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 June 8, 2017, Student filed a motion for stay put. On June 13, 2017, Fremont Unified School District filed an opposition on the ground that Student has not provided OAH with a complete copy of the last consented-to individualized education program, as well as any consented-to amendments to it. Further, Fremont argues that Student is asking for services that have never been incorporated in a consented-to IEP. On June 14, 2017, Student filed a response to Fremont's opposition, and additional documents.

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

This is Student's third motion for stay put. Student has attached pages of notes from several IEP team meetings to her motion for stay put, as well as copies of prior written notices in which Fremont refused to provide services requested by Parent. Other documents

are also attached including some which reference Student Attendance Review Board proceedings, and correspondence from outside providers of service to Student.

The "additional authority" filed by Student on June 14, 2017, includes an IEP dated May 5, 2016, and an addendum IEP dated June 8, 2016. However, there appear to be many handwritten notes on these IEP documents and it cannot be determined if these notes are on what would be deemed the final consented-to and implemented IEP. Further, there are several extraneous documents attached the the May 5, 2016 IEP, that may or may not be part of the final IEP. Further, Student references two IEP team meetings that occurred in the fall of 2016 in her motion for stay put, but it is unclear if these IEP team meetings resulted in additional IEP addendums.

OAH needs all IEP's and IEP addendums that have been consented to, with a supporting declaration establishing that these documents constitute Student's current IEP. Without these documents, the ALJ cannot determine what Student's stay put placement is. Further, Student has not provided any authority under which OAH can order as stay put services related services that have been requested, but never agreed to in an IEP. Accordingly, Student's third motion for stay put is denied. Again, Parent is urged to consult OAH's online guide to due process which can be found at:

http://www.documents.dgs.ca.gov/oah/SE/SE%20Handbook.pdf.

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ORDER

Student's motion for stay put filed June 8, 2017, is denied.

IT IS SO ORDERED.

DATE: June 14, 2017

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