BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ENOVATE U.S.C HYBRID HIGH SCHOOL AND LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017020034 ORDER DENYING MOTION FOR STAY PUT

On June 8, 2017, Student filed a motion for stay put. On June 13, 2017, Enovate U.S.C. Hybrid High School an opposition on the ground that Student had met all graduation requirements and had been accepted into a four-year college for the 2017-2018 school year.

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.)

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

Pursuant to Enovate's declaration: (1) Student has met all high school graduation requirements; (2) Student has been accepted into multiple four-year colleges; (3) Student intends to attend California State University Long Beach for the 2017-2018; (4) Student participated in graduation ceremonies on June 10, 2017; and failure to provide high school transcripts indicating graduation will jeopardize Student's admission to college. Nevertheless on June 3, 2017, Student's Advocate invoked a demand for stay put to enjoin Enovate from issuing Student her regular high school diploma. Enovate has pledged by sworn declaration to refrain from providing Student with a regular high school diploma unless a stay put

motion is decided in its favor. Enovate has not filed a Motion to Determine Stay Put, therefore, no motion can be granted in its favor.

Student is entitled to remain in her last agreed upon and implemented placement while a dispute is pending and an order for stay put is generally not required unless a dispute exists. Therefore the issue is moot. Here, Enovate has refrained from issuing Student a regular high school diploma pending further rulings in Student's request for due process complaint; therefore there is no dispute over issuance of the diploma at this time.[1] The motion for stay put is denied.

ORDER

The motion for Stay Put is denied.

IT IS SO ORDERED.

DATE: June 22, 2017

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Judith Pasewark
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JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings

[1] Student is entitled to remain in her last agreed upon and implemented placement while a dispute is pending and an order for stay put is generally not required unless a dispute exists. Student has not alleged whether a dispute exists as to Student's placement and services while the dispute is pending. If there is a dispute that exists as to that placement, Student may file a request for stay put with more specificity as to the nature of the dispute and the terms of stay put.