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 No. 2015030179 ORDER GRANTING MOTION FOR STAY PUT

On April 9, 2015, Student filed a motion for stay put. District filed an opposition on April 14, 2015. Student filed a reply on April 15, 2015. For the reasons stated below, the motion is granted.

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 (IEP), which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Board of Education (*6th Cir. 1990) 918 F.2d 618, 625.)

In California, "specific educational placement" is "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.)

The decision by a school district to graduate a student with a regular high school diploma constitutes a change in educational placement that triggers all of the procedural protections under the IDEA. (*Cronin v. Board of Education of East Ramapo Cent. School Dist.* (S.D. N.Y. 1988) 689 F.Supp. 197, 203; 34 C.F.R. §300.102(a)(3)(iii) (2006); Ed. Code § 56026.1(a).)

DISCUSSION

Parents on behalf of Student filed his due process request on February 23, 2015. The complaint alleged: Student was 19 years old and attending high school on a diploma track at the time the complaint was filed. Student authorized his Parents to make educational decisions on July 1, 2014. The issues presented by the complaint included, among many

other things, Student's readiness for high school graduation and District's alleged failure to develop an appropriate transition plan and provide transition services. High school graduation would occur in May 2015.

Student contends he should be allowed him to remain in his current educational placement at his high school during the pendency of the due process matter. Student's motion was supported by an IEP dated November 12, 2014, and a letter dated January 6, 2015, giving Parents' partial consent to the IEP but disagreeing with, among other things, Student's May 2015 graduation date. According to the letter Student needed additional time to work on transition skills, District's transition plan was inappropriate and District failed to provide appropriate transition services.

District contends the stay put motion was premature because graduation is more than a month away and unnecessary because District does not oppose the provision of services to Student pursuant to the November 12, 2014 IEP pending a decision or settlement in this case. Student's reply argued that his motion was not premature and was necessary because District's position has been to confer a regular high school diploma to Student in May 2015.

The parties agree the operative IEP was dated November 12, 2014, and Student was scheduled to receive a regular high school diploma in May 2015. Student's due process complaint was filed before he graduated from high school and while he was eligible for special education services under the IDEA. Therefore, Student is entitled to stay put based upon the last IEP to which Parents consented until this matter is resolved. The motion is therefore granted. Student's stay put shall be the placement and related services set forth in the November 12, 2014, IEP.

IT IS SO ORDERED

DATE: April 19, 2015

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings