

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HEMET UNIFIED SCHOOL DISTRICT.

OAH Case No. 2018060674

ORDER DENYING MOTION FOR  
STAY PUT

On June 15, 2018, Student filed a motion for stay put. On June 20, 2018, Hemet Unified School District filed a statement of non-opposition to the motion.

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’s motion is not supported by a sworn declaration and a copy of the last agreed upon and implemented IEP. District’s non-opposition does not contain a copy of Student’s last consented to and implemented IEP. Student is not entitled to stay put without submission of an authenticated copy of the last agreed upon and implemented IEP he seeks to enforce.

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, although District’s non-opposition is not supported by a sworn declaration, it does state that it intends to continue funding Student’s current placement at a nonpublic school.

Accordingly, it does not appear that a dispute exists as to Student’s placement and services while the dispute is pending. If there is a dispute that exists as to that placement,

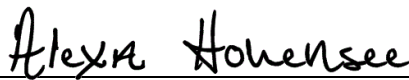
Student may file a request for stay put with more specificity as to the nature of the dispute and the terms of stay put, which shall include a copy of Student's last agreed upon and implemented educational program.

Student's motion for stay put is denied.

IT IS SO ORDERED

DATE: June 27, 2018

DocuSigned by:

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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings