BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

PLACENTIA-YORBA LINDA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019050861

ORDER DENYING MOTION FOR STAY PUT

On August 26, 2019, Student filed a motion for stay put. On August 29, 2019, Placentia-Yorba Linda Unified School District filed an 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 filed a motion for stay put alleging she should be allowed to remain in her independent study placement pending the outcome of the due process hearing. However, Student's independent study placement was put into place with a 504 Plan accommodation, not though an IEP. Stay put is typically the last agreed upon and implemented IEP, here, Student does not have a last agreed upon and implemented IEP as her initial IEP was not consented to, nor was it implemented. Consequently, Student is not entitled to stay put.

ORDER

Student's motion for stay put is denied.

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Linda Johnson
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DATED: August 30, 2019

Linda Johnson
Administrative Law Judge
Office of Administrative Hearings