BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013071293 ORDER REGARDING MOTION FOR STAY PUT

On August 14, 2013, Student's parent filed a motion for stay put. The motion did not include a proof of service on the Los Angeles Unified School District (District) and did not include a copy of Student's most recent, signed individualized education program (IEP). There has been no response to the motion by the District.

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 pupil's IEP, which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

DISCUSSION

It is not clear from the file whether the District received notice of the motion for stay put. The motion for stay put was filed by letter. Written on the letter is the statement: "CC. Copy to LAUSD." That is not sufficient for a proof of service. A proof of service must be signed under penalty of perjury and must provide information such as the date the document was served, the address to which it was served, and the manner of service (in person, by mail, etc.). (See Cal. Code Regs., tit. 1, §§ 1008 and 1022, subd. (b); Code of Civil Procedure § 1013a.)

In addition, Student's parent did not include a copy of the most recent, signed IEP with the motion. Without that document or an agreement by the parties as to what the last IEP stated, it is not possible to determine the appropriate stay put.

Therefore, the motion for stay put cannot be granted at this time. Student's parent may file a new motion, as long as that motion includes a copy of the most recent, signed IEP and also includes a proof of service showing that the motion was served on the District.

ORDER

The motion is denied. Student's parent, if he wishes, may file a new motion as discussed above.

Dated: August 20, 2013

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings