BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. FREMONT UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016050475 ORDER DENYING MOTION FOR STAY PUT

On May 2, 2016, Parent on behalf of Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings naming Fremont Unified School District. Contained within the complaint, Student alleged an invocation of stay put "to continue [Student's] special education programs, placement, and services." The "invocation" is deemed a motion for stay put. Student contends in the factual portion of the complaint that the last agreed to and signed Individualized Education Program was February 19, 2014. Student does not allege that Freemont is not implementing the last agreed to IEP.

On May 5, 2016, Freemont filed an objection to Student's invocation of stay put, which is deemed an opposition to Student's motion for stay put.

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.)

DISCUSSION

Here, Student has not alleged whether a dispute exists as to Student's placement and services while the dispute is pending. If there is a dispute that exists as to that placement, Student may file a request for stay put with more specificity as to the nature of the dispute

and the terms of stay put, along with a copy of Student's last agreed upon and implemented educational program. Therefore, the motion for stay put is DENIED without prejudice

IT IS SO ORDERED.

DATE: May 16, 2016

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ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings