BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SALINAS UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2018061081 ORDER DENYING MOTION FOR STAY PUT

On June 25, 2018, Student filed a request for due process hearing (complaint) naming Salinas Union High School District. On June 26, 2018, Student filed a Motion for Stay Put, requesting an order directing District to place Student at a nonpublic school during the pendency of his due process proceeding. On June 29, 2018, District filed opposition to the stay put motion.

A special education student is entitled to remain in his or her current educational placement pending the completion of due process hearing procedures unless the parties agree otherwise. (20 U.S.C. § 1415(j); Ed. Code, §§ 56505, subd. (d), 48915.5.) Stay put operates automatically upon due process filing. (See *Casey K. v. St. Anne Community High School District No. 302* (7th Cir. 1998) 400 F.3d 508, 511.) For purposes of stay put, the current educational placement is typically the placement called for in the student's individualized education program (IEP) which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Board of Education* (6th Cir. 1990) 918 F.2d 618, 625.)

Student's complaint seeks an order that District develop an appropriate IEP and place Student at the Pine Hill nonpublic school for 2018-2019. For 2017-2018 school year, Student attended a Monterey County Office of Education charter school. The complaint acknowledges that Student had not yet completed enrollment with District.

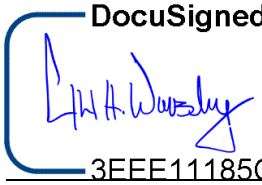
Student did not allege in his complaint or motion for stay put that there is an agreed upon, implemented IEP. Student alleges in his complaint that Student's charter school had convened an IEP meeting on May 29 2018, which District personnel attended. However, the complaint states that no IEP placement was made and no IEP document issued. Student readily admits that "there is no stay put IEP document" at page 2, line 10 of his motion. Further, Student has not alleged District has otherwise agreed to a placement. Since Student had not previously been found eligible for special education, there is no last agreed upon and implemented IEP entitling Student to stay put placement.

ORDER

1. Student's motion for stay put is denied.

Dated: July 03, 2018

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CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings