BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CHAFFEY JOINT UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2017051053 ORDER GRANTING MOTION FOR STAY PUT

On May 23, 2017 , Student filed a motion for stay put. On May 26, 2017, District filed an opposition. On May 28, 2017, Student filed a reply to District's 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)[1]; 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. Here, Student's complaint alleges District should be prohibited from awarding Student a regular high school diploma. District admits that Student's IEP would be the IEP implemented during the 2016-2017 school year. Accordingly, there is a dispute as to Student's graduation and his stay put placement would be the 2016-2017 IEP.

[1] All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

The motion for stay put is granted.

ORDER

1. Student is entitled to stay put during the pendency of this due process proceeding.

2. Student's stay put placement during the pendency of this due process proceeding will be the placement implemented during the 2016-2017 school year.

IT IS SO ORDERED.

DATE: June 2, 2017

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Marian H. Tully
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MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings