BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2017080317 ORDER DENYING MOTION FOR STAY PUT

On August 1, 2017, Student filed a request for due process (complaint) naming Huntington Beach Union High School District. On August 4, 2017, Student filed a motion for stay put. On August 4, 2017, District filed a response to Student's motion. On August 8, 2017, Student filed a duplicative motion for stay put with an attachment. On August 10, 2017, District filed a supplemental response to Student's motion for stay put.

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.)

DISCUSSION

Student is entitled to remain in his last agreed upon and implemented placement while a dispute is pending and an order for stay put is generally not required unless a dispute over placement exists. Here, Student has not alleged whether a dispute exists as to Student's placement and services while the dispute is pending. Student alleges he was placed in the pathways program at Fountain Valley High School pursuant to a May 2017 IEP. However, Student did not attach said IEP. District filed a response to Student's motion stating Student's last agreed upon and implemented IEP amendment was dated March 31, 2017, and consented to on or around May 16, 2017. Although District does not state what placement is listed in the March 31, 2017 IEP, nor does it attach the IEP, it does state that District staff informed Student it would continue to implement the March 31, 2017 IEP. Student filed a

duplicative motion for stay put on August 8, 2107, however, attached a June 21, 2017 IEP amendment. The June 21, 2017 IEP amendment lists, among other services, 250 minutes a day of specialized academic instruction provided in the pathways program beginning on May 8, 2017. If there is a dispute that exists as to that placement, Student may file a request for stay put with more specificity as to the nature of the dispute and the terms of stay put. The motion for stay put is denied.

ORDER

Student's motion for stay put is denied.

DATE: August 11, 2017

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Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings