BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2019031116 ORDER DENYING MOTION FOR STAY PUT

On March 27, 2019, Parent on behalf of Student filed a request for due process hearing with the Office of Administrative Hearings, naming San Dieguito Union High School District. On April 1, 2019, Student filed a motion for stay put. On April 4, 2019, San Dieguito filed an opposition. Student responded to the opposition on April 5, 2019.

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)[1]; 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 privately attended the Winston School during the 2017-2018 school year. San Dieguito has never offered Student placement at Winston or directly funded that placement.

[1] All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

Student reenrolled in San Dieguito during the 2018-2019 school year. San Dieguito held an individualized education program team meeting for Student on November 16 and 28, 2018. The IEP document states that Student's school of attendance was Winston, a "private school not certified by Special Education Division." The IEP offered Student services and placement at an unspecified "non-public school." The IEP notes indicate Winston may not be appropriate for Student and that Parents agreed to tour "proposed" non-public schools and consented to sign releases and information packets for that purpose. Parents signed their consent to the IEP on November 28, 2018.

Following the November 2018 IEP team meeting, Parents and San Dieguito explored therapeutic non-public schools for Student and, by letter on February 4, 2019, San Dieguito offered Student placement at the San Diego Center for Children, a therapeutic non-public school. San Dieguito again offered San Diego Center for Children during a February 25, 2019 IEP team meeting. Student brings the present motion for stay put placement at Winston.

The foregoing facts do not support that Winston was agreed upon in Student's IEP. Rather, Parents consented to an unspecified non-public school while San Dieguito could send information packets to various non-public schools and explore the appropriateness of those placements. Parents were informed of this inquiry and cooperated with San Dieguito's exploration of non-public schools for Student. Based upon the November 2018 IEP, in February 2019, San Dieguito offered Student placement at the non-public school San Diego Center for Children. Student's last agreed upon IEP of November 28, 2018, called for placement at non-public school and San Dieguito offered Student placement congruent with that IEP. Accordingly, Student's request for stay put placement at Winston is denied.

ORDER

Student's request for stay put is denied.

DATE: April 10, 2019

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Paul H. Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings