BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017040183 ORDER DENYING MOTION FOR STAY PUT

On May 10, 2017, Student filed a motion for stay put. On May 17, 2017 District filed an amended opposition to Student's motion. For the reasons discussed below, Student's motion is denied.

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 AND ORDER

Student seeks stay put based on a list of supports and services requested by Parent. However, Student did not support his motion for stay put with a declaration under penalty of perjury, or any authenticated evidence, including a copy of Student's last agreed upon and implemented IEP. Without such evidence, Student has not proved that he is entitled to stay put as requested by his motion.

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

District supported its opposition with a declaration under penalty of perjury from an administrator of The Help Group, Student's current placement, and a copy of the February 8, 2017 IEP. Parent signed and agreed to implement the placement, supports and services in the February 8, 2017 IEP, while denying it offered a free appropriate public education. District has implemented the February 8, 2017 IEP, based upon Parents' consent, and asserts it will continue to do so during the pendency of this matter.

Student's stay put motion is denied on the ground that Student's requested stay put services are not supported by any evidence establishing that all of those services are included in the last agreed upon and implemented IEP. Student is entitled to stay put based upon the placement, supports and services specified in the February 8, 2017 IEP, which was Student's last agreed upon and implemented IEP.

IT IS SO ORDERED.

DATE: May 26, 2017

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Adrienne L. Krikorian
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ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings