BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020080753

ORDER DENYING MOTION FOR STAY PUT

SEPTEMBER 18, 2020

Student filed a motion for stay put on September 11, 2020. The motion was not supported by a declaration under penalty of perjury but included an unauthenticated copy of Student's May 13, 2019 individualized education program, referred to as IEP. The motion also included multiple unauthenticated assessment reports and other documents ranging in date from February through May 2020, without identification or explanation of the relevance of those documents.

San Diego Unified School District filed an opposition to the motion on September 16, 2020. San Diego's opposition was supported by a sworn declaration, and a document that purported to be Student's April 13, 2020 distance learning IEP, which San Diego asserts was developed by Student's IEP team and signed by Parents on May 6, 2020. Student filed a response to San Diego's opposition on September 17, 2020.

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 educational program, called IEP, placement 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).)

Student did not support her motion with evidence that unambiguously defines what she contends is Student's last agreed upon and implemented IEP. Therefore, the motion for stay put is denied without prejudice. Student may refile her motion, providing that she supports her motion with a sworn declaration, including an authenticated copy of what Student contends is her last agreed upon and implemented IEP. Any exhibits Student offers in support of the motion shall be individually identified and authenticated. San Diego shall have three business days to respond.

IT IS SO ORDERED.

DocuSigned by:
Adrienne L. Krikorian
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Adrienne L. Krikorian

Administrative Law Judge

Office of Administrative Hearings