BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

CHAFFEY JOINT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2019090129

ORDER DENYING MOTION FOR STAY PUT

MARCH 11, 2020

On March 3, 2020, Student filed a motion for stay put regarding Student's occupational therapy services. On March 6, Chaffney Joint Union High School District filed a response.

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 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).)

DISCUSSION

On March 3, 2020, Student filed a motion for stay put requesting two hours per week of direct, individual occupational therapy services provided by a nonpublic agency. Student attached a copy of the last agreed upon and implement individualized education program, called IEP. Student also attached Parent's sworn declaration agreeing to fewer hours than those documented in the last agreed upon IEP.

On March 6, Chaffney filed a response, agreeing to the requested reduced occupational therapy services. Chaffney attached the sworn declaration of Kelly Whelan, Director of Special Education, pledging to provide the requested occupational therapy services, in support of Chaffney's response.

Until due process hearing procedures are complete, Student is entitled to receive his agreed upon and implemented services, unless the parties agree otherwise. In this case, the parties have agreed to occupational therapy services other than those stated in the last agreed upon IEP. Therefore, there is no dispute regarding Student's occupational therapy services during the pendency of this due process complaint. Accordingly, no order for stay put is necessary at this time and Student's motion for stay

put is denied.

IT IS SO ORDERED.

DocuSigned by:
Rita Defilippis
8BD5FE332F4847E...

Rita Defilippis

Administrative Law Judge

Office of Administrative Hearings