BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

FALLBROOK UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2023010368

ORDER DENYING MOTION FOR STAY PUT

JANUARY 27, 2023

On January 17, 2023, Student filed a motion for stay put. On January 18, 2023, Fallbrook Union High School District filed an opposition. On January 19, 2023, Student filed an amended motion for stay put. On January 23, 2023, Fallbrook filed an opposition to Student's amended motion for stay put.

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 education program, called IEP, placement prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

Student's stay put motion is moot, as the sworn declaration of Fallbrook's special education coordinator establishes that Student is no longer enrolled in Fallbrook. Parents withdrew Student from Fallbrook on January 12, 2023, to attend a charter school that is not associated with Fallbrook. Student's motion and amended motion conceded that Student was no longer attending school at Fallbrook.

Student's motion also fails because documents identified and authenticated by Fallbrook's special education coordinator establish that Student was exited from special education almost three years ago. Student's current educational placement prior to dis-enrolling from Fallbrook was a 504 Plan consented to by Parents on April 19, 2021.

Lastly, Student separately filed exhibits to the motion for stay put, but none of them were identified or authenticated.

Fallbrook asserted these multiple deficiencies in its opposition to the original motion, but Student failed to address these points in the amended motion, or to include

a sworn declaration authenticating the separately filed exhibits.

Accordingly, Student's motion for stay put is denied.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings