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. 2016110368 ORDER DENYING MOTION FOR STAY PUT

On November 8, 2016, Student filed a request for due process hearing (complaint), naming Chaffey Joint Union High School District. On November 9, 2016, Student filed a motion to stay put. District file an opposition on November 29, 2016..

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 (IEP), 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.)

DISCUSSION

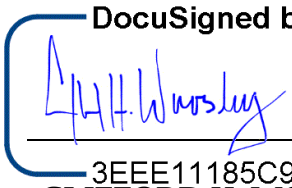
Here, both the complaint and moving papers reflect that Student is not a special education student, does not have an individualized education program, and was not in a special education placement. "Stay put" is intended to maintain the special education placement of an individual with exceptional needs, as reflected in the student's last, agreed upon, and implemented IEP. Since Student does not have an IEP or special education placement, Student is not entitled to a stay put order.

ORDER

Student's stay put motion is denied.

IT IS SO ORDERED.

DATE: November 29, 2016



CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings