BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017030402 ORDER DENYING MOTION FOR STAY PUT

On April 4, 2017, Student filed a motion for stay put. On April 7, 2017, District filed an opposition.

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.)

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

Student is 15 years old and in the ninth grade at Capistrano Valley High School. Student filed for a due process hearing on March 6, 2017, alleging, among other issues, District denied her parent meaningful participation in the IEP process by failing to provide prior written notice regarding her math placement. Student then filed a motion for stay put asking for an order that the math class be removed from her schedule. Student contends that during the IEP team meeting in August 2016, the team agreed to place student in five classes on campus and one online class. Student further contends that during an IEP team meeting in November 2016, the team agreed to drop the online class and student would only have five

classes. Student argues District unilaterally changed her placement at the February 16, 2017 IEP meeting by adding a sixth class for math. District argues Student always had six classes, however, the format changed when the IEP team determined Student was not able to succeed in an online class.

Neither Student nor District provided copies of the IEP in question documenting Student's current placement. Student does not provide any evidence that her specific educational placement is five classes.[1] While Student is entitled to the services and placement listed in her IEP until the due process hearing is complete, Student is not entitled to a new placement.

ORDER

Student's motion for stay put is denied.

DATE: April 12, 2017

DocuSigned by:
Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings

[1] Nothing in this order precludes Student from asking for stay put in the online math class provided that Student submits copies of her last agreed upon and implemented IEP or educational program with the motion.