BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN LORENZO VALLEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2019020193 ORDER DENYING MOTION FOR STAY PUT

On February 8, 2019, Student filed a motion for stay put. On February 11, 2019, San Lorenzo Unified School District filed an opposition on the ground that Student was not a student with a disability as defined by the Individuals with Disabilities in Education Act. San Lorenzo argues that, while Student has been provided accommodations pursuant to Section 504 of the Rehabilitation Act of 1973, Section 504 does not provide the stay put protections that are available under the IDEA.

APPLICABLE LAW

A student who is eligible for special education pursuant to the IDEA and California special education laws, is entitled to remain in his or her current educational placement, during the pendency of a dispute under the IDEA, 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 order to determine the last agreed to placement, Student is required to attach a copy of the last consented-to IEP to the motion for stay put.

Here, while identifying the document as his last consented-to IEP, Student has attached a copy of a plan for accommodations pursuant to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794). No evidence has been presented that Student has a current placement under the IDEA in which he should be allowed to "stay put." Section 504 of the Rehabilitation Act of 1973 does not have a provision requiring that Student be allowed to

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

stay in a then-current placement pending resolution of disputes regarding that statute. (*Id.*) Student's request for stay put is DENIED.

IT IS SO ORDERED.

DATE: February 12, 2019

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Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings