BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. FREMONT UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017041172 ORDER DENYING MOTION FOR STAY PUT

On May 22, 2017, Student filed a motion for stay put with OAH in the above-captioned case. On May 24, 2017, Fremont Unified School District filed a response to the motion.

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 AND ORDER

Student's motion for stay put makes reference to exhibits that were contained in binders the parties submitted during the due process hearing in a Fremont-filed case

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

concerning Student, OAH Case No. 2017021203. She also asks that testimony from that hearing also be considered.

Documents and testimony from a due process hearing in another matter cannot and will not be considered when a motion is filed in a different case, even if the case concerns the same parties. Student also submitted several documents with his stay put motion including several pages of notes from IEP team meetings. However, the last signed and implemented IEP (including any signed addendums) has not been submitted. Further, as Fremont indicates in its response to the motion, it cannot be determined from Student's motion for stay put what portions of the IEP Student is claiming should be declared as stay put and which Fremont is not implementing. Accordingly, Student's motion for stay put is denied.

IT IS SO ORDERED.

DATE: May 30, 2017

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings