploma." The factual dispute, as to whether Student graduated, requires a hearing on the merits, and cannot be adjudicated on motion practice.

Fontana's opposition to Student's motion for stay put is based on its contention that the IEP contemplated a post-graduation adult transition program, and on its factual contention that on May 24, 2018, Student graduated with a certificate of completion. This interpretation of the IEP, and these factual contentions, are in dispute, and are the very subject of this due process matter.

Thus, stay put consists of the status quo before these disputes arose. Parents' request that Student be returned to his 12th grade placement during the pendency of this due process proceeding is granted. The last agreed upon and implemented placement prior to the dispute arising was the high school autism special day class, which constitutes Student's stay put while the merits of this dispute are being adjudicated.

ORDER

Student's stay put placement during the pendency of this due process matter shall be the 12th grade autism-specific special day class at Summit High School, and the related services stated in Student's February 26, 2018, individualized education program for the 2017-2018 12th grade year.

DATE: August 24, 2018

DocuSigned by:
June Lehrman
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JUNE LEHRMAN
Administrative Law Judge
Office of Administrative Hearings